



1848.

No. 10.

ORDINANCE enacted by the Governor of South Australia, with the advice and consent of the Legislative Council thereof.

To Regulate the Occupation of Crown Lands in South Australia.

[17th November, 1848.]

*Repealed by
No. 9 - 1858.*

WHEREAS an Ordinance was enacted by THE GOVERNOR of South Australia, with the advice and consent of THE LEGISLATIVE COUNCIL thereof, bearing date the Twenty-eighth day of August, One Thousand Eight Hundred and Forty-six, "To Regulate the Occupation of Crown Lands in South Australia:" AND WHEREAS 1846, No. 11. in an Act of Parliament was passed in the Session of the ninth and tenth years of the reign of Her Most Gracious Majesty Queen Victoria, intituled "An Act to Amend an Act for Regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies, and to make Further Provision for the Management thereof:" AND WHEREAS the before-recited Ordinance is in some respects inconsistent with the said Statute, and it is expedient, with a view to assimilate the same respectively

respectively, that the provisions of the said Ordinance should be amended:

No. 11 of 1846, and No 16 of 1847 repealed.

BE IT THEREFORE ENACTED, by THE GOVERNOR of SOUTH AUSTRALIA with the advice and consent of THE LEGISLATIVE COUNCIL thereof THAT from and after the passing hereof, the before recited Ordinance passed on the twenty-eighth day of August, One Thousand Eight Hundred and Forty-six "To Regulate the Occupation of Crown Lands in South Australia;" as also an Ordinance passed on the twenty-third day of September, One Thousand Eight Hundred and Forty-seven "To Facilitate the Recovery of Assessments under the Crown Lands Ordinance, No. 11 of 1846," shall be, and the same are hereby repealed; except in so far as regards all things heretofore lawfully done in pursuance thereof; and except in so far as any former laws are thereby repealed.

Commissioners of Crown Lands.

II. AND BE IT ENACTED, that it shall be lawful for HER MAJESTY or for THE GOVERNOR, subject to the approbation of HER MAJESTY from time to time to appoint during HER MAJESTY'S pleasure, with reasonable and proper salaries, fit and proper persons, being Justices of the Peace, to be Commissioners of Crown Lands, to execute the Ordinance throughout the Province, or such districts thereof as may be assigned to them respectively by THE GOVERNOR.

Powers of Commissioner in questions of boundaries.

III. AND BE IT ENACTED, that it shall be lawful for every such Commissioner to limit and define the boundaries of all runs occupied under any Lease or License from the Crown, and to adjust all disputes and differences respecting such boundaries, and to enquire into, hear, and if necessary view and take evidence on oath touching any such dispute or difference, and determine the same in a summary way; and the certificate of such Commissioner, under his hand, of such determination shall be final and conclusive so far as respects such boundaries, and shall be evidence in all judicial proceedings when such boundaries shall be in question.

Fee chargeable by Commissioner.

IV. AND BE IT ENACTED, that it shall and may be lawful for every such Commissioner to charge and receive, for and upon the decision of any disputed question under this Ordinance respecting the limits of any run, a Fee of Five Pounds, to be paid by the party from whom he shall demand the same.

Commissioners empowered to give notices, make claims, and authorise entries, &c.

V. AND BE IT ENACTED, that it shall be lawful for every such Commissioner, and he is hereby authorised and empowered to give notice, make any claim or demand, and depute or authorise any person to make any entry, which shall be requisite or expedient to be given or made, by or on behalf of HER MAJESTY, Her Heirs or Successors.

cessors, with a view either to compel any tenant, lessee, or occupier of any part of the Crown Lands to quit or deliver up the possession thereof, or to compel the performance of any covenant, contract or engagement in relation thereto, or to recover possession on non-performance of any covenant, contract, or agreement, or to compel the payment of any sum of money which ought to be paid in respect thereof, and to give any other notice, make any other claim or demand, and depute any person to make any other entry which shall or may be requisite or expedient to be given or made, by or for or on behalf of HER MAJESTY, Her Heirs or Successors, touching any of the Crown Lands; and every such notice, claim or demand, which shall be given or made in writing under the hand of any such Commissioner, for any of the purposes aforesaid, and every entry which shall be made by any person so deputed or authorised to make the same, on behalf of HER MAJESTY, Her Heirs or Successors, into or upon any of the said Crown Lands, shall be good, valid, and effectual, to all intents and purposes whatsoever, and shall have such and the like force and effect as if the same were respectively given or made by HER MAJESTY, Her Heirs or Successors; and all such notices, claims, demands, or entries, shall respectively be deemed, construed, and taken to have been given and made by or on behalf of HER MAJESTY, Her Heirs or Successors, any law, custom, or usage to the contrary in anywise notwithstanding.

VI. AND BE IT ENACTED, that it shall be lawful for every such Commissioner, and he is hereby authorised and empowered by virtue of his appointment alone, and without any further order, warrant, or authority whatsoever, by himself or any person whom he shall for that purpose depute, to make distress for any Rent which shall be due, in arrear, or unpaid, from any Lessee, Occupier, or Tenant of any Crown Lands, or from any person liable to the payment of any Rent, and the goods, chattels, and effects so distrained, to impound, sell, and dispose of as in ordinary cases of rent in arrear.

Commissioners empowered to distrain for rent.

VII. AND BE IT ENACTED, that if any cattle shall be found unlawfully trespassing upon any Crown Lands, whether fenced or unenclosed, it shall be lawful for any Commissioner, or for any person authorised by any Commissioner in that behalf, either generally or in the particular case, to impound the cattle so trespassing, to be dealt with according to Law.

Power to impound cattle trespassing.

VIII. AND WHEREAS it may be necessary that effectual provision should be made for protecting the Crown Lands from being occupied without authority, and also for dispossessing any person in the occupation of such Lands, in case of the forfeiture of any Demise or License, or in case of the breach or non-performance

Justices may disposses persons unlawfully occupying Waste Lands.

non-performance of the conditions thereof, or in case of the holding over by any person after the expiration of any such Demise or License, or after the end of the term for which the same may have been granted or made; BE IT ENACTED, that on information in writing for that purpose preferred by any Commissioner, or by any person authorised by THE GOVERNOR in that behalf, to any Justice of the Peace, setting forth that any person is in the unlawful occupation of any Crown Lands, or is in the occupation of any such Lands in virtue or under color of any Demise or License as aforesaid, although such Demise or License had been forfeited, or although the conditions thereof had been broken or unfulfilled, or although such Demise or License had expired, or although the term for which the same had been granted or made had come to an end, it shall be the duty of such Justice to issue his Summons for the appearance before any Two Justices of the Peace, at a place and a time therein to be specified, of the person against whom any such complaint shall be so made; and at the time and place so to be specified, such Two Justices (on the appearance of the person charged, or on due proof of the service on him, or at his usual place of abode, of any such Summons), shall proceed to hear and enquire of the truth of the matter and things which may be alleged in any such information, and on being satisfied of the truth thereof, either by the admission of the person charged, or on any other good and sufficient evidence, the said Justices shall issue under their hand a Warrant addressed to the Sheriff or Deputy-Sheriff, or Commissioner, or other Officer of the District acting for or on behalf of HER MAJESTY, commanding and requiring him forthwith to dispossess and remove any such person from any such Crown Lands as aforesaid, and to take possession of the same for and on behalf of HER MAJESTY; and it shall be the duty of any such Sheriff, Deputy-Sheriff, Commissioner, or other such Officer as aforesaid, to carry such Warrant forthwith into execution, according to the tenor and exigency thereof.

Penalties for the un-
authorised occupation
and use of Crown
Lands.

IX. AND BE IT ENACTED, that from and after the Commencement of this Ordinance, any person, unless claiming under a Sale or Demise from HER MAJESTY, or from some person acting in the name and on behalf of HER MAJESTY, who shall be found occupying any Crown Lands in South Australia, either by Residing, or by erecting any Hut or Building thereon, or by Clearing, Enclosing, or Cultivating any part thereof, or who shall Depasture any Cattle thereon, and who shall not previously have obtained a License from THE GOVERNOR for the Occupation of such Lands, or other lawful authority in that behalf, or who shall Occupy or Depasture as aforesaid after such License shall have been determined by forfeiture or otherwise, shall be liable, on conviction thereof, to the Penalties following; that is to say, for the First offence a sum not exceeding
Ten

Ten Pounds, for the Second offence a sum not exceeding Twenty Pounds nor less than Ten Pounds, and for the Third or any subsequent offence a sum not exceeding Fifty Pounds nor less than Twenty Pounds: PROVIDED ALWAYS, that no information shall be laid or brought for any Second or subsequent offence until the expiration of Fourteen clear days from the date of the previous conviction. Proviso.

X. AND BE IT ENACTED, that whosoever shall cut, saw, fell, or mark in any part, any tree or sapling growing on Crown Lands, or shall cut, saw, remove, or sell any timber lying or being on Crown Lands, without a valid License in that behalf, or other lawful authority, shall on conviction be liable to the Penalties following: that is to say, for the First offence a sum of Five Pounds, for the Second offence a sum not exceeding Ten Pounds nor less than Five Pounds, and for the Third or any subsequent offence a sum not exceeding Twenty Pounds nor less than Ten Pounds. Penalties for injuring or removing timber on Crown Lands, without License.

XI. PROVIDED ALWAYS, AND BE ENACTED, that unless public notice be given by THE GOVERNOR, that the Timber on any particular portion of the Crown Lands shall be reserved for the public use, nothing herein contained shall be construed to prevent any Licensed Occupier of Crown Lands, or his Overseer or Manager, from cutting such Timber on the Land so occupied by him as is ordinarily used and as may be necessary for domestic purposes, for firebote, fencing, stockards, or other conveniencies for the enjoyment of the said Land; AND PROVIDED that no part of such timber shall be sold, and that the same shall be bonâ fide cut for some purpose hereinbefore specified. Proviso as to timber for domestic uses.

XII. AND BE IT ENACTED, that if any person shall unlawfully remove and take away, or sever, excavate, quarry, or dig for, with intent to remove and take away, any metal, or ore containing metal, or any stone, sand, gravel, or other material, from any mine, bed, vein, pit, or quarry thereof respectively, being in or under any land of HER MAJESTY, her Heirs and Successors, without the leave or license of HER MAJESTY, her Heirs or Successors, or of THE GOVERNOR of the Province, or of some person duly authorised by HER MAJESTY, her Heirs or Successors, or by THE GOVERNOR, to grant such leave or license on her and their behalf, every person so offending shall, on conviction for any such offence, forfeit and pay a penalty not exceeding Five Pounds, including Costs: PROVIDED ALWAYS, that nothing herein contained shall apply to any Licensed Occupier of Crown Lands using materials for any building or erection on the land so occupied by him, or for any necessary purpose connected with such occupation. Unlawful removal of metals, stone, &c., from Crown Lands.

XIII. AND BE IT ENACTED, that whosoever shall wilfully deface, injure, Injuring or removing land marks.

injure, destroy, or remove any survey-picket or other land-mark placed, erected, or being on Crown Lands, without the leave or license in that behalf of the Surveyor-General, or of some person duly authorised to grant such leave or license on behalf of HER MAJESTY, shall, on conviction, for every such offence, forfeit and pay a penalty of Ten Pounds.

Obstruction of roads
and ways reserved by
the Crown.

XIV. AND BE IT ENACTED, that whosoever shall, by casting or placing timber, stones, rubbish, or materials, or by any other means wilfully stop or obstruct any public or reserved road or way, vested in HER MAJESTY, so as to prevent, hinder, or interrupt the free passage of any carriage, or of HER MAJESTY'S subjects, on any such road or way, shall, on conviction, for every such offence, forfeit and pay a penalty of not less than Two Pounds nor more than Ten Pounds, over and above the expense of removal. And it shall be lawful for any Commissioner of Crown Lands, or any person whom he may in that behalf appoint, by writing under his hand, without any warrant forthwith summarily to remove and prevent every such obstruction at the cost of the party causing the same, to be recovered in like manner as such penalty last aforesaid.

Common of Pasturage
on Waste Lands of the
Crown.

XV. AND WHEREAS it is expedient that persons in lawful occupation of Purchased Lands in such parts of the Province as shall have been divided into Hundreds, should enjoy common pasturage over the Waste Lands of the Crown, not held under License or otherwise appropriated; BE IT ENACTED, that it shall be lawful for the Occupiers who shall be admitted Commoners within any Hundred to depasture Cattle on the unappropriated Waste Lands of the Crown in such Hundred, in common, in proportion to the quantity of Purchased Land lawfully occupied by them respectively subject to the Regulations and Provisions after-mentioned.

Governor may make
Regulations.

XVI. AND BE IT ENACTED, that it shall be lawful for THE GOVERNOR, by Proclamation published in the *South Australian Government Gazette*, to make and establish such Orders and Regulations as to him shall seem meet, for the purpose of annually determining the number and description of Cattle to be depastured on the Commons of any Hundred, and apportioning the Common of Pasturage among the said Occupiers, and protecting them in the enjoyment of the same, and any such Orders and Regulations in like manner to vary, amend, or revoke which Orders and Regulations not being repugnant to the recited Statutes and this Ordinance, shall have the force and effect of Law.

Principle of the ap-
portionment.

XVII. AND BE IT ENACTED, that in so apportioning the Common of Pasturage regard shall be had to the quantity of Cattle capable of being depastured on the unappropriated Waste Lands of each Hundred, and

to the number of purchased acres within such Hundred, and the proportionate number of Cattle shall be determined which every admitted Commoner shall be allowed to depasture, in respect of any given number of purchased acres occupied within the same Hundred. And every Commoner having proved his claim in such manner as shall be appointed by the said Orders and Regulations, shall be entitled annually, on or before a day to be fixed by the Regulations aforesaid, to receive from the Commissioner, or such other Officer as THE GOVERNOR, from time to time, may, in that behalf, appoint, on payment of a fee of Sixpence for every Head of Great Cattle, and of One Penny for every Head of Small Cattle allowed to be depastured by such Commoner, a Certificate under his hand, specifying the number of acres of Purchased Land occupied by him, and the number and description of Cattle which he shall be allowed to depasture on the Commons in respect thereof; which Certificate shall be in force for the year therein set forth, and shall be construed, for the purposes only of such Common Pasturage, to have the effect of a License from THE GOVERNOR for the occupation of such Waste Lands, within the meaning of the Statute in that behalf.

Certificates to be issued.

XVIII. AND BE IT ENACTED, that annually, on or before a day to be fixed by the Regulations aforesaid, every occupier of Purchased Land claiming to be admitted a Commoner within any Hundred, shall deposit with the Commissioner of Crown Lands, or such Officer as may in that behalf be appointed by THE GOVERNOR, a declaration of the number of purchased acres lawfully occupied by him in such Hundred, in form or to the effect of the Schedule hereto annexed, marked A, of the particulars contained in which declaration the Commissioner, or other Officer aforesaid, shall from time to time, at such periods as shall be found convenient, cause Abstracts to be published in the *South Australian Government Gazette*, or in such other manner as may by any such Regulation be prescribed, for general information: AND WHOSOEVER shall knowingly make any false statements in any such declaration shall, on conviction, for every such offence forfeit and pay a Penalty of not less than Ten Pounds, nor more than Fifty Pounds.

Commoners to make a declaration of their acreage.

XIX. PROVIDED ALWAYS, AND BE IT ENACTED, that nothing herein contained shall prevent the Sale of any part of such Waste Lands, nor affect the enjoyment of the Purchaser or Occupier thereof when Purchased, except that neither the Purchaser nor Occupier shall in respect thereof enjoy Common of Pasture within the Hundred until the next apportionment of the Commons.

Not to prevent or interfere with the sale of the Waste Lands.

XX. AND BE IT ENACTED, that whosoever shall Depasture Cattle on the Waste Lands of the Crown so being Commons within any Hundred,

Penalty on depasturing on the Commons contrary hereto.

Hundred, without having obtained such Certificate as aforesaid, shall Depasture on such Waste Lands a greater number of Cattle than shall appear by such Certificate to be his due proportion, shall be liable to forfeit and pay on conviction, for every such offence a penalty not exceeding Ten Pounds.

Licensed persons to return Cattle yearly under a penalty.

XXI. AND BE IT ENACTED, that every person holding any License for the Occupation of Runs, and Depasturing Cattle on any Waste Lands of the Crown in virtue of such License, shall for the present year of Our Lord One Thousand Eight Hundred and Forty-eight, during the month of December next ensuing, and henceforth annually during the month of September in every year, make or cause to be made to and deposited with the Commissioner of Crown Lands, a Return according to the form contained in the Schedule hereunto annexed, marked B, of all Cattle in his possession and so Depastured by him on the first day of September in each such respective year: and if any such person shall fail or neglect to make or cause to be made such Returns at the time so appointed for each and every year, or shall omit to deposit the same with the said Commissioner in manner hereby required, he shall, on conviction, forfeit and pay for every such offence a sum not less than Forty Shillings nor exceeding Twenty Pounds: and whosoever shall knowingly make any false statements in any such Return shall on conviction, forfeit and pay for every such offence a Penalty not less than Fifty Pounds nor more than One Hundred Pounds.

Yearly assessment to be levied upon Cattle depastured on Waste Lands of the Crown under licenses.

XXII. AND BE IT ENACTED, that there shall be paid and levied in each and every year, upon, for, and in respect of all Cattle so Depastured or kept upon any Waste Lands of the Crown (in virtue of any License as last aforesaid), the Assessment following, that is to say:—

For every head of Great Cattle—Sixpence

For every head of Small Cattle—One Penny

which yearly Assessments, respectively, shall be paid by the person Depasturing to the Colonial Treasurer (or to such other Officer as may be appointed by THE GOVERNOR) within one calendar month after notice of demand shall be made for the same, as after provided.

Commissioners to assess and make reports yearly.

XXIII. AND BE IT ENACTED, that the Commissioner shall, annually, so soon as may be conveniently practicable after the time appointed for the Returns being made and deposited as aforesaid, proceed to make an assessment of the Cattle Depastured as last aforesaid; and shall make a yearly report thereof to the Colonial Treasurer, or to such other Officer as may be appointed by THE GOVERNOR, in the form, and containing the several particulars, set forth in the Schedule to this Ordinance annexed, marked with the letter C, according to which report the yearly assessment before mentioned

mentioned shall be payable, and be paid to the Colonial Treasurer, or to such other Officer as aforesaid.

XXIV. AND BE IT ENACTED, that the Commissioner shall yearly, Commissioner shall serve a written notice upon the parties liable to such assessment requiring them to pay the same. cause a notice in writing in the form contained in the Schedule hereunto annexed marked D, to be served upon the person subject and liable to pay the said Assessment, or to be left at the residence of such person, (if within the Province,) or with the Superintendent or person having the charge of the said Cattle, requiring payment of such Assessment as aforesaid.

XXV. AND BE IT ENACTED, that in case the sum mentioned in the said notice so served on any person required to pay the same, shall appear to such person more than he is legally bound to pay, such person may appeal against such Assessment to the next Court of General Quarter Sessions of the Peace: Parties objecting may appeal to nearest Court of General Quarter Sessions, giving notice to Commissioner. PROVIDED that such person Proviso. shall give to the Commissioner a notice in writing of such appeal, and of the grounds thereof, within Ten days after the service as aforesaid of the said notice, and shall also enter into a recognizance to double the amount of such Assessment before any Justice, conditioned personally to appear at the said Sessions and to try such appeal, and to abide the judgment of the said Court, and to pay such costs and expenses as shall be by the said Court awarded; and such Court shall hear and determine the matter of the appeal, and shall make such order therein as shall seem meet. And in case the Court shall think the appellant entitled to relief, such Court shall order the assessment to be amended, and the proper Officer of the Court shall amend the Assessment accordingly; and in case of the dismissal of the appeal, or the affirmance of the said Assessment, shall order and adjudge the person so appealing to pay the amount to the Colonial Treasurer (or other Officer appointed as aforesaid), and also such costs and expenses as may be awarded to the said Commissioner by the said Court, within such time as the Court may seem meet. And if such costs and expenses be not paid within such time, the said Court shall and may issue a Warrant of distress to levy the amount of such costs and expenses by a distress and sale of sufficient part of the cattle, goods, and chattels of the person so appealing.

XXVI. AND BE IT ENACTED, that in case any person so liable to pay the said Assessment, and upon whom, or upon whose Superintendent or Agent, such notice shall have been so served as aforesaid, or in case any person so adjudged to be liable in payment of the said Assessment upon appeal as aforesaid, shall refuse or neglect to pay the amount due, upon the day or within the time appointed by such notice, or adjudged on such appeal as aforesaid, with costs (if any), In case parties neglect or refuse to pay, Commissioners to issue warrant to levy the same by distress.
as

Proviso

as the case may be, it shall and may be lawful for the Commissioner to issue a Warrant under his hand and seal, directed to some Constable, to levy the amount so due, together with an additional sum equal to one-fifth part of the Assessment for which he is so liable, by way of penalty, with costs, if any, as the case may be, by distress and sale of a sufficient part of the cattle or other goods and chattels of the party liable, in like manner as in case of rent in arrear between Landlord and Tenant: PROVIDED ALWAYS that the said amount, with penalty and costs, may be recovered, at the suit of any such Commissioner or of any other Officer duly authorised in that behalf on the part of the Crown, by action or other proceedings at law, as in ordinary cases.

Not to affect the rights of the Crown.

XXVII. AND BE IT ENACTED, that no Possession or Occupation of any Crown Land taken or had by virtue of any License as aforesaid or by depasturing under the provisions of this Ordinance, or otherwise shall be construed to give any title whatever against the Crown, or to alter or affect in any respect the rights of HER MAJESTY, HER Heirs and Successors, in respect to any such Land.

Forgery and uttering of Licenses a misdemeanor

XXVIII. AND BE IT ENACTED, that whosoever shall forge, counterfeit, or alter, or shall utter or make use of, knowing the same to be forged, counterfeited or altered, any Lease, License, or other document purporting to be a Lease or License, or any authority from HER MAJESTY or THE GOVERNOR, or any person acting on behalf of HER MAJESTY, to occupy any Crown Lands in South Australia, or any other document authorised by this Ordinance, with intent to defeat the provisions hereof, shall be guilty of a Misdemeanor, and being convicted thereof, shall be liable to be transported for any term not exceeding Seven years, or be imprisoned for any term not exceeding Two years, at the discretion of the Court.

Recovery of penalties.

XXIX. AND BE IT ENACTED, that so far as not otherwise specially provided, all proceedings under this Ordinance may be had and taken, and all penalties, fines, forfeitures, and sums of money incurred or imposed under this Ordinance, may be sued for and recovered at the suit of any party aggrieved, or of any Commissioner of Crown Lands, or such other Officer as THE GOVERNOR from time to time may in that behalf appoint, in a summary way, before any Two or more Justices of the Peace, other than such Commissioners, in cases where any such Commissioner shall be a party to the proceedings, and all such proceedings may be had and taken, and every person feeling aggrieved by any judgment, conviction, or order under this Ordinance, shall be entitled to appeal therefrom under and according to the laws in force within the Province for the time being for regulating summary proceedings before Justices of the Peace: PROVIDED

Proviso.

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WAYS that any penalty, fine, forfeiture, or sum exceeding Fifty pounds, shall only be recovered by action of debt or information at the suit of HER MAJESTY'S Attorney or Advocate-General, in the Supreme Court of this Province.

XXX. PROVIDED ALWAYS, AND BE IT ENACTED, that all offences committed against, and assessments, fines, penalties, or sums of money, incurred under, or during the operation of the Ordinances hereby repealed, may be proceeded for and recovered under the provisions of this Ordinance, in like manner as if such offences had been committed against, and sums had been incurred under, the same last-mentioned provisions: And it shall be lawful for the said Commissioners, or other proper Officers in that behalf, to withhold any License or Certificate under this Ordinance from any defaulter who shall be due and in arrear any Rent, Assessment, Penalty, or Sum incurred or due under the provisions of this Ordinance or of any other Statute or Ordinance relating to the Crown Lands, until such arrears shall be wholly paid.

XXXI. AND BE IT ENACTED, that all fines, forfeitures, penalties, and other sums of money not otherwise specially appropriated, levied, or imposed by virtue of this Ordinance shall be paid to the Colonial Treasurer, on behalf of HER MAJESTY, Her Heirs and Successors, for the public uses of the Province and support of the Government thereof; PROVIDED ALWAYS that all rents of Crown Lands, and all sums of money received for Licenses shall be applied in like manner as the proceeds of the Sales of Land under the provisions of an Act of the Imperial Parliament of the Fifth and Sixth Year of HER MOST GRACIOUS MAJESTY'S reign, intituled, "An Act for Regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies."

XXXII. AND BE IT ENACTED, that the said Commissioners, or other Officers in that behalf, shall, at such times, and in such form and manner as THE GOVERNOR shall appoint, furnish just and true accounts of all monies received by them respectively, under and by virtue of this Ordinance.

XXXIII. AND BE IT ENACTED, that in any action, suit, or proceeding against any person for or in respect of any alleged unlawful occupation or use of any Crown Lands, the proof that the occupation, use, or enjoyment in question was authorised by the provisions of this Ordinance, or of any Order or Regulation made in pursuance thereof, shall lie on the defendant; and it shall not be necessary, in any proceeding under this Ordinance, to negative by evidence any License, Certificate, Consent, Authority, or other matter of exception

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or defence ; but the party seeking to avail himself of any such matter shall be bound to prove the same ; and the averment that any Lands in question are Crown Lands, or Waste Lands of the Crown, shall be sufficient without proof of such fact, unless the defendant prove the contrary ; and all Licenses, Certificates, Maps, Plans and Office Copies certified as true under the hand of the Surveyor-General of the Province, or of the proper Officer of his department, or of any Commissioner of Crown Lands, shall, in all matters relating to the said respective offices, be sufficient evidence without production of original records, and without the personal attendance of such Officers, or proof of their signatures.

Magistrates and officers to be aiding and assisting Commissioners.

XXXIV. AND BE IT ENACTED, that all Sheriffs, Justices of the Peace, Constables, and other Officers of Justice, shall, being thereunto required by writing under the hand of any such Commissioner, aid and assist such Commissioner in the execution of his duty under this Ordinance : And no suit or action shall be brought or commenced against any such Sheriff, Justice, or Officer, for any act, matter, or thing done by them or any of them, upon such requisition, but any suit or action shall and may be brought against such Commissioner alone, for any act, matter, or thing so done by him, or by his authority.

Governor may order costs of suits to be paid from Treasury.

XXXV. AND BE IT ENACTED, that it shall and may be lawful for THE GOVERNOR to pay or cause to be paid out of the public Treasury of the Province, the costs or charges of any suit or action which shall or may be brought as aforesaid by or against any Commissioner, Justice of the Peace, Constable, or other person acting under the authority and in the execution of this Ordinance.

Assessments, notices, &c., not to be invalidated for want of form.

XXXVI. AND BE IT ENACTED, that no assessment, notice, warrant, or other proceeding purporting to be made by virtue, or in pursuance, or in execution of this Ordinance, shall be quashed, or deemed to be void or voidable, for want of form, or be impeached or affected by reason of any mistake, defect, or omission therein, provided the person or property charged, or intended to be charged or affected by any such proceeding, be designated therein, to common intent and understanding, and the amount assessed is clearly set forth therein, and such proceeding be in substance and effect in conformity with, or according to the intent and meaning of, this Ordinance.

Proceedings not to be quashed or removed by certiorari.

XXXVII. AND BE IT ENACTED, that no Order, Judgment, or other proceeding made by any Commissioner or Justice of the Peace touching or concerning any of the matters aforesaid, or touching and concerning the conviction of any offender against this Ordinance, shall be quashed or vacated for want of form only, or be removed or removeable

removable by *Certiorari* or any writ or process whatsoever, into any Court of Superior Jurisdiction; and no warrant of commitment shall be held void by reason of any defect therein, provided that it be therein alleged that the party has been convicted, and that there be a good or valid conviction to sustain the same; and where any distress shall be made for levying any money by virtue of this Ordinance, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto; nor shall the party distraining be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but the person aggrieved by such irregularity may recover full satisfaction for the special damage, if any, in an action upon the case.

XXXVIII. AND for the protection of persons acting in execution of this Ordinance, BE IT ENACTED, that all actions for anything done under this Ordinance shall be commenced within six calendar months after the fact was committed, and not otherwise; and notice in writing of such action, and 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 Ordinance 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 the costs incurred up to that time. And if a verdict shall pass for the defendant, or the plaintiff become non-suited, 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; and although a verdict shall be given for the plaintiff in such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the trial shall be, shall certify his approbation of the action, and of the verdict obtained thereupon.

Protection of Persons acting in execution of this Ordinance.

XXXIX. AND BE IT ENACTED, that throughout this Ordinance, unless where the subject matter or context is repugnant to such Construction, the words "Great Cattle" shall be construed to mean Horned Cattle, Horses, Camels, Mules, and Asses, Male and Female, with their Offspring above Six months of age: and the words "Small Cattle" shall be construed to mean Sheep, Goats, and Swine, Male and Female, with weaned Offspring: and the word "Cattle" shall

Construction Clause.

Proviso.

shall be construed to mean the whole of the aforesaid Animals ; and the words " Waste Lands of the Crown " shall be construed to mean the same as in the Act of Parliament, passed in the Session of the Fifth and Sixth Years of Her present MAJESTY, " For Regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies ; " and the words " Crown Lands " shall be construed to mean any Lands whatsoever vested in HER MAJESTY, Her Heirs or Successors : PROVIDED ALWAYS that nothing herein contained shall be construed to permit or suffer the feeding of Swine on any Waste Lands of the Crown over which Common of Pasturage may be enjoyed.

H. E. F. YOUNG,
Lieutenant-Governor.

*Passed the Legislative Council, this
Seventeenth day of November,
One Thousand Eight Hundred
and Forty-eight.*

W. L. O'HALLORAN,
Clerk of Council.

SCHEDUL

SCHEDULE A.

I, A B, hereby declare that I am the lawful Occupier of the following portions of
Purchased Land in the Hundred of _____, County of _____
containing in all _____ Acres, for which I claim to be admitted as a
Commoner to Depasture Cattle on the Waste Lands of the Crown in such Hundred.

Sections.

A B,
Owner or Occupier.

(Place)

(Date)

SCHEDULE B.

_____ day of _____, One Thousand Eight Hundred and _____
EARLY RETURN of all Stock Depastured on Waste Lands of the Crown on the
first day of September, One Thousand Eight Hundred and _____ by _____
_____, made in pursuance of the Ordinance, No. 10, 1848 :—

Names of Holders of Stock herein returned.	CATTLE.								BRANDS.
	GREAT CATTLE, VIZ.					SMALL CATTLE.			
	Horned Cattle.	Horses.	Camels.	Mules.	Asses.	Sheep.	Goats.	Swine.	

To _____ Esquire,
Commissioner of Crown Lands.
I hereby certify that the above is a true and correct Return.

SCHEDULE C
 No. of on fol
 wh you to eas Or, mer from tog cut day
 To
 , One Thousand Eight Hundred and
 YEARLY REPORT of the persons liable to pay Assessments rendered in conformity with the Provisions of the Ordinance, No. 10, 1848: —

No. of License.	Name of Holders.	Cattle Assessed.		Amount of Assessment Payable.	REMARKS.
		Great Cattle.	Small Cattle.		

To
 Esquire,
 Colonial Treasurer.

C. B.,
 Commissioner of Crown Lands.

SCHEDULE D.

Commissioner of Crown Lands Office.

The amount for which you are Assessed during the current year, under the Provisions of the Ordinance, No. 10, 1848, on the undermentioned Cattle, Depastured by you on Waste Lands of the Crown in this Province (or District, as the case may be), is as follows, viz. :—

Head of Great Cattle, at per Head.....	£0	0	6
“ Small ditto, at per Head	0	0	1

which said sum of Pounds Shillings and Pence,
 you are hereby required to pay to the Colonial Treasurer, at his Office, in Adelaide (or
 to , at his Office, at , as the
 case may be), within one calendar month from the date of the delivery of this notice.
 Or, if you consider yourself as having a just cause for appealing against the said Assess-
 ment, you will please observe that such appeal must be lodged with me within ten days
 from the date of the delivery of this notice either to yourself or at your residence,
 together with your recognizance in double the amount of the said Assessment, to prose-
 cute the said appeal. As witness my hand, at , this
 day of , One Thousand Eight Hundred and

C. B.,
 Commissioner of Crown Lands.