



ANNO SECUNDO

GULIELMI IV. REGIS.

NO. II.

An act to provide a summary remedy for Trespasses committed
by Cattle and other Live Stock.

(17th February 1832.).

WHEREAS it is expedient to amend the Regulations now in force
in this Colony relative to Trespasses committed by Cattle and
other Live Stock, and to provide a more prompt and summary remedy
for the same: Be it enacted by His Excellency the Governor of
Western Australia, by and with the advice and consent of the Legis-
lative Council, that a certain Order issued by His said Excellency on
the subject of such Trespasses and bearing date the fourteenth day of
June, in the year of Our Lord One Thousand Eight Hundred and
Thirty one, be repealed. And that from and after the date of this
Ordinance it shall be lawful for any person sustaining damage in his
House or Land, or in any Crop, Fixture, or Chattel therein respec-
tively growing or being, by Trespass of any Cattle or other Live Stock
of whatever description, or by Dogs, or by other Domesticated Ani-
mals, to seize and secure the Animals so trespassing in any Public
Pound, or if there be none such within Three Miles of the scene of
Trespass, then in any Private Pound or place of security until satisfac-
tion be made for such damage in manner hereinafter provided.

Preamble.

Repeal of former Order.

II. AND be it further enacted, that it shall be incumbent upon the
party so distraining with all reasonable speed to make complaint of
such Trespass to some Justice of the Peace, and until order made
by such Justice to treat the Animal so distrained with all reasonable
food and care.

After pounding to make
complaint to a Magistrate.

Compensation whether
animal impounded or not

III. PROVIDED always and it is hereby declared, that the party sustaining any such damage as aforesaid, shall be equally entitled to the compensation herein provided by complaint to a Justice of the Peace, whether the Animal committing the Damage shall or shall not be seized and impounded.

Summons of owner of cattle.

IV. AND be it further enacted, that it shall be lawful for any Justice of the Peace for this Colony, on complaint upon Oath to him made by any person sustaining damage as aforesaid, to issue his summons for the appearance of the Owner (when known) of the Animal trespassing. And upon appearance of such Owner (or in his absence on proof of the service of the Summons, either personally or by leaving the same at the usual place of residence of such Owner) to examine into the nature and amount of the damage so committed, and to make such order for payment of the value thereof by the said Owner to the party injured, (whether last mentioned party shall have been examined or not) together with all reasonable Costs of Pounding, Feeding, Constables Fees, and other charges as to such Justice shall seem meet, and for that purpose to compel the attendance of all necessary witnesses, and to administer Oaths to all parties examined.

Order for damages costs &c.

If order not complied with
distress and sale.

And in case such order shall not be complied with, it shall be lawful for the Justice making the same by Warrant under his Hand and Seal to direct any Constable of the said Colony by Public or Private Sale of the Animal trespassing when impounded, or by Distress and Sale of other the goods and Chattels of the Owner of such Animal when not impounded, or by both of the said means as occasion may require to levy and raise the sum awarded by such order together with all expenses of sale. And further that it shall be lawful for the Justice making any such order as aforesaid to make reasonable deduction at his discretion from the amount of damages so ascertained on account of any negligence or other misconduct on the part of the person complaining, either by undue delay in making his complaint, or by ill-treatment of the animal impounded.

Deduction to be made.

Owner of animal not found.

V. AND be it further enacted, that in all cases in which the Animal so trespassing as aforesaid shall be impounded, and the Owner thereof shall not be discovered for the space of Fourteen Days after the impounding thereof, it shall be Lawful for any Justice of the Peace upon application and complaint on Oath of the Party injured, to make such Examination, Order and Sale as are hereinbefore directed to be made in case such Owner shall be known.

Land not fenced half
damages.

VI. PROVIDED always and be it further enacted, that in all cases in which it shall appear to the Justice before whom any complaint and examination shall be made as aforesaid, that the House or Land in or upon which the damage complained of shall have been committed, was not at the time of the trespass sufficiently or reasonably fenced in, it shall not be lawful for such Justice to award to the party injured more than one-half of the ascertained amount of value of the damage done.

VII. AND in order to prevent a practice so injurious to the Public

interest of the said colony as the wilful destruction of Live Stock, on account of trespasses, for which a lawful mode of summary compensation is hereby provided; Be it enacted, that if any person shall after the Publication of this Act, unlawfully and wilfully kill, wound, or maim any Animal committing damage in his House or Lands, every such person being convicted thereof before a Justice of the Peace, shall forfeit and pay to the party injured (over and above the value of the Animal when killed) any such sum of money, not exceeding Five Pounds, as to such Justice shall seem meet. And in default of payment, together with costs if ordered, shall be committed to the Common Jail or House of Correction, for any time not exceeding Three Calendar Months.

Penalty on persons killing or wounding Live Stock trespassing.

VIII. AND be it further enacted, that if any person shall find himself aggrieved by any order or conviction to be made under this Act, he may Appeal to the next Court of General Quarter Sessions of the Peace, provided that notice of such Appeal be given in Court at the time of such order or conviction being made; and the Court at such Session shall hear and determine the matter of such Appeal, and shall make such order therein with or without costs to either party as to them shall seem meet; And in case of the dismissal of the Appeal, or Affirmance of the Conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such Costs as may be awarded, and shall if necessary issue process for enforcing their Judgment.

Right of Appeal to Quarter Sessions.

IX. AND be it further enacted, that the Justices of the Peace for the said Colony in Special Session assembled, shall as soon as conveniently may be after the Publication of this Act, draw up and settle a list of Fees to be paid and allowed in all proceedings to be had under this Act, and shall cause the same to be exposed to public view, in some conspicuous part of the Court Houses for their respective districts.

Justices to draw up list of Fees.

JAMES STIRLING,

GOVERNOR AND COMMANDER-IN-CHIEF.

Passed the Legislative Council
This 17th day of February, 1832,
M. J. CURRIE,
Clerk to the Council.

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