



# **Cattle Stealing Prevention Act 1853**

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Queensland

# Cattle Stealing Prevention Act 1853

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# Cattle Stealing Prevention Act 1853

## An Act for the better prevention of cattle stealing and the sale of stolen cattle

### 2 Construction of terms

In this Act—

*cattle* includes horses, mares, fillies, foals, geldings, colts, bulls, bullocks, cows, heifers, steers, calves, sheep, lambs, goats, pigs, mules, and asses.

*vendor* means the auctioneer or other agent of such vendor, as well as such vendor.

### 3 Restitution of stolen cattle may be awarded

- (1) Any justice of the peace, upon complaint or information on oath that any cattle suspected to have been stolen is in the possession of any person, may issue a summons to such person, requiring the person to appear at a time and place mentioned in such summons, before any 2 justices of the peace; or, in the discretion of such justice, may issue a warrant in the first instance to apprehend and bring such person, at a time a place mentioned in such warrant, before any 2 justices of the peace; and also, if such justice shall think fit, may issue the justice's warrant to any police officer, commanding the police officer to seize any such cattle suspected to have been stolen, and detain the same until such information or complaint shall have been disposed of.
- (2) And if, on the appearance of such person so summoned or apprehended, or on proof of the service of such summons personally, or by leaving the same at the usual or last-known place of abode of such person, 2 days before the person was required to appear, it shall seem to such justices, after hearing evidence on oath or affirmation that such cattle were stolen

within the period of 1 year preceding from the person making complaint or laying the information, it shall be lawful for such justices to adjudge that person to be the owner of such cattle, and to issue a signed warrant, to any police officer of the State, commanding the police officer forthwith to seize such cattle, wheresoever the same may be found, and to restore and give peaceable possession thereof to the person so adjudged to be the owner, as aforesaid.

- (3) However, nothing herein contained shall be construed or taken to discharge any person from any criminal prosecution for a crime to be afterwards brought against such person, or to prevent the justices committing such person for trial, or to deprive any person of any right he or she may have, or might have had before the passing hereof.

#### **4 Vendee who delivers cattle, or pays back sum received, may recover from vendee's vendor**

- (1) Any person from whom or from whose possession any cattle shall have been taken, under any such warrant as last aforesaid, may recover from the person's vendor the amount paid by the person as the purchase money of such cattle; and any vendor of such cattle who may repay or be compelled to repay the purchase money the vendor may have received for such cattle, may in like manner recover back from his or her vendor the amount he or she may have paid such lastmentioned vendor as the purchase money of such cattle.
- (2) And it shall be lawful for any justice of the peace, upon complaint on oath made by any such person or vendor as aforesaid, or any person on the person's or vendor's behalf, that such person or vendor has paid for such cattle, and that such cattle have been taken from him or her, or that he or she, has paid or been compelled to repay the amount he or she received to summon the party selling to such lastmentioned person or vendor to appear before any 2 justices of the peace, or to issue the justice's warrant for the apprehension of such party selling, and upon the party's appearance, or in default thereof, upon proof of the due service of such summons, such justices are hereby empowered to examine the parties, or either of them, and their respective witnesses, (if there be any)

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upon oath, touching the purchase and payment of the amount of the purchase money for such cattle, and the restitution of the cattle purchased by such complainant or the repayment of the sum received by him or her, and to make such order for the repayment of that amount, with the costs incurred in the recovery thereof, as shall to such justices appear reasonable.

- (3) And in case such amount shall not be paid forthwith, or at the time to be appointed by such justices, the same shall be levied by distress and sale of the goods and chattels of the party on whom such order for payment shall be made, and if such distress can not be made, or shall prove insufficient, such justices are hereby empowered to cause the party upon whom the order shall be made, to be apprehended and committed to any gaol or house of correction, there to remain for any period not exceeding 3 months unless payment of the said amount, and of all costs and expenses attending the recovery thereof, shall be sooner made.
- (4) However, the execution of such order shall be stayed for such time as such justices may order, if the person from whom or from whose possession such cattle may have been taken, or on whom such order for payment shall be made, shall forthwith enter into a bond to the complainant, with 2 sufficient sureties to the satisfaction of such justices, and in such amount as they may think reasonable, conditioned to prosecute to conviction, within the time aforesaid, the person guilty of having stolen such cattle, and such conviction within the time aforesaid, shall supersede the order so made by such justices as aforesaid, and no subsequent proceedings shall be had thereon or upon the said bond.
- (5) In addition, it shall be lawful for such justices, on the application of such party and notice to the said complainant, to extend the time aforesaid.

## **9 Nonpayment of penalty**

Upon nonpayment of any fine, forfeiture, or penalty, under this Act, either immediately or within such period after the conviction as such justices at the time of such conviction shall appoint, and where no mode of proceeding is hereby

prescribed, such justices shall commit such offender to any gaol or house of correction in the State, for any period not exceeding 3 months, where the sum remaining unpaid shall not exceed \$20; 4 months where the said sum shall exceed \$20 and not exceed \$40; and 6 months where the said sum shall exceed \$40, unless the said sum shall be sooner paid.

## **10 Proceedings in a summary way**

- (1) All proceedings under this Act for the recovery of penalties or forfeitures shall be had and taken in a summary way, and where not otherwise provided for, may be carried on in the manner directed by an Act of Parliament passed in the session of the 11th and 12th years of the reign of Her Majesty Queen Victoria, intituled 'An Act to facilitate the performance of the duties of justices of the peace out of sessions, within England and Wales with respect to summary convictions and orders', or according to the law in force for the time being, regulating summary proceedings before justices of the peace out of sessions.
- (2) And no information in writing shall be necessary previous to the issuing a summons.

### **Want of form, no certiorari**

- (3) And no information, summons, warrant, conviction, commitment, or other proceeding before or by any justices of the peace, for any offence under this Act, shall be quashed, or set aside, or judged void or insufficient for want of form, or be removed by certiorari, or otherwise, into Her Majesty's Supreme Court.
- (4) And in any information, summons, warrant, conviction, commitment, or other proceeding, for any offence under this Act, it shall be sufficient if the offence be stated in the words thereof declaring the offence.

### **Informer a competent witness**

- (5) And in all proceedings under this Act the informer or party prosecuting shall be deemed a competent witness.



- (6) And it shall be lawful for the justices to amend any proceedings before them on such terms as they shall think fit.