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SCHEDULE.—[Repealed.]

THE CATTLE-TRESPASS ACT, 1871
"ACT No. I OF 1871

[13th January, 1871]

An Act to consolidate and amend the law relating to Trespasses by Cattle

Preamble: WHEREAS it is expedient to consolidate and amend the law relating to trespass by cattle; It is hereby enacted as follows:—

CHAPTER I
PRELIMINARY

*[1. Title and Extent:—(1) This Act may be called the Cattle-trespass Act, 1871] ; and

(2) It extends to 3[the whole of Pakistan], 'except °* * * such local areas as the °[Provincial Government], by notification in the official Gazette, may from time to time exclude from its operation.]

T* * * * *

2. [Repeal of Acts. References to repealed Acts.] Rep. by the Repealing Act, 1938 (I of 1938).

3. Interpretation-clause: In this Act,—

"officer of police" includes also village-watchmen, and" cattle" includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, and kids, *[and *"local authority" means anybody of persons for the time being invested by law with the control and administration of any matters within a specified local area, and "local fund" means any fund under the control or management of a local authority.]

CHAPTER II
POUNDS AND POUND-KEEPERS

4.Establishment of pounds: Pounds shall be established at such places as the Magistrate of the District, subject to the general control of the '[Provincial Government], from time to time directs.

The village by which every pound is to be used shall be determined by the Magistrate of the District.

'For Statement of Objects and Reasons, see Gazette of India, 1870, Pt. V. P. 310, for Proceedings in Council, 1290. and Supplement, 1871, P. 178.

The Act, has been repealed in its application to the Province of Punjab by Punjab Act XXXIV of 1975, s. 2

It has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable to such areas; and extended to the Excluded Area of Upper Tanawal (N.W.F.P.) other than Phulera with effect from 1-1-1950, subject to such modifications as may be notified-see N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950.

It has also been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 and the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, P. 1499.

*Subs. by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891),s. I, for original s. 1.

3Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from 1-1-1960) for "the whole of British India" which was subs. for " the whole of British India" by A. O., 1947

'This Act has been declared in force in Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s. 3.

'The words" the presidency-towns and" omitted by A. O., 1949, Sch.

'subs. by A.O., 1937, for "L.G.".

7Sub-scction (3) of s. 1 rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and 2nd Sch.

'Ins. by Act | of 1891, s. 2.

°Cf, definition in section 3 (28) of the General Clauses Act, 1897 (10 of 1897), which read with s. 4 (2) of that Act applies, to al
14th January, 1887.

5. Control of pounds. Rates of charge for feeding impounded cattle: The pounds shall be under the control of the Magistrate of the District; and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle.

6. Appointment of Pound keepers '[The *Provincial Government shall appoint a pound keeper for every pound.

Pound-keepers may hold other offices: Any pound-keeper may hold simultaneously any other office under the *[Government].

Pound-keepers to be public servants: Every pound-keeper shall be deemed to be a public servant within the meaning of the Pakistan Penal Code (XLV of 1860).]

DUTIES OF POUND-KEEPERS

7. To keep registers and furnish returns. Every pound-keeper shall keep such registers and furnish such returns as the "[Provincial Government] from time to time directs.

8. To register seizures. When cattle are brought to a pound, the pound-keeper shall enter in his register,—

- (a) the number and description of the animals,
- (b) the day and hour on and at which they were so brought,
- (c) the name and residence of the seizer, and

(da) the name and residence of the owner, if known, and shall give the seizer or his agent a copy of the entry.

9. To take charge of and feed cattle. The pound-keeper shall take charge of, feed and water the cattle until they are disposed of as hereinafter directed.

CHAPTER III IMPOUNDING CATTLE

10. Cattle damaging land. The cultivator or occupier of any land,

or any person who has advance cash for the cultivation of the crop or produce on any land, or the vendee or mortgagee of such crop or produce or any part thereof,

may seize or cause to be seized any cattle trespassing on such land. and doing damage thereto or to any crop or produce thereon, and *[send them or cause them to be sent within twenty-four hours] to the pound established for the village in which the land is situate.

Police to aid seizures: All officers of police shall, when required, aid in preventing (a) resistance to such seizures, and (b) rescues from persons making such seizures.

'Subs. by the Suppl. A.O., 1937, for the original section 6.

?This expression includes also such person as the Provincial Government may direct under s. 241 (1) (b) Clauses ,Act, 1897, s. 4A (2).

3Subs. by A.O., 1961, Art. 2, for "Crown" (with effect from the 23rd March. 1956).

'Subs. by A. O. 1937, for "L.G.".

‘Subs. by the Cattle-trespass Act (1871) Amendment Act. 1891 (1 of 1891) s. 3. for "take them or cause them to be taken with

11 Cattle damaging public roads, canals and embankments. Persons in charge of public roads, pleasure-grounds, plantations, canals, drainage-works, embankments and the like and officers of police, may seize or cause to be seized any cattle doing damage to such roads, grounds, plantations, canals, drainage-works, embankments and the like, or the sides or slopes of such roads, canals, drainage-works or embankments or found straying thereon, and shall 7[send them or cause them to be sent within twenty-four hours] to the nearest pound.

3[12 . Fines for cattle impounded: For every head of cattle impounded as aforesaid, the pound-keepers shall levy a fine in accordance with the scale for the time being prescribed by the '(Provincial Government] in this behalf by notification in the official Gazette. Different scales may be prescribed for different local areas.

All fines so levied shall be sent to the Magistrate of the District through such officer as the 4[Provincial Government] may direct.

List of fines and charges for feeding. A list of the fines and of the rates of charge for feeding and watering cattle shall be posted in a conspicuous place on or near to every pound.]

CHAPTER IV DELIVERY OR SALE OF CATTLE

13. Procedure when owner claims the cattle and pays fines and charges. If the owner of the impounded cattle or his agent appear and claim the cattle, the pound-keeper shall deliver them to him on payment of the fines and charges incurred in respect of such cattle.

The owner or his agent, on taking back the cattle, shall sign a receipt for them in the register kept by the pound-keeper.

14. Procedure if cattle be not claimed within a week. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to the officer in charge of the nearest police-station, or to such other officer as the Magistrate of the District appoints in this behalf.

Such officer shall thereupon stick up in a conspicuous part of his office a notice stating—

(a) the number and description of the cattle,
(b) the place where they were seized,

(c) 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.

'As to the application of s. 11 to forests, see the Forest Act, 1927 (16 of 1927), s. 70; and to railways, see 1890), s. 125(4).

*Subs. by Act | of 1891, s. 4, for "take them without unnecessary delay".

Subs. by the Cattle-trespass (Amendment) Act, 1921 (17 of 1921), s. 2, for the originals. 12. See s. 71 of which the Provincial Government may fix a different scale of fines for cattle impounded under s. 70 of the

'Subs. by A. O., 1937, for" L.G.".

If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said officer, or an officer of his establishment deputed for that purpose, at such place and time and subject to such conditions as the Magistrate of the District by general or special order from time to time directs:

'Provided that, if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

15. Delivery to owner disputing legality of the seizure but making deposits. If the owner or his agent appear and refuse to pay the said fines and expenses, on the ground that the seizure was illegal and that the owner is about to make a complaint under section 20, then, upon deposit of the fines and charges incurred in respect of the cattle, the cattle shall be delivered to him.

16. Procedure when owner refuses or omits to pay the fines and expenses. If the owner or his agent appear and refuse or omit to pay (in the case mentioned in section 15) to deposit the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction by such officer at such place and time, and subject to such conditions, as are referred to in section 14.

Deduction of fines and expenses. The fines leviable and the expenses of feeding and watering, together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.

Delivery of unsold cattle and balance of proceeds. The remaining cattle and the balance of the purchase-money, if any, shall be delivered to the owner or his agent, together with an account showing—

(a) the number of cattle seized,

(b) the time during which they have been impounded,

(c) the amount of fines and charges incurred,

(d) the number of cattle sold,

(e) the proceeds of sale, and

p the manner in which those proceeds have been disposed of.

Receipt. The owner or his agent shall give a receipt for the cattle, delivered to him and for the balance of the purchase-money (if any) paid to him according to such account.

17. Disposal of fines, expenses and surplus proceeds of sales. The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

The charges for feeding and watering deducted under section 16 shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section 13.

'The proviso has been amended in its application to the Bombay Presidency, by Bom. Act 5 of 1931.

The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and, if no claim thereto be preferred and established within that period, shall, at its expiry, '[be deemed to hold them as part of the revenues of the Province].

18. [Application of fines and unclaimed proceeds of sale.] Rep. by A. O., 1937.

19. Officers and pound-keepers not to purchase cattle at sale under Act. No officer of police or other officer or pound-keeper appointed under the provisions herein contained shall, directly or indirectly, purchase any cattle as a sale under this Act.

Pound-keepers when not to release impounded cattle. No pound-keeper shall release or deliver any impounded cattle otherwise than in accordance with the former part of this Chapter, unless such release or delivery is ordered by a Magistrate or Civil Court.

2[CHAPTER V COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION

20. Power to make complaints. Any person whose cattle have been seized under this Act, or, having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint? to the Magistrate of the District or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

21. Procedure on complaints. The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.

22. Compensation for illegal seizure or detention. If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or detention, reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure or detained the cattle together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle,

Release of cattle. and, if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

23. Recovery of compensation. The compensation, fines and expenses mentioned in section 22 may be recovered as if they were fines imposed by the Magistrate*].

'Subs. by A. O., 1937, for "dispose of them as hereinafter provided".

*Subs. for the original Ch. V by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891), s. 6.

*The term "offence" as defined by s. 4 (0) of the Code of Criminal Procedure, 1898 (5 of 1898), includes a be made under this section.

Offences under this section may be tried in a summary way, see Act 5 of 1898, s. 260 (1) (m).

4See ss. 63 to 70 of the Pakistan Penal Code (45 of 1860), and s. 386 of the Code of Criminal Procedure Clauses Act, 1897 (10 of 1897).

CHAPTER VI PENALTIES

24. Penalty for forcibly opposing the seizure of cattle or rescuing the same. Whoever forcibly opposes the seizure of cattle liable to be seized under this Act,

and whoever rescues the same after seizure, either from a pound, or from any person taking or about to take them to a pound, such person being near at hand and acting under the powers conferred by this Act,

shall, on conviction before a Magistrate, be punished with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

125. Recovery of penalty for mischief committed by causing cattle to trespass. Any fine imposed [under the next following section or] for the offence of mischief by causing cattle to trespass on any land may be recovered by sale of all or any of the cattle by which the trespass was committed, whether they were seized in the act of trespassing or not, and whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

26. Penalty for damages caused to land or crops or public roads by pigs. Any owner or keeper of pigs who, through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road,* by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten rupees.

4[The *[Provincial Government], by notification in the official Gazette, may from time to time, with respect to any local area specified in the notification, direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification, instead of to pigs only, or as if the words "fifty rupees" were substituted for the words "ten rupees," or as if there were both such reference and such substitution.] .

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27. Penalty on pound-keeper failing to perform duties. Any pound-keeper releasing or purchasing or delivering cattle contrary to the provisions of section 19, or omitting to provide any impounded cattle with sufficient food and water, or failing to perform any of the other duties imposed upon him by this Act, shall, over and above any other penalty to which he may be liable, be punished, on conviction before a Magistrate, with fine not exceeding fifty rupees. Such fines may be recovered by deductions from the pound-keeper's salary.

28. Application of fines recovered under sections 25, 26 or 27. All fines recovered under section 25, section 26 or section 27 may be appropriated in whole or in part as compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

'As to the application of s. 25 in the case of cattle-trespassing on a railway, see the Railways Act, 1890 (9 Ins. by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891), section 7.

"Public Road" in section 26 includes a railway-see Act 9 of 1890, section 125 (4).

'Ins. by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891), section 8.

*Subs. by A. O., 1937, for" L. G."

'Last paragraph of s. 26 rep. by the Repealing and Amending Act, 1914 (10 of 1914).

CHAPTER VII SUITS FOR COMPENSATION

29. Saving of right to sue for compensation. Nothing herein contained prohibits any person whose crops or other produce of land have been damaged by trespass of cattle from suing for compensation in any competent Court.

30. Set-off. Any compensation paid to such person under this Act by order of the convicting Magistrate shall be set-off and deducted from any sum claimed by or awarded to him as compensation in such suit.

CHAPTER VIII SUPPLEMENTAL

31. Power for Provincial Government to transfer certain functions to local authority and direct credit of surplus receipts to local fund. The *[Provincial Government] may, from time to time, by notification in the official Gazette,

(a) transfer to any local authority' within any part of the territories under its administration in which this Act is in operation, all or any of the functions of the *[Provincial Government] or the Magistrate of the District under this Act, within the local area subject to the jurisdiction of the local authority, 4* * *.]

SCHEDULE.—[Rep. by the Repealing Act, 1938 (I of 1938).]

'Ch. VIII was added by Act 1 of 1891, s.9.

*Subs. by A.O., 1937, for "L.G.".

>For special enactment as to the Punjab, see the Punjab District Boards Act, 1883 (20 of 1883), s. 20, cl

'Originally there were the following words: -"or (b) direct that the whole or any part of the surplus accruing be placed to the credit of such local fund or funds as may be formed for any local area or local areas com time, by notification in the official Gazette, cancel or vary any notification under this section]". The bracket Amending Act, 1914 (10 of 1914) and the rest by A.O., 1937.