



WESTERN AUSTRALIA.

ANNO VICESIMO OCTAVO

VICTORIÆ REGINÆ.

NO. XIII.

AN ORDINANCE to consolidate and amend the Laws to regulate the Branding of Live Stock.

[11th July, 1864.]

WHEREAS it is expedient to consolidate into one Ordinance and to amend the provisions respecting the Branding of Live Stock, and to make regulations for collecting Stock on Private Lands; Be it therefore enacted by His Excellency the Governor of Western Australia, and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

1. FROM and after the passing of this Ordinance, the following Ordinances, that is to say, the sixth of Victoria No. 14 of 1842, the sixteenth of Victoria No. 4 of 1852, and the eighteenth of Victoria No. 4 of 1855, shall be, and the same are hereby repealed, save and except as to any act, matter, or thing already done, any proceedings pending and any liabilities incurred at the time of the passing hereof under the said repealed Ordinances or either of them.

No. 14 of 1842, No. 4 of 1852, and No. 4 of 1855 repealed.

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Governor to appoint Registrar of Brands.

2. IT shall be lawful for the Governor to appoint a fit and proper person to be the Registrar of Brands, and in case of the death resignation or removal of such Officer, from any cause, from time to time to appoint another fit and proper person to the said Office, in place of the one so dying, resigning, or removed.

Every owner of cattle and horses to have a brand, and to register the same.

3. EVERY Owner of Cattle and Horses shall, as heretofore, have one brand for both cattle and horses, or a separate and distinct brand for cattle and a separate and distinct brand for horses, and shall, as heretofore, register such brand, designating in the register the part of the animal marked or intended to be marked therewith, with the Registrar of Brands of the said Colony, in Books to be kept by him for that purpose, and the said Registrar of Brands may order any owner of cattle or horses, making application to have his brand or brands so registered as aforesaid, and whose proper brand or brands may be similar to any brand or brands before registered under the said repealed Ordinances or this Ordinance, to make such a difference in his brand or brands as may be necessary to prevent mistake or confusion therefrom, the particular alteration in such brand or brands, however, to be determined on by the said owner, provided that the Registrar of Brands shall be of opinion that such alteration will meet the object required; and if any owner of cattle or horses, not having a brand registered under the said repealed Ordinances or either of them, or this Ordinance, shall refuse or neglect to provide himself with such brand or brands, or to make such difference, or to register the same as aforesaid, within three months after receiving notice from the Registrar of Brands requiring him so to do or from any Justice of the Peace, unless further time be given by the said Registrar of Brands or such Justice of the Peace upon reasonable cause shown, he shall forfeit and pay a sum not exceeding Twenty pounds; Provided that all Brands registered under the said repealed Ordinances shall be deemed to be registered under this Ordinance.

Penalty for neglect £20.

Penalty for neglecting to brand cattle and horses £5.

4. ALL Cattle above the age of one year, and all horses above the age of two years, not branded on the hide with a registered brand, when at large in the bush or trespassing, may be deemed wild cattle, and the owners subjected to a penalty not exceeding Five pounds per head.

Brands to be published in Government Gazette.

5. THE Registrar of Brands shall from time to time, as heretofore, publish in the *Government Gazette*, as soon as conveniently may be, the brand or brands registered by each owner of cattle or horses, respectively, and the name of the person registering the same, and any other

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person making use of a similar brand after such registration and publication thereof, shall forfeit and pay a penalty not exceeding One hundred pounds, and it shall be lawful for the Registrar of Brands to cancel any Registered Brand on a written application from the Owner thereof, which cancellation shall be published in the *Government Gazette*.

6. DURING the usual Office hours of the said Registrar of Brands, the books in which brands have been registered heretofore and shall be so registered hereafter, shall be open to inspection, and during those hours all persons shall be at liberty, without fee, to inspect and make extracts from the same.

Register of brands to be open to inspection.

7. ANY person, having reason to believe that any of his cattle, or horses, or other stock are on Lands in the occupation of another, may (in the event of the occupier of such land refusing permission to such person to search for such stock) apply to the nearest Justices of the Peace in the Petty Sessions, who after notice given to such occupier, shall hear such application, and anything that may be urged in opposition thereto, and shall in their discretion grant or refuse a written permission to hunt, and collect stray cattle, horses, and other stock on such, and any other Lands, being unenclosed, in the occupation of any person whomsoever, subject to such written conditions, to be signed by such person, as they may think fit to impose; and any person who shall enter upon land for the purpose of hunting, driving, or collecting any stray cattle or horses, or shall attempt to hunt, drive, or collect any stray cattle or horses thereon being, without having obtained the consent of the owner or occupier of such land, or without the written permission of such Justices of the Peace as hereinbefore provided, or who shall contravene such conditions, or any one or more of them, shall on conviction forfeit and pay a penalty of any sum not exceeding Fifty pounds.

If occupier of land refuses consent to hunt for stock, any person may obtain permission from Justice.

Penalty for hunting cattle or horses without consent or authority, £50.

8. IT shall be lawful for any person, acting under the authority in writing of any two or more Justices of the Peace, and which Justices are hereby empowered, after giving one week's public notice of their intention so to do, to be posted at the Court House and Police Station, from time to time to grant to such persons as they think proper, within a certain time and district, to collect, drive, and impound all or any unbranded cattle above one year old, and all or any unbranded horses above two years old, found within the district so specified, as aforesaid, and for that purpose, with his horses and assistants, to enter upon and pass over any unenclosed land whatever, doing as

A Justice may authorise any person to drive in unbranded cattle and horses.

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Justice may sell unbranded cattle &c.

Property protected, proof given:

What to be deemed unbranded cattle and horses.

To drive cattle or horses known to belong to another to nearest stockyard.

Persons defacing brands penalty £50.

little damage as possible; and it shall be lawful for any Justice of the Peace, or for any person acting under the written authority of any Justice of the Peace, to sell the same in manner hereinafter mentioned, and the proceeds thereof, after deducting the expenses of keep and sale of such beasts, shall go and be paid, one moiety thereof, or such greater part thereof as the Governor, with the advice of the Executive Council shall direct, to or for the use of the person, having such written authority as aforesaid, who collected and impounded such beasts, and the residue of such proceeds shall be paid to the use of Her Majesty, her heirs, and successors, as part of the General Revenue of the Colony; Provided however that if at any time prior to the sale of such beasts any person shall prove, upon oath if required, and which oath any Justice of the Peace is hereby empowered to receive and administer, to the satisfaction of the Justices of the Peace under whose written authority such beasts were so collected and impounded, or other of the Justices of the Peace about to sell such beasts, or order the sale thereof, his right of property in the said beasts, such beasts shall, without prejudice to the rights of any person possessing an interest therein, be given up upon payment of one pound per head, and of the expenses of keep and impounding, and which sum of one pound per head shall in that case go and be applied and paid to the use of the person having, under such written authority as aforesaid, collected and impounded such beasts; and it is declared that no cattle under the age of one year, and no horses under the age of two years, shall be deemed unbranded, but all other cattle and horses not branded on the hide with a registered brand shall, for the purpose of this Ordinance, be considered unbranded.

9. ANY person authorised as aforesaid, who shall unavoidably drive from the land, or out of the herd of any other person any beast other than his own, or his masters, or his employers, or such unbranded beasts as he may be so authorised as aforesaid to drive away, and shall not drive such beasts without delay to the nearest available stockyard, pound, stable, barn, or enclosure, or other fit and safe receptacle for Cattle or Horses, and shall not then and thence, unless exempted by the owner, drive back all such beasts with all possible despatch to the land or into the herds from which they may have been so driven as aforesaid, shall on conviction forfeit and pay a sum not exceeding Fifty pounds.

10. EVERY person who shall burn or otherwise destroy or deface any registered brand which shall have been marked upon any beast, shall forfeit and pay a fine not exceeding Fifty pounds.

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11. ANY such authorised person as aforesaid may drive and lodge, or cause to be driven and lodged, such beasts in any public pound, or, if there be none such within three miles of the place where such beasts have been collected as aforesaid, then in any private stockyard or other enclosure, with the consent of the owner thereof, and there detain them until they shall be disposed of under the provisions of this Ordinance; Provided that the person so impounding such cattle or horses, shall, within forty eight hours after such impounding, furnish the nearest Justice of the Peace with a written and accurate statement of the number and description of the beasts so impounded, and of the locality in which they were found; and shall during such detention treat the said beasts with all reasonable food and care, and for which food and care he shall be entitled to demand and receive, out of the proceeds of the sale of such beasts if sold, or from any person proving his right of property therein as aforesaid, such fee or charge per head as the Justice of the Peace selling or ordering the sale of the said beasts shall deem reasonable and allow, such fee or charge however in no case to exceed the amount which shall be by law chargeable by the keeper of the nearest public pound for feeding and maintaining beasts impounded therein; Provided also that the person so impounding any such beasts as aforesaid, in any private stockyard or other enclosure, shall afford access thereto at all reasonable hours to all persons wishing to inspect such beasts therein, and shall also post a written notice on the gate, or on some other conspicuous part of the said stockyard or other enclosure, setting forth an accurate description of the beasts so impounded, or in his possession, and stating the day on which the same were impounded, and the locality from which they were driven, and such notice shall remain so posted until such beasts shall have been disposed of as aforesaid; and every person who shall neglect to furnish such written statement as aforesaid, shall for every neglect forfeit and pay a sum not exceeding Ten pounds.

Authorised persons driving in unbranded cattle may lodge them in public pound, or private enclosure.

Persons impounding to furnish justice with list of stock impounded.

12. ALL sales under this Ordinance of impounded beasts shall take place, free of auction duty and auctioneer's license, on the twelfth day after the day on which notice of impounding shall have been given to a Justice of the Peace as aforesaid, and to which impounding and sale the Justice of the Peace receiving such notice shall give all publicity in his power, by directing notices thereof to be posted in such places as he may think best calculated to attain the object in view; unless such twelfth day shall happen to be on a Sunday, Christmas Day, or Good Friday, and then on the following day; and unless the sale be suspended by the order of the Justice of the Peace about to sell the said beasts, and which order he is hereby

Impounded Stock to be sold by justice at noon on the 12th day.

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empowered to make, in which case the sale shall take place upon the day appointed anew by the said Justice of the Peace; Provided that when any such delay or suspension of sale shall be made necessary in consequence of the neglect or omission of the person impounding, the costs of all further proceedings, as well as of the future feeding and care of the beasts impounded until sale, shall be borne by the person impounding the same, and all such sales shall take place at the Police Station nearest to the public pound, stockyard, or other enclosure where the said beasts shall have been impounded, in the presence of a police or district constable, who shall keep a register describing the marks and particulars of all beasts so sold, which register shall be open to public inspection at all reasonable times, and such sale shall commence at the hour of noon, and the said beasts shall be offered in lots to suit purchasers, and neither the person who impounded such beasts, nor the Justice of the Peace who made the order for the sale, nor the person who actually makes such sale, shall personally or by other purchase the said beasts, or any of them, upon pain that every such person so offending shall forfeit and pay for every head of stock so purchased any sum not exceeding Fifty pounds.

Penalties how recovered.

13. ALL informations and proceedings for the recovery of fines, penalties, compensation, and costs under this Ordinance, shall be heard and determined, and such fines, penalties, compensation, and costs shall be awarded and imposed in a summary way before any two or more Justices of the Peace; Provided that if the fine, penalty, compensation, or costs adjudged to be paid, shall not be paid forthwith, or at such other time as the convicting Justices shall appoint, it shall be lawful for such Justices, or any one of them, to issue a warrant of distress against the goods of such offender, and in default of sufficient distress to commit him to a common gaol, there to be imprisoned, with or without hard labor, at the discretion of the said Justices, for any term not exceeding six calendar months.

Interpretation.

14. IN the construction of this Ordinance the word "cattle" shall in all cases be deemed and taken to mean bulls, cows, heifers, oxen, steers, and calves, and the words "horse" and "horses," respectively shall in all cases be deemed and taken to mean and to include horses, mares, geldings, colts, fillies, asses, mules, and ponies; and the word "beasts" shall in all cases be deemed and taken to mean and include bulls, cows, oxen, heifers, steers, calves, horses, mares, geldings, colts, fillies, asses, mules, and ponies.

Shortening Ordinance.

15. Sections A, C, G, and I of the "Shortening Ordinance, 1853," shall be incorporated with and taken to form part of this

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Ordinance to all intents and purposes, and in as full and ample a manner as if the said sections had been introduced and fully set forth in this Ordinance.

16. THIS Ordinance may be cited as "The Branding Consolidation Ordinance, 1864."

J. S. HAMPTON,

GOVERNOR AND COMMANDER-IN-CHIEF.



*Passed the Legislative Council,
this 11th day of July, 1864.*

G. E. HAMPTON,

Clerk of the Council.