

ACT No. III OF 1857.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 31st of January 1857.)

*An Act relating to Trespasses by Cattle.*

WHEREAS loss and injury are suffered by cultivators and occupiers of land from damage done to crops and other produce of land by the trespass of Cattle; and whereas damage is done to the sides and slopes of public roads and embankments by cattle trespassing thereon; and whereas it is expedient to authorize the seizure and detention of Cattle doing damage as aforesaid and also to make provision for the disposal of cattle found straying in any public place: It is enacted as follows:—

Preamble.

I. Section IV Regulation V. 1830 of the Bengal Code, Sections XII and LII Regulation XI. 1816 of the Madras Code, and such parts of Sections XIX, XLV, and LIII Regulation XII. 1827 of the Bombay Code, as authorize the Magistrates or Police Officers to take charge and dispose of stray Cattle, are hereby repealed.

Laws repealed.

II. It shall be lawful for the cultivator or occupier of any land to seize or cause to be seized any cattle trespassing on such land, and doing damage to such land or any crop or produce thereon, and to convey them without unnecessary delay to the pound established for the village or township in which the land is situate. Village and other Police Officers, when called upon, shall give their aid to cultivators and occupiers making such seizures.

Cattle doing damage to land may be seized and impounded.

III. Pounds shall be established at the thannahs or district Police stations, and at such other places as the Magistrate, under the orders of the local Government, may determine. The village or villages by which every pound is to be used shall be determined and notified by the Magistrate.

Where pounds shall be established.

IV. The

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IV. The pounds shall be under the control of the Magistrate of the district, and for each pound a pound-keeper shall be appointed, who shall keep such registers and furnish such returns as the local Government shall direct. Provided that, in the Presidencies of Fort St. George and Bombay, the heads of villages and Police patells shall be ex-officio the keepers of village-pounds.

V. When Cattle are brought to a pound, the pound-keeper shall enter in his register the number and description of the animals, the name and residence of the seizer, and the name and residence of the owner if known, and shall give a copy of the entry to the seizer. The pound-keeper shall take charge of and feed the Cattle until disposed of as hereinafter directed.

VI. For every head of Cattle impounded as aforesaid, a fine shall be levied according to the following scale :—

	<i>Annas.</i>
Camel or Buffalo ... ..	8
Horse or Tatoo, Bull, Bullock, or Cow . . . .	4
Calf or Ass ... ..	2
Sheep or Goat ... ..	1

and no Cattle shall be released by a pound-keeper without the payment of such fine unless the release be ordered by competent authority.

VII. If the owner appear and claim the Cattle, they shall be delivered to him on payment of the prescribed fine together with the expense of feeding the Cattle at such rates as may from time to time be fixed by the Magistrate; and the owner, on taking back his Cattle, shall sign a receipt for them in the register kept by the pound-keeper. A schedule of the fines and of the rates of charge for feeding Cattle shall be stuck up in a conspicuous place on or near to every pound.

VIII. If

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VIII. If the Cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall make his report to the Darogah or district Police Officer, who shall stick up in a conspicuous part of the Police Office a notice containing a statement of the number and description of the Cattle, the place where they were seized, and the place where they are impounded, and shall cause proclamation of the same to be made by beat of drum in the village, and at the market place, nearest to the place of seizure. If the Cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the Darogah or district Police Officer or an Officer of his establishment deputed for the purpose.

Procedure if Cattle be not claimed within a specified time.

IX. If the owner appear, and refuse or omit to pay the fines and expenses, the Cattle, or as many of them as may be necessary, shall be sold by public auction for the recovery of such fines and expenses by the Darogah or other Officer as aforesaid; and the remaining Cattle and the balance of the purchase money if any shall be delivered to the owner, together with an account showing the number of Cattle seized, the time during which they have been impounded, the charge for fines and expenses, the number of Cattle sold, the proceeds of sale, and the manner in which those proceeds have been disposed of; and the owner shall grant a receipt for the Cattle delivered to him and for the balance of the purchase money paid to him (if any) according to such account. Provided always that, if a complaint against the seizure shall have been preferred under the provisions of Section XIV of this Act, no sale shall be made until the case shall have been decided, nor otherwise than according to the order which may be passed in such case.

Procedure if owner appear and refuse or omit to pay the fines and expenses.

Proviso.

Police Officers and pound-keepers not to purchase Cattle at a sale under this Act.

X. Police Officers and pound-keepers are prohibited from becoming, directly or indirectly, purchasers of any Cattle at a sale under this Act.

XI. When Cattle are sold under the provisions of this Act, the fines leviable and the expenses of feeding, together with the expenses of sale, if any, shall be deducted from the sale proceeds. The fines so recovered, as well as all fines received

Disposal of sale proceeds, fines, and expenses.

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received by the pound-keepers under Section VII, shall be transmitted to the Magistrate by the Darogah, or district Police Officer. The expenses of feeding realized by sale shall be paid over to the pound-keepers, who shall also retain and appropriate all sums received by them on account of such expenses under Section VII. The surplus proceeds of the sale of unclaimed Cattle shall be transmitted to the Magistrate, who shall hold them in deposit for three months, and if no claim to them be preferred and established within that period, shall, at its expiry, dispose of them as hereinafter provided.

XII. The sums received on account of fines and the unclaimed proceeds of the sale of unclaimed Cattle shall form a fund which shall be available for the payment of any salaries which may be allowed to pound-keepers under the orders of the local Government or of expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act.

Fines and unclaimed proceeds of sales to form a fund for the payment of pound-keepers, &c.

XIII. Every person who shall forcibly oppose the seizure of Cattle doing damage to land or to crops or other produce of land, or shall forcibly rescue the same after seizure either from a pound or from the seizer when conveying or about to convey them to a pound, shall be liable for such offense to imprisonment, with or without labor, for a period not exceeding six months, or to a fine not exceeding five hundred Rupees, or to both. Offences under this Section shall be dealt with by the Police Officers according to the provisions of Section XXV Regulation XX. 1817 of the Bengal Code, Section XXVII Regulation XI. 1816 of the Madras Code, and Section XLIII Regulation XII. 1827 of the Bombay Code.

Penalty for forcibly opposing the seizure of Cattle or rescuing the same.

XIV. Any person whose Cattle shall have been seized and detained as doing damage to land or any crop or produce thereon, may prefer a complaint against the seizure, at any time within ten days from the date thereof, to the Magistrate, or to any Joint Deputy or Assistant Magistrate, or other Officer having criminal jurisdiction, authorized to receive and try charges without reference by the Magistrate. The complaint may be either verbal, in which

Owner may prefer complaint to Magistrate within ten days from date of seizure of his Cattle.

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Procedure. which case the substance of it shall be taken down in writing by the Magistrate or other Officer as aforesaid, or written upon plain paper, and shall be preferred by the complainant in person, or by an agent personally acquainted with the circumstances. The Magistrate or other Officer as aforesaid, if on examination of the complainant or his agent he shall see reason to believe the complaint to be well founded, shall summon the party complained against, and shall proceed to make a summary enquiry into the case. If the seizure be adjudged illegal, the Magistrate

Damages for illegal seizure.

or other Officer as aforesaid shall award to the complainant such damages, not exceeding in any case the sum of one hundred Rupees, as he may deem to be a reasonable compensation for any loss or injury sustained from the unlawful seizure and detention, together with all expenses incurred by the complainant in procuring the release of the Cattle; or, if the Cattle have not been released, the Magistrate or other Officer as aforesaid, in addition to the award of damages, shall make an order for their release, and shall direct that the fines and expenses leviable under this Act shall be paid by the party who made the seizure. Moonsiffs and other Judicial

Moonsiffs and others may be invested with power to adjudicate under this Section.

Officers having original jurisdiction, and not invested with criminal powers, may be specially invested by the local Government with the power of receiving and trying complaints under this Section, and in the exercise of such powers shall be subject to the same rules as Assistants and other Officers subordinate to the Magistrate.

XV. Persons in charge of public roads, canals, embankments, and the like, may seize or cause to be seized any Cattle doing damage to the sides or slopes of such roads, canals, embankments, and the like; and all the foregoing provisions of this Act shall be applicable to such seizures.

XVI. Village and other Police Officers shall convey to the pounds established under Section III of this Act all Cattle, the owners of which are unknown, found straying in any public road or place; and the provisions of this Act relative to the detention, release, and sale of Cattle seized as trespassing and doing damage, shall be applicable to all Cattle impounded as aforesaid.

Impounding of stray Cattle the owners of which are unknown.

XVII. When

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**XVII.** When any person commits mischief by causing Cattle to trespass on any land, the penalty provided for such offence may be adjudged on the complaint of any person authorized to seize Cattle under Section II of this Act, or of any person who may have made advances for the cultivation of the land and delivery of the produce; and any fine which shall be so adjudged may be recovered by sale of the Cattle by which the trespass was committed, or any portion of them, whether the Cattle were seized in the act of trespassing or not, and whether such Cattle are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

**XVIII.** Any person, being an owner or keeper of pigs, who, through neglect or otherwise, shall damage or cause or permit to be damaged any land or any crop or produce of land by allowing pigs to trespass thereon, shall be liable for such offence to a fine not exceeding ten Rupees. All sums recovered under this and the last preceding Section may be appropriated in whole or in part to compensate the complainant for damage proved to the satisfaction of the Magistrate.

**XIX.** Nothing contained in this Act shall be held to prohibit any person, whose crops or other produce of land shall have been damaged by trespass of Cattle, from instituting a suit for the recovery of damages in any competent Court. Provided that any compensation which may have been paid to any such person by order of the Magistrate, shall be set off and deducted from any sum claimed by or awarded to him as damages in such suit.

**XX.** The local Government, with the sanction of the Governor General in Council, may exclude from the operation of this Act any district or tract of country to which its provisions may be judged unsuitable.

**XXI.** In the construction of this Act, words importing the singular number shall include the plural, and words importing the plural number shall include the singular; words importing the

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the masculine gender shall include females; the word "Magistrate" shall include a Joint Magistrate, or other Officer lawfully exercising the powers of a Magistrate; the expression "Darogah or District Police Officer" shall, in the North-Western Provinces of the Presidency of Fort William, include a Tuhseeldar or Naib Tuhseeldar entrusted with Police powers.

Commencement of Act. **XXII.** This Act shall commence and take effect from and after the first day of May 1857.

