



WESTERN AUSTRALIA.

ANNO VICESIMO QUARTO

VICTORIÆ REGINÆ.

NO. VIII.

AN ORDINANCE to amend "An Ordinance to consolidate and amend the Laws relating to Trespasses by live Stock and to promote the Construction of Fences."

WHEREAS it is expedient to amend the Ordinance of the Legislative Council No. 7, of 1857 intituled *An Ordinance to consolidate and amend the Laws relating to Trespasses by live Stock, and to promote the Construction of Fences*; 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:

Preamble.

I. THAT the Proprietor or Tenant of any Land within the original Boundaries of a pastoral Lease or License respectively, and which may have been purchased from the Crown during the Term specified in such

Occupier of Land bought out of Lease, not entitled to Damage by Trespass of Stock unless fenced.

Lease or License, shall not be entitled, under the Provisions of the said recited Ordinance, or any other Ordinance or Law relating to Trespass, to recover any Compensation whatever for or on account of any Damage committed by any live Stock trespassing on such Land, or to recover any Penalty, Poundage Fees, or Expenses incurred by reason of impounding such live Stock against the Holder or Owner of such pastoral Lease or License, unless such Land, or the Portion of such Land trespassed on shall at the Time of such Trespass be enclosed by a sufficient external Fence as defined by the said recited Ordinance.

Persons in unauthorised Occupation of Waste Crown Land; Penalty of £100 nor less than £5.

II. THAT any and every Person not holding a License, Lease, or Authority, under the Regulations for the Sale, Letting, Disposal and Occupation of Waste Lands of the Crown, who (either by himself, or by his Servants, Agents, or Workmen acting under his Directions) shall be found in the unlawful and unauthorised Use and Occupation of any Waste Lands of the Crown, either by depasturing Stock thereon, or by residing or by erecting any Hut or Building thereon, or by clearing, enclosing, fencing, or cultivating the same or any Part thereof, or by cutting, sawing, felling, splitting, or removing Timber and other Trees (except Sandal Wood) thereon being, or by doing, or preparing to do, or having done any Act, Matter, or Thing thereon, which, in the Opinion of the convicting Justice or Justices, shall amount to an unlawful and unauthorised Use and Occupation thereof, he shall on Conviction be liable to a Penalty of not exceeding One Hundred Pounds nor less than Five Pounds.

Proof of Lease to lie on the Party accused.

III. THAT the Onus of Proof of such License, Lease, or Authority shall lie on the Party accused.

Horse, &c., roaming about in any Street, &c., Penalty £5.

IV. THAT any Person or Persons who shall knowingly or carelessly suffer any Horse, Mare, Gelding, Foal, Bull, Cow, Heifer, Calf, or any Poney, Mule, or Ass, Swine, Sheep, or Goat belonging to him, or in his apparent Ownership, or in his Charge, to be tethered, or to depasture, feed, or roam about, whether attended by a Keeper or not, in or upon any Street, public Thoroughfare, or open public Place whatever forming a Part of or belonging to any inhabited Portion of a Townsite, and being the Property of any Town Trust or City Council, shall on Conviction forfeit and pay for every such Offence a Sum not exceeding Five Pounds: Provided that Nothing in this Section contained shall be construed to apply to any Town Herd, draught Oxen, or Cattle which shall be *bonâ fide* driven by a Keeper, Stockman, or other Person straight into, through, or out of any City or Town.

Extending Limit to One Month where Justice resides over 30 Miles from Place of Trespass for Recovery of Penalties.

V. WHEREAS it is expedient to amend the Law regarding Trespasses by live Stock on Farms and Stock Runs situate in Districts remote from any Justice of the Peace; Be it enacted that in every Case in which the Land whereon any Trespass by live Stock may be

24th Vict., No. 8.

committed shall be upwards of Thirty Miles from the Residence of any Justice of the Peace, the Information and Proceedings for the Recovery of Damages or Penalties or both under the Ordinance 21st Victoria, No. 7 of 1857 may be commenced within One Month after the Trespass thereby respectively complained of shall have been committed; and it shall be lawful for the Justice or Justices on the Hearing of such Information, whether any Damage shall have been proved to have been committed or not, if he or they in their Discretion think fit, to award Penalties under the fifth Section of the said Ordinance, in any single Case of Trespass not exceeding the Amount of Five Pounds with such Costs and Expenses as may meet the Justice of the Case.

VI. THAT this Ordinance and the said recited Ordinance shall be read and construed together as One Ordinance. Ordinances to be read together as One.

A. E. KENNEDY,
GOVERNOR AND COMMANDER-IN-CHIEF

*Passed the Legislative Council,
this 28th day of November, 1860.*

HENRY WAKEFORD,
Clerk of the Council.

L. S.