

Assessment on Stock.

No. XVIII.

ASSESSMENT ON
STOCK.

An Act to authorize for a limited time an Assessment upon Stock pastured beyond the Settled Districts of New South Wales. [17th September, 1847.]

Preamble.

WHEREAS it is necessary to make provision for the protection and good government of all persons residing beyond the Settled Districts of the Colony of New South Wales and by reason thereof it is expedient that an assessment should be raised and levied upon all stock pastured beyond the said Settled Districts Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That in each and every year there shall be levied and paid upon and in respect of the stock of every person pasturing or keeping the same upon any lands situate beyond the Settled Districts of the said Colony as the same now are or hereafter may be defined the assessment following that is to say—for every sheep the sum of one halfpenny for every head of cattle the sum of one penny halfpenny and for every horse the sum of three-pence which assessments respectively shall be paid by the person assessed before the first day of April in each year at the office of the Colonial Treasurer in Sydney or Sub-Treasurer at Melbourne or to such other officer or officers or at such other place or places as shall be appointed in that behalf by the Governor for the time being.

Yearly assessment
on stock.Persons pasturing
stock to make returns
to Commissioner.

Penalty for neglect.

Commissioner to im-
pound and sell stock
not so returnedunless in the mean-
time claimed and all
charges paid.

Proviso.

2. And be it enacted That every person pasturing or keeping stock as aforesaid shall make or cause to be made to the Commissioner of the district wherein the said stock is pastured a return on the first day of January or within fourteen days thereafter in each and every year according to the form contained in the Schedule hereunto annexed marked A of all sheep cattle and horses kept and pastured by him as aforesaid and if any such person shall fail or neglect to make or cause to be made such return at the time so appointed or shall omit to deposit the same with the said Commissioner in manner hereby required he shall on conviction before any two or more Justices of the Peace forfeit and pay for every such offence a sum not less than forty shillings nor exceeding fifty pounds.

3. And be it enacted That after the first day of March in each year it shall and may be lawful for the Commissioner and his assistants in each and every district (but subject to such directions as the Governor may think proper to give in any case) to seize and drive to the nearest or most convenient pound all cattle and horses pasturing as aforesaid whereof a return shall not by that time have been made by the person keeping or pasturing the same in conformity with the provisions in that behalf hereinbefore contained and the said cattle and horses to sell and dispose of at such pound according to the ordinary course of sales of cattle and horses impounded for trespasses unless in the meantime the owner thereof shall have claimed the same and shall pay by way of penalty to the said Commissioner or poundkeeper the sum of two shillings and sixpence for every head of such cattle and horses together with the expenses chargeable thereon for poundage and food which penalty and expenses the owner of such cattle and horses shall be liable to pay Provided always that upon such claim being made by a person who shall satisfy the said Commissioner or poundkeeper that he is the lawful owner of any such cattle and horses so impounded and upon such payment as last aforesaid the said cattle and horses shall be restored to such owner And provided further that all moneys realized

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realized by any such sale as hereby authorized and all payments made as aforesaid shall be forthwith transmitted by or through the said Commissioner to the Colonial Treasurer at Sydney or the Sub-Treasurer at Melbourne or to such other officer as may in that behalf be appointed by the Governor and the surplus realized by any such sale as aforesaid over and above the amount of such penalty as last aforesaid and the expenses aforesaid shall be paid to the owner of any such cattle and horses so sold upon a certificate from the said Commissioner of his being such owner.

4. And be it enacted That the person making such return as aforesaid shall verify the same by a declaration in the form or to the effect prescribed in the said schedule (which declaration any Justice of the Peace is hereby empowered to administer) that the several matters and things contained in such return are true to the best of his knowledge and belief and if any person shall wilfully make therein any false statement as to any material particular he shall be deemed guilty of a misdemeanor and being convicted thereof shall be liable at the discretion of the Court to fine and imprisonment or either.

Returns to be verified by declaration.

5. And be it enacted That the several Commissioners shall at the beginning of each and every year make an assessment on the stock pastured within their respective districts and shall on or before the first day of February then next ensuing make a return thereof to the said Colonial Treasurer or Sub-Treasurer or other person appointed as aforesaid in the form and containing the several particulars set forth in the Schedule to this Act annexed marked with the letter B according to which return the assessment hereinbefore mentioned shall upon notice as hereinafter provided be due and payable as aforesaid by the persons therein assessed except in so far as the same may be affected by any order made on appeal under the provisions hereinafter contained.

Commissioner to make annual return to Colonial Treasurer

according to which assessment to be charged.

6. And be it enacted That the said several Commissioners shall not less than one calendar month previous to the time hereinbefore appointed for the payment of the said assessment cause a notice in writing in the form contained in the Schedule hereunto annexed marked C to be served upon each person assessed or to be left at the residence of such person (if within the district) or with the superintendent or person having the charge of his stock (if the owner thereof shall not reside within the district) apprising him of the amount of the assessment with which he is liable and requiring him to pay the said amount at the office of the said Colonial Treasurer or of the said Sub-Treasurer or other place appointed as aforesaid before the first day of April next ensuing.

Commissioner to give notice to parties of amount of assessment.

7. And be it enacted That any person assessed as aforesaid who shall consider himself aggrieved by such assessment may appeal to the nearest Court of Petty Sessions Provided that within ten days after the service of the said notice of assessment the person assessed or some one on his behalf shall give to the said Commissioner a notice in writing of his intention to make such appeal upon some day to be therein mentioned not later than fourteen days after the date of such last mentioned notice and the Justices sitting in Petty Sessions shall hear and determine the matter of the said appeal in a summary way and shall make such order therein as to them shall seem meet according to the true intent and meaning of this Act and in case of the dismissal of the appeal or the affirmance of the said assessment wholly or in part or in case the party assessed or some person on his behalf shall not appear to prosecute the appeal the Court shall order and adjudge the person so assessed to pay within ten days the amount of such assessment or of such part thereof as they shall have determined to be payable into the office of the said Colonial

Persons aggrieved to appeal to Petty Sessions.

Treasurer

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Treasurer or Sub-Treasurer (or other place appointed as aforesaid) and also such costs and expenses as may be awarded to the said Commissioner by the said Court and if such assessment costs and expenses be not paid within such time the said Court shall and may issue a warrant to levy the amount thereof by a distress and sale of a sufficient part of the stock in respect of which such assessment shall have been made as aforesaid and the surplus if any after payment of such assessment costs and expenses shall be paid to the owner of such stock.

In cases of refusal or neglect to pay assessment &c. Colonial Treasurer to issue warrant to levy amount.

8. And be it enacted That in case any person liable to pay any such assessment as aforesaid or in case any person so adjudged to be liable to payment of the said assessment or any part thereof upon appeal or notice of appeal as aforesaid shall refuse or neglect to pay the same upon the day appointed by such notice or within the time appointed in cases of appeal as aforesaid as the case may be it shall and may be lawful for the said Colonial Treasurer or Sub-Treasurer at Melbourne or other person appointed by the Governor in that behalf and he is hereby required forthwith after the expiration of one month from the day or time so appointed to issue a warrant under his hand to the Commissioner in whose district any person so refusing or neglecting to pay as aforesaid shall reside directing the said Commissioner and his assistants to levy the amount which such person is so liable to pay as aforesaid together with an additional sum equal to one-fifth part of that for which he is so liable by way of penalty for such refusal or neglect by a distress of a sufficient part of the stock in respect of which the assessment shall have been made as aforesaid and such Commissioner and his assistants to whom such warrant shall be so directed are hereby authorized under and by virtue thereof to distrain take and drive to the nearest or most convenient pound such and so many of the stock of the party in said warrant mentioned as shall be sufficient (when sold) to pay the amount of such assessment and penalty and the costs and expenses of making such distress and the payment of the maintenance of such stock till sold and the said stock (or a sufficient part thereof) to sell and dispose of at such pound according to the ordinary course of sales of stock impounded for trespasses (unless previously thereto the said assessment penalty costs and expenses shall be paid) and the proceeds thereof shall be applied to the payment of the assessment penalty costs and expenses aforesaid and the surplus (if any) shall be paid to the owner or superintendent of the said stock Provided however that when such warrant shall be so issued as aforesaid in case the amount of the assessment and penalty therein mentioned shall be tendered to the person charged with the execution of such warrant then and in such case the said person shall and he is hereby authorized to accept and receive the said amount and to give a receipt for the money so received and to refrain from making and executing the said distress.

Proviso.

Mode of recovering penalties.

5 Wil. IV. No. 22.

All actions for things done under this Act to be brought within six months.

9. And be it enacted That all penalties fines and forfeitures incurred or imposed under this Act shall and may be sued for and recovered in a summary way before any one or more Justice or Justices of the Peace under and according to the provisions of an Act made and passed by the Governor of New South Wales with the advice of the Legislative Council thereof in the fifth year of the reign of His late Majesty King William the Fourth intituled "*An Act to regulate summary proceedings before Justices of the Peace.*"

10. And for the protection of persons acting in execution of this Act Be it enacted That all actions for anything done under this Act shall be commenced within six calendar months after the fact was committed and not otherwise and notice in writing of such action and the

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the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action and in every such action the defendant may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant together with costs incurred up to that time and if a verdict shall pass for the defendant or the plaintiff become nonsuited or discontinue such action after issue joined or if upon demurrer or otherwise judgment shall be given against the plaintiff the defendant shall recover his full costs as between attorney and client and have the like remedy for the same as any defendant hath by law in other cases.

Plaintiff shall not recover if tender of amends made before action brought or a sufficient sum paid into Court after action brought.

11. And be it enacted That all sums of money payable under and by virtue of this Act shall be paid to Her Majesty Her Heirs and Successors for the maintenance of a Police Force and other local purposes beyond the said Settled Districts and shall be applied thereto in such manner as may from time to time be directed by any Acts to be passed by the Governor and Legislative Council of the said Colony.

Appropriation of sums payable under this Act.

12. And be it enacted That no order judgment or other proceeding made touching and concerning any of the matters aforesaid or touching and concerning the conviction of any offender against this Act shall be quashed or vacated for want of form only or be removed or removable by *certiorari* or by any writ or process whatsoever into Her Majesty's Supreme Court of New South Wales.

No *certiorari*.

13. And be it enacted That all prosecutions suits actions informations or complaints to be brought under or by virtue of this Act or upon or by reason of the breach of any of the provisions thereof shall and may be so brought by any Commissioner for and on behalf of Her Majesty Her Heirs and Successors but nevertheless such Commissioner shall and may be admitted to give evidence in or upon any such prosecution suit action information or complaint and that upon any proceeding before Justices of the Peace under this Act it shall not be necessary to have a formal information but it shall be sufficient that the cause of complaint or proceeding shall be stated with reasonable distinctness by affidavit or deposition.

All informations to be brought by Commissioners.

14. And be it enacted That no prosecution suit or complaint shall be brought under or by virtue of this Act by reason of the breach of any of the provisions thereof after the lapse of twelve calendar months from the occurrence of the matter or thing to which such prosecution suit or complaint may relate Provided nevertheless that nothing herein contained shall be deemed to extend to any information or prosecution for the wilfully making and subscribing any false declaration.

All prosecutions &c. for breaches of this Act to be brought within twelve months.

15. And be it enacted That in the construction of this Act the term "Commissioner" shall be deemed and taken to mean a Commissioner of Crown Lands appointed by the Governor for the time being and the term "district" shall be deemed and taken to mean the limits within which a Commissioner of Crown Lands has been or may hereafter be appointed to act and the term "stock" shall be deemed and taken to mean and include sheep cattle and horses and the word "sheep" when specifically used in this Act shall be deemed and taken to mean and include rams ewes wethers and lambs and the word "cattle" when specifically used in this Act shall mean and include bulls cows oxen heifers steers and calves and the word "horses" when specifically used in this Act shall mean and include horses mares geldings colts and fillies

Interpretation clause.

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fillies and unless there be something in the subject or context repugnant to such construction every word importing the singular number or the masculine gender only shall be understood to include and shall be applied to several persons matters or things as well as one person matter or thing and females as well as males respectively.

Commencement of Act.

16. And be it enacted That this Act shall commence from and after the thirty-first day of December now next ensuing and shall thenceforth continue in full force and effect for the period of five years and no longer.

SCHEDULES REFERRED TO.

A.

First day of January 18

RETURN of Live Stock kept and pastured by Mr. _____ in the District of _____ beyond the Settled Districts of the Colony rendered in conformity with the provisions of the Act of the Governor and Council Victoria No. _____

STATION.	Person superintending.	Estimated Extent of Run.	Stock on Station belonging to or in charge of Mr.		
			Horses and how branded.	Cattle and how branded.	Sheep and how marked.

I A. B. do solemnly declare that to the best of my knowledge and belief the foregoing is a true and faithful account of all sheep horses and cattle of every kind kept or pastured by me or under my charge on the several stations above mentioned within the District of _____ and I make this declaration by virtue of the Act of the Governor and Council of New South Wales Victoria No. _____

A. B.
Proprietor or Superintendent
(as the case may be.)

Declared before me at this _____ day of _____ 18 . }
J. P.

B.

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B.

First day of

18 .

YEARLY Return of Live Stock in the District of _____ with a Statement of the Amount of Assessment chargeable thereon in accordance with the provisions of the Act of the Governor and Council Victoria No. _____

Stations or Runs.	PERSONS ASSESSED.		Persons superintending.	Estimated Extent of each Run.	STOCK AT EACH STATION.			Amount of Assessment.	TOTAL.
	Lessees.	Licensed Occupants.			Horses Three pence per head.	Cattle Three Halfpence per head.	Sheep One Halfpenny per head.		

Signature of Commissioner.

C.

No. ... | ...

District of

Commissioner of Crown Lands Office

18

The amount with which you are assessed for the year from first January to thirty-first December 18 _____ under the provisions of the Act of the Governor and Council Victoria No. _____ on the undermentioned Stock pastured by you in this District is as follows viz. :—

	£	s.	d.
..... Horses at 3d. per head			
..... Head of Cattle at 1½d. per head			
..... Sheep at ½d. per head			

£ _____

which said sum of _____ pounds _____ shillings and _____ pence you are hereby required to pay at the office of the Honorable the Colonial Treasurer in Sydney (or at _____ as the case may be) before the first day of April next.

Or if you consider yourself as having any just cause for appealing against the said assessment you will please to observe that notice of such appeal must be lodged with me within ten days from the date of the delivery of this notice in the manner prescribed by the said Act. As witness my hand at _____ this _____ day of _____ 18 .

Commissioner of Crown Lands.

To _____ }
_____ }