



WESTERN AUSTRALIA.

ANNO VICESIMO QUINTO

VICTORIÆ REGINÆ.

NO. XIII.

AN ORDINANCE to regulate the keeping of public Pounds
and the Appointment of Poundkeepers.

WHEREAS it is expedient to make Provision for the keeping of public Pounds and the Appointment of Poundkeepers, and for fixing the Amount of Fees, Rates, Charges, and other Sums of Money to be made, demanded, and collected by such Poundkeepers; 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 it shall be lawful for the Justices of the Peace assembled at any Petty Session to be holden in and for any District within the said Colony, or the major Part of them, of whom the Resident or Police

Pounds and Poundkeepers
to be appointed and removed
by Justices.

Police Magistrate shall be One, to appoint One or more convenient Place or Places adjoining some public Highway, whereof One shall, if it be practicable, be at or near to the Place at which such Petty Sessions are respectively holden, for establishing, erecting, and maintaining a public Pound or Pounds for the said District; and also a fit and proper Person to be the Keeper of such Pound: And it shall be lawful for the said Justices, or the greater Part of them, from Time to Time, upon One Month's public Notice, to cause any such Pound to be removed and erected in any other Place, and also from Time to Time to displace and remove the Keeper of any such Pound from his said Office upon a reasonable Cause appearing to them; and in such Case, and also upon the Death or Resignation of any Poundkeeper, to appoint another fit and proper Person to the said Office in the Place of the One so removed, or dying, or having resigned.

Notice of Appointment to be *prima facie* Evidence of Appointment or Removal of a Pound or Keeper.

II. THAT a Notification of the Appointment or Removal of any public Pound or Poundkeeper, as the Case may be, shall be inserted in the Government Gazette, by Order of the Justices aforesaid, and such Notification shall be deemed and taken in all Courts of Law in this Colony, and for all Intents and Purposes to be Evidence that such Pound or Poundkeeper hath been legally appointed or removed, as in the said Notification is mentioned.

Governor may advance £10 for the erection of Pound.

III. THAT it shall be lawful for the Governor to advance and issue, if required, any Sum not exceeding Ten Pounds, for the Erection of One such Pound in every District where required, and in which Petty Sessions shall be holden as aforesaid, or where no public Pound exists; and every Pound so erected as aforesaid, and every Pound already erected on such Place or Places appointed as aforesaid, whether at the public Expense or otherwise, shall be kept in good Repair by the Keeper thereof at his proper Cost and Charge, and shall be delivered up by such Keeper upon the Determination of his Office by Removal or otherwise in the like Order as the same may have been received by him to such Person or Persons as shall be appointed by such Justices in such Behalf; and every Pound erected or appointed as aforesaid shall be properly fenced, and enclosed, and adapted, as far as may be, for keeping Cattle infected with any contagious Disease separate and apart from those in Health; and if any Poundkeeper shall not keep up and maintain such Enclosures in proper Repair, or shall knowingly keep or permit to be kept any Cattle affected with any contagious Disease in the same Enclosure with Cattle not so affected, or shall not keep the said Pound in good Order, and the Cattle which from Time to Time shall be impounded therein supplied with a Sufficiency of wholesome Food and Water, every such Poundkeeper shall, upon Conviction of any such Neglect, forfeit a Sum not exceeding Five Pounds.

IV. THAT it shall be lawful for the Justices, or the major Part of them as aforesaid, with the Consent of the Governor, to specify all such reasonable Fees as shall be taken and charged by any Poundkeeper for any Matter or Thing required to be done by him under or by Virtue of this Ordinance or any other Ordinance or Ordinances, and not herein or therein specially provided for ; and also, with the like Consent from Time to Time, as the same may become necessary, to appoint, fix, and vary the Price which it shall be lawful for the Keeper of every such Pound as aforesaid to charge or receive for the Sustenance of the Cattle of whatever Description which shall be committed to and secured in any such Pound ; and to frame a Table of Fees, Price, or Rates, such Fees, Price, and Rates being nevertheless subject to the Alteration, Allowance, or Disallowance of the Governor ; and the same after having been so altered or allowed and such Alteration or Allowance notified in the Government Gazette, shall and may be lawfully taken and charged, demanded, and recovered respectively as aforesaid.

Fees to be taken by Poundkeeper.

V. THAT the Keeper of every public Pound shall receive and detain in his Custody any Horses, Bulls, Cows, Sheep, Goats, Pigs, or other 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 Servant, but not otherwise ; and the said Poundkeeper shall and may detain all Cattle so impounded until the same shall be replevied or otherwise disposed of or released in due Course of Law, or until he shall receive the written Order of a Justice, or of the Person impounding such Cattle to deliver the same, together with his lawful Fees and Charges ; and upon such Order being received from such Justice or the Person impounding, together with his Fees and Charges as aforesaid, the said Poundkeeper shall immediately deliver such Cattle to the Owner thereof, or his Agent, or Overseer, or other Person duly authorized by such Owner to receive the same ; and if such Poundkeeper shall fail to deliver such Cattle as hereinbefore required and directed, he shall forfeit and pay for every such Offence a Fine of not exceeding Five Pounds.

Poundkeeper to receive Cattle and keep them.

VI. THAT the Keeper of every public Pound, whenever and as often as any Cattle shall be impounded therein, shall within Forty Eight Hours of such Impounding publish a Notice thereof in the public Newspapers, and shall affix a Notice on some conspicuous Part of such Pound, setting forth a Description of such 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 ; and every Poundkeeper who shall neglect to publish and post such Notice as aforesaid, shall for every such Neglect forfeit and pay a Fine of Forty Shillings.

Notice of Cattle having been impounded.

VII.

Rescue a Pound Breach,

VII. THAT if any Person or Persons at any Time after the passing of this Ordinance shall 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 as such, 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, every such Person shall be guilty of a Misdemeanour, and upon Conviction of such Offence before any competent Court, shall be liable to suffer Fine or Imprisonment, at the Discretion of such Court before whom such Offender shall be tried and convicted.

Person impounding responsible for Fees.

VIII. THAT the Person or Persons lodging any Cattle in a public Pound, on delivering the same to any Poundkeeper for the Purpose of being lodged in any public Pound, shall be responsible to such Poundkeeper for all Fees, Charges, and Expenses of keeping such Cattle, which Fees, Charges, or Expenses shall and may be recovered from Time to Time by such Poundkeeper summarily in the same Manner as any Fines or Penalty may be recovered under the Provisions of this Ordinance: Provided that it shall be lawful for any Justice of the Peace, if in his Discretion he shall deem it proper so to do, to order the public Sale of any Cattle so impounded for or in respect whereof any Fees, Charges, or Expenses may be due and recoverable; and all Sales under this Provision shall be carried into Effect by the Poundkeeper by public Auction to the highest Bidder, notwithstanding that he shall not have taken out a Licence as an Auctioneer; and all such Sales shall be free of Auction Duty: And such Poundkeeper, after deducting Fees, Charges, and Expenses, together with the Expenses of such Sale from the Proceeds thereof, shall pay over the Balance to the Owner of such Cattle so sold, or to any Person or Persons entitled to receive the same; and if the Owner be unknown or such Person or Persons cannot be found, the said Poundkeeper shall within One Month after such Sale pay the Amount into the Hands of the Resident or Police Magistrate of the District in Trust for the Party entitled thereto, and the Receipt of such Resident or Police Magistrate shall be a Discharge to such Poundkeeper; and in Case no Claim for the same be made within One Year, the same shall merge in and form a Part of the public Revenue of the Colony.

Goats and Swine running loose without a Keeper 5s. per Head Fine.

IX. THAT every Person who shall suffer any Goat or Swine in his apparent Ownership or in his Charge to run loose without a Keeper in constant Attendance on such Goat or Swine, within One Mile of any enclosed Land, not being occupied by the Owner of such Goat or Swine or the Person in whose Charge such Goat or Swine shall be at the Time, shall be liable to a Penalty for each Head so running loose of any

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any Sum not exceeding Five Shillings, irrespective of and in Addition to any other Fine or Damages for Trespass to which the Defendant shall be subject under any other Ordinance or Ordinances.

X. THAT Sections A, C, G, and H of "The Shortening Ordinance, 1853," shall be incorporated with and taken to form Part of this 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.

Sections A, C, G, and H of the Shortening Ordinance incorporated.

XI. THAT this Ordinance may be cited as "The Public Pound Ordinance, 1861."

Short Title.

A. E. KENNEDY,

GOVERNOR AND COMMANDER IN CHIEF.

*Passed the Legislative Council
this 2nd Day of December, 1861.*

HENRY WAKEFORD,

Clerk of the Council.

