

ANNO QUINTO

VICTORIAE REGINÆ.

No. I.

An Act to amend and continue for five years an Act intituled “*An Act further to restrain the unauthorized occupation of Crown Lands and to provide the means of defraying the expense of a Border Police.*” [23rd June, 1841.]

CROWN LANDS
UNAUTHORIZED OCCUPATION.

WHEREAS an Act of the Governor and Council of New South Wales was passed in the second year of the reign of Her present Majesty Queen Victoria intituled “*An Act further to restrain the unauthorized occupation of Crown Lands and to provide the means of defraying the expense of a Border Police*” and whereas the said Act will expire on the thirtieth day of June one thousand eight hundred and forty-one and it is expedient to continue the same for a limited period as hereinafter altered and amended Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That the said recited Act shall be and the same is hereby further continued for a period of five years from and after the said thirtieth day of June one thousand eight hundred and forty-one subject however to the alterations and amendments hereinafter provided.

2. And be it enacted That no action at law shall be brought in the Supreme Court or any Circuit Court of the said Colony for any trespass at any time committed or alleged to have been committed by any person by having encroached upon the station or run of any party in the occupation of Crown Lands beyond the limits allotted for location whether such occupation was merely on sufferance prior to the passing of the said Act or by virtue of a license granted either before or after the passing of the same until the case shall have been heard and determined by the Commissioner of the district in manner provided in the said recited Act and if any such action shall be brought in the Supreme Court or any Circuit Court as aforesaid after such hearing and determination and the verdict of the jury or assessors as the case may be shall affirm the decision of the Commissioner the Judge shall certify to that effect and the party in whose favour such certificate shall be granted shall be entitled to treble costs and the certificate of the Commissioner on proof of his handwriting thereto shall be deemed evidence of such decision.

3. And be it declared and enacted That it shall be lawful for any Commissioner of Crown Lands or person acting under his directions to impound any cattle found trespassing upon any vacant Crown Land within the limits allotted for location whether such cattle shall belong to or be claimed by any person who may be in the unauthorized occupation of any Crown Land contrary to the provisions of the said recited Act or shall have no apparent owner and the same to drive or cause

Continued for five years as amended.

No action for trespass beyond the limits of location to be brought until after the case shall have been heard and determined by the Commissioner of the district.

Treble costs.

Commissioners may impound cattle trespassing on Crown Lands within the limits allotted for location.

Crown Lands unauthorized Occupation.

cause to be driven to the nearest pound appointed under the provisions of an Act of the said Governor and Council of New South Wales passed in the fourth year of the reign of His late Majesty King William the Fourth intituled “*An Act to repeal an Act of the Governor and Council of New South Wales intituled ‘An Act to authorize the erection of Pounds and for regulating the impounding of Cattle and to make further and other provisions in lieu thereof’*” to be dealt with as is provided in like cases in the said Act as the same is amended by an Act passed in the fourth year of the reign of Her said Majesty intituled “*An Act to amend an Act intituled ‘An Act to repeal an Act of the Governor and Council of New South Wales intituled ‘An Act to authorize the erection of Pounds and for regulating the impounding of Cattle and to make further and other provisions in lieu thereof’ and to extend the provisions thereof’*” and the term cattle hereinbefore used shall be deemed to mean the several and respective animals included within the operation of the said recited Act passed in the fourth year of the reign of His late Majesty King William the Fourth.

Where disputed lands are surveyed on behalf of the Crown party decided against shall pay double the expense of the survey in addition to the penalty for unauthorized occupation.

Reciting 4 Vict. No. 27 s. 15 as to branding cattle and horses and registering brands with Commissioner.

Reciting s. 14 as to impounding and selling unbranded cattle above one year unless claimed.

4. And be it enacted That if in the prosecution of any person for being in the unauthorized occupation of Crown Lands contrary to the provisions of the said recited Act a question shall arise whether such lands be or be not the property of the Crown and it become necessary on behalf of the Crown to employ a surveyor to determine the fact and a decision be given against the party under the provisions of the said Act such party shall be liable in addition to the penalty which may be imposed under the said Act to pay double the expenses attending such determination the same to be ascertained and assessed by the Justices before whom the case shall be heard and to be recovered in like manner as penalties are recoverable under the said recited Act and the amount so recovered shall be applied first in payment of such expenses and the remainder to the use of Her Majesty Her Heirs and Successors for the public uses of the said Colony and in support of the Government thereof.

5. And whereas by the said first recited Act it was amongst other things enacted that every person licensed to occupy Crown Lands beyond the limits of location should have a separate and distinct brand for horses and cattle and should register such brands respectively with the Commissioner and that it should be lawful for the said Commissioner to make order for any proprietor last coming into his district whose proper brand might be similar to that of a prior occupant therein to make such a difference in his brand as might be necessary to prevent mistake or confusion therefrom the particular change or alteration in such brand to be determined on by the said proprietor provided that it should meet the object required and that if any person should fail to have such distinct brand as aforesaid or to make such difference and should refuse or neglect to provide himself with such brands or to make such difference within one month after receiving a notice to that effect unless further time should be given by the Commissioner upon reasonable cause shewn to the satisfaction of the said Commissioner he should forfeit and pay a sum of not less than one pound nor more than twenty pounds And whereas by the said first recited Act it is also enacted that it should and might be lawful for any such Commissioner or any person by his order at and after the expiration of one year after the said Act should take effect to collect and impound any unbranded beasts in his district above one year old and after the expiration of twenty-one days to brand and sell the same and that the proceeds thereof should be appropriated to the general purposes of that Act Provided however that if within twenty-one days from and after the impounding of the said cattle any person should prove to the satisfaction of

Markets.

of the said Commissioner his right of property in the said cattle and should immediately brand the same with his or her registered brand such beast or beasts should be given up on payment of a fine of ten shillings per head And whereas it is expedient to adopt similar provisions within the limits of location Be it enacted That the said provisions shall be applicable and applied accordingly within the limits of location and that the Commissioner for the before-mentioned purposes shall be the Commissioner now or hereafter to be appointed who shall reside nearest to the place where the horses or cattle shall be depastured Provided always that no unbranded beasts shall be collected or sold under the authority of this Act until the expiration of twelve months after the same shall take effect.

6. And whereas it is provided by the said recited Act that persons shall be subject to certain penalties who may be found occupying any Crown Lands within the limits of location without holding a valid lease from the Government of New South Wales for the occupation of the same and whereas the issuing of leases has been found to be troublesome and expensive and it is expedient to substitute in some cases annual licenses in their stead Be it therefore declared and enacted That no person occupying Crown Lands within the said limits of location and having a valid license for the occupation of the same signed by the Treasurer for the time being of the said Colony or such other officer or officers as the Governor may appoint shall be liable to any penalty under the said Act as the same is continued and amended by this Act for occupying such lands contrary to the provisions of the said recited Act as so continued and amended.

7. And be it enacted That the penalties imposed by this Act shall be recovered and applied and may be appealed against in the same manner as is directed with respect to penalties recoverable under the said first recited Act.

8. And be it enacted That this Act shall commence and take effect from and after the thirtieth day of June one thousand eight hundred and forty-one and shall thenceforward continue in force for five years.

Adopting the said provisions within the limits of location.

Persons holding valid licenses exempted from penalties imposed on unauthorized occupiers of Crown Lands.

Recovery and application of penalties.

Commencement and duration of Act.