

## No. XIV.

## CATTLE PROTECTION. An Act for the better protection of Cattle in New South Wales. [10th September, 1850.]

## Preamble.

Any person in whose possession or on whose premises the carcass or carcasses of stolen cattle shall be found may be committed to gaol and on conviction pay a penalty not exceeding twenty-five pounds and costs of conviction.

WHEREAS it is expedient to make provisions for the better protection of cattle in the Colony of New South Wales Be it enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That from and after the passing of this Act if any credible witness shall prove on oath before a Justice of Peace that there is reasonable cause to suspect that the carcass or carcasses of any cattle stolen from any person is or are concealed in any dwelling-house or other place it shall be lawful for such Justice to issue a warrant directing any constable to search such dwelling-house or other place and if the carcass or carcasses of any cattle or any part of any such carcass or carcasses so suspected to have been stolen shall by virtue of such search warrant be found in the possession of any person in or at such dwelling-house or other place specified in such warrant with his knowledge it shall be lawful for any Justice before whom such person shall be brought (unless such person shall satisfy the said Justice that he came lawfully by the same) to commit such person to the nearest gaol or lock-up in which he can be conveniently confined in order that he may be brought forward for trial at the next Court of Petty Sessions (unless he enter into such bail with one or more sufficient securities as may be required for his appearance before such Court which any Justice is hereby authorized and required to take) and if such person so apprehended after proof upon oath of such finding of such carcass or carcasses or any part thereof as aforesaid shall not satisfy the Justices sitting at Petty Sessions in open Court that he came lawfully thereby he shall be held guilty of a misdemeanor and shall forfeit and pay any sum not exceeding twenty-five pounds together with the charges previous to and attending his conviction.

Any person convicted of using any cattle or horses not belonging to him without the consent of the owner or person in possession thereof shall pay a penalty not exceeding ten pounds.

2. And whereas a practice prevails among carriers and others in the said Colony of taking working cattle the property of others and working them in teams or otherwise to the great injury and inconvenience of their owners Be it enacted That if any person shall take use or in any manner work any one or more cattle the property of any other person without the consent of the owner or other person in lawful possession thereof such person so offending shall be deemed guilty of a misdemeanor and on being convicted thereof by any two or more Justices of the Peace in Petty Sessions assembled and in open Court shall forfeit and pay for every head of cattle so used any sum not exceeding ten pounds together with the costs to be assessed by such Justices.

Upon non-payment of penalty offender may be committed to gaol for any term not exceeding three months.

3. And be it enacted That upon non-payment of any fine forfeiture or penalty under this Act either immediately after the conviction or within such period after the conviction as such Justices at the time of such conviction shall appoint such Justices shall commit such offender to the nearest common gaol by warrant under their hands and seals there to remain without bail or mainprize for any time not exceeding three calendar months unless the fine forfeiture or penalty and costs so awarded shall be sooner paid.

Persons having suffered punishment under this Act or sentence having been remitted cannot be again proceeded

4. And be it enacted That in case any person convicted under this Act shall have paid the sum adjudged to be paid together with costs if awarded under such conviction or shall have received a remission thereof from the Crown or shall have suffered the imprisonment

*Cattle Protection.*

ment awarded for non-payment therof in every such case he shall be <sup>against for the same cause.</sup> released from all further or other proceedings for the same cause.

5. And be it enacted That all complaints for offences under this Act shall be heard and determined in a summary way and all fines <sup>Offences to be determined summarily.</sup> forfeitures or penalties or imprisonment in respect thereof shall be awarded imposed and decided in the manner prescribed by an Act of the Governor and Legislative Council of New South Wales passed in the fifth year of His late Majesty King William the Fourth intituled "*An Act to regulate summary proceedings before Justices of the Peace*" <sup>5 Wm. IV. No. 22.</sup> or according to the law in force for the time being regulating summary proceedings before Justices of the Peace and any person feeling aggrieved by any summary conviction order or award under this Act <sup>Appeal.</sup> may appeal therefrom in the manner provided by the said recited Act or by any other law in force in the Colony for the time being in that behalf and in all proceedings under this Act the informer or party <sup>Informer a competent witness.</sup> prosecuting shall be deemed and taken to be a competent witness.

6. And be it enacted That all proceedings under this Act by <sup>Proceedings by summons valid without a formal information in writing.</sup> summons or warrant without a formal information in writing shall be held good valid and effectual to all intents and purposes as if a formal information in writing had been exhibited Provided always that in every such summons or warrant the nature of the charge shall be succinctly stated and the original complaint shall be made on oath and that the prosecution shall be commenced within three months after the commission of the offence and not otherwise.

7. Provided always and be it enacted That if the Justice before <sup>Justices may remit cases to the Supreme or Circuit Court or Quarter Sessions.</sup> whom any person shall be brought under this Act shall find the evidence given against such person before such Justices to be such that in their opinion the case is one in which there ought to be a prosecution by indictment for felony it shall be lawful for such Justices to abstain from adjudicating in a summary manner thereon and to deal with the case as one to be prosecuted at the Supreme or Circuit Court or Court of General or Quarter Sessions and if any person so prosecuted at the Supreme or Circuit Court or Quarter Sessions shall be acquitted of the charge of felony and the jury shall be of opinion that such person did commit the misdemeanor before mentioned it shall be lawful for such jury to find such person guilty of such misdemeanor and he shall thereupon receive sentence accordingly.

8. And be it enacted That in the construction of this Act the <sup>Construction of terms.</sup> word "cattle" shall extend to and include horses mares fillies foals geldings colts bulls bullocks cows heifers steers calves sheep lambs goats pigs mules and asses and that all words in the singular number shall extend also to the plural and all words in the plural number shall extend to the singular also.

9. And be it enacted That all fines forfeitures and penalties <sup>Appropriation of penalties.</sup> imposed by this Act shall be paid one moiety to Her Majesty Her Heirs and Successors for the public uses of the said Colony and in support of the Government thereof and shall be applied in such manner as may be from time to time directed by any Acts of the Governor and Legislative Council and the other moiety to the use of the informer or party prosecuting who shall be entitled to his costs and charges over and above such fines forfeitures and penalties to be ascertained and assessed by the Justices by and before whom the case is heard.

10. And be it enacted That no information warrant conviction commitment or other proceeding before or by any Justices of the Peace exercising summary jurisdiction for any offence under this Act shall be quashed or set aside or adjudged void or insufficient for want of form or be removed by *certiorari* or otherwise into Her Majesty's Supreme Court for the said Colony and in any conviction for any offence contrary to this Act it shall be sufficient if the offence shall be

### *Public Wharves.*

stated in the words thereof declaring the offence and attaching a penalty thereto and such conviction may be in the form given in Schedule A to this Act annexed or in any other form to the same effect.

### Limitation of actions against Justices.

11. And be it enacted That no action at law shall lie against any Justice of the Peace for any matter or thing done or commanded to be done by him in pursuance of the provisions of this Act unless there be proof of corruption or malice and unless such action be commenced within three calendar months after the cause of action or complaint shall have arisen and if any Justice shall be sued for any matter or thing done in pursuance of this Act he may plead the general issue and give the special matter in evidence.

Act may be amended  
or repealed.

12. And be it enacted That this Act may be amended or repealed by any Act to be passed in this Session of the said Legislative Council.

## SCHEDULE A.

*Form of Conviction.*

Given under our hands and seals the day and year first above written.