



NEW ZEALAND
GOVERNMENT GAZETTE

FOR THE
PROVINCE OF NEW PLYMOUTH.

Published by Authority.

VOL. II.] NEW PLYMOUTH, SATURDAY, OCTOBER 21, 1854. [No. 21.

IN THE EIGHTEENTH YEAR OF THE REIGN OF HER MAJESTY
QUEEN VICTORIA.

SESSION II., No. 2.

AN ORDINANCE
TO REGULATE THE OCCUPATION OF CERTAIN UNENCLOSED LANDS
IN THE TOWN OF NEW PLYMOUTH.

Analysis.

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| <p>Title.
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AN ORDINANCE to regulate the occupation of certain unenclosed Lands in the Town of New Plymouth.

Whereas certain unenclosed Lands in the Town of New Plymouth belonging to non-resident Owners and others lie waste and uncultivated, and have been commonly used as Cattle runs by the Inhabitants of the said Town; and it is expedient to authorise and regulate the occupation of the said Lands for Pastoral purposes, without prejudice to the right of the Owners thereof to enclose the same.

Be it therefore enacted by the Superintendent of the Province of New Plymouth with the Advice and Consent of the Provincial Council thereof, as follows:—

1. It shall be lawful for the Superintendent from time to time at his discretion to cause the sole and exclusive right of depasturing Neat Cattle and Sheep, during the day time, on all or any unenclosed lands lying waste and uncultivated within the present limits of the Town of New Plymouth, and the adjacent Tract known as the Town Belt, or within the limits of any portion or portions of the said Town and Town Belt, exclusive of Crown Lands and Native Reserves within the aforesaid limits, for any term not exceeding one year, to be sold by Public Auction to the highest bidder, by any person (whether such person be or be not a licensed Auctioneer,) whom he may appoint for that purpose.

2. The time place and particulars of every such sale shall be notified in the Government Gazette of the Province not less than thirty days prior to the day of the sale, and by such notice the Superintendent may prescribe any conditions of Sale not repugnant to this Ordinance. And it shall be lawful from time to time to put up to sale the Pasturage of a district before the expiration of, but without prejudice to, any current license issued under this Ordinance and affecting such district, so that the day of sale be not more than 3 calendar months prior to the expiration of such Current License.

3. The money arising by such sales shall be payable to and recoverable by the Treasurer of the Province, for the Public uses of the Province.

4. Every Purchaser at such sales shall, as a condition of the sale, forthwith pay into

the hands of the Auctioneer a deposit of not less than Ten per centum of his purchase money, and shall pay the Balance thereof to the Treasurer of the Province within seven days, or by instalments payable at such time or times, during the period for which the License shall be granted, as shall by the conditions of sale be in that behalf prescribed.

5. The purchaser failing duly and punctually to pay his purchase money, it shall be lawful for the Superintendent, if he thinks fit, by notice in writing to be given to the Purchaser, or left at his usual place of abode or business, or to be published in the *Government Gazette* of the Province, to annul the sale and revoke the License (if any) issued to such Purchaser; and in such case the said deposit with all instalments (if any) paid previously to service or publication of such notice, shall be forfeited.

6. Upon payment of the said deposit the Superintendent shall issue under his hand to the Purchaser a License to the effect, and as nearly as may be in the form, set forth in the Schedule to this Ordinance, which shall entitle the person or persons to whom the same shall be granted, and his or their assigns, to the sole and exclusive use of the lands therein comprised for the purpose of depasturing thereon cattle of the kinds in such License in that behalf specified, during the term, and in the manner, specified in such License.

7. The districts comprised in any License issued under this Ordinance shall not be subdivided by the Licensee or his assigns.

8. No License issued under this Ordinance shall authorise the depasturing of any Bull above the age of six months.

9. No License issued under this Ordinance shall take away the right of the Owner of any waste and uncultivated lands, or of his Lessees or Tenants to enclose the same; nor the right, notwithstanding such his lands remain unenclosed, to depasture cattle thereupon concurrently with the Licensee; so always that the cattle of such Owner, or of his Lessees or Tenants, be securely tethered. And upon enclosure of any such lands with a sufficient fence, the same shall thenceforth be excepted from any License which may have affected the same.

10. Licensees under this Ordinance shall not, nor shall any person claiming through

them, by depasturing cattle of the kinds comprised in their respective licenses, or allowing the same to wander at large during the daytime, in any roads, streets, or public places lying within the external boundary of their respective districts, (other than and except any roads, streets, or public places expressly protected by their respective Licenses), or on unenclosed lands lying within the external boundary of their respective districts, incur any penalty imposed by an Ordinance enacted by the Superintendent and Provincial Council of the Province of New Plymouth, in the first Session of the said Council, intituled, "An Ordinance to authorise and regulate the Impounding of Cattle, and to provide for the summary recovery of compensation for damage done by Cattle trespassing"; nor shall any such cattle so depasturing, or wandering at large, belonging to or in charge of any such Licensee or his assigns, be subject to be impounded under and by virtue of the said Ordinance.

11. No information or complaint under the last mentioned Ordinance shall be lodged or made against Licensees under this Ordinance or their assigns, in respect of cattle of the kinds comprised in their respective Licenses, which may be found, during the daytime, wandering at large or depasturing in any road, street, or public place lying without the external boundary of, or excluded from, their respective districts (such road, street, or public place being within the limits of the said Town, Town Belt, and Parks adjacent)—or in respect of cattle of the said kinds turned out or depastured, during the daytime, upon unenclosed Town lands lying without the external boundary of their respective districts, except by the Officers or Private Constables of the Armed Police Force, or by some other Licensee upon whose district such cattle shall be trespassing, or his assigns; nor shall any such cattle belonging to or in charge of Licensees or their assigns, so found wandering or depasturing, or so turned out or depastured, be subject to be impounded by virtue of the said Ordinance except by the same persons.

12. In case any cattle belonging to or in charge of a Licensee under this Ordinance or his assigns shall do any damage upon cultivated lands, whether fenced or un-

fenced, within the limits of the said Town or Town Belt, he or they shall compensate the lawful occupier, if any. And in every case where it shall be alleged that damage has been so done, and the parties differ as to the right to compensation, or as to the amount thereof, the same shall be finally determined and fixed by the Award of two Arbitrators, one appointed by either party. And such Award may be made at anytime before the actual appointment of an Umpire in manner next hereinafter mentioned. But if from any cause no complete award shall be made within seven days from the time of the alleged trespass, it shall be lawful for the Superintendent, on application by or on behalf of either party, made within fourteen days from the time of the alleged trespass, to appoint an Umpire, who shall finally determine the right to compensation and the amount thereof. And the costs of the reference shall be paid according to the Award of such Arbitrators or Umpire. *Provided* that no greater sum than £5 shall be awarded for any single trespass on lands not substantially fenced, and several trespasses committed on the same enclosure or lands within a period of 24 hours shall for this purpose be deemed a single trespass. Any such compensation agreed upon between the parties or awarded by such Arbitrators or Umpire, together with any such costs as aforesaid, shall be recoverable as a debt; and no action for damages or other proceeding on account of any such trespass shall be taken otherwise than in pursuance of the provisions of this Ordinance.

13. All damage done by cattle during the daytime on lands lying within the external boundary of the district of each Licensee, shall, as against him and his assigns, be deemed to have been done by cattle belonging to or in charge of such Licensee or his assigns, unless he or they shall be able to prove to the contrary thereof.

14. For the purpose of providing a temporary accommodation for imported cattle, it shall be lawful for the Superintendent to issue to the owner or person having charge of any cattle newly landed or about to be landed from any ship or other vessel, a License under this Ordinance for the depasturing of such cattle, for any term not exceeding 14 days. And such special Licenses may be issued either for a money considera-

tion payable to the Treasurer of the Province for the Public Uses of the Province, or without consideration, and may authorise the depasturing of cattle of any description, during the daytime, but in all other respects shall confer the like rights and exemptions, and impose the like duties and restrictions upon the Licensee and his assigns as other Licenses issued under the authority of this Ordinance.

15. In the construction of this Ordinance words of or importing the masculine gender shall extend to and include females, and the singular number shall include the plural also, and the plural number the singular also; except, in the said several cases, there shall be any repugnancy to such construction in the subject or context; and the term 'Cattle,' where not expressly restricted, shall include neat cattle and sheep, and also horses, mules, asses, goats, and swine; and the term 'Assigns' shall include executors and administrators; and unenclosed lands cultivated without the privity of the owners thereof, or which were not in cultivation on the 30th day of September 1854, and also unenclosed lands in grass, shall not be deemed cultivated lands, but shall be deemed to be lands lying waste and uncultivated within the meaning of this Ordinance.

16. And whereas the Superintendent has already issued four several Licenses bearing date the 30th day of September 1854, and referred to in the Schedule to this Ordinance, which Licenses purport to authorise the Licensees therein named to depasture neat cattle and sheep on the lands lying waste and uncultivated within such portions of the Town and Town Belt as are therein respectively specified until and including the 31st day of December 1854:—
Be it further enacted, that the said Licenses shall have the same force and effect, and be read and construed in the same manner, and the said Licensees and their assigns shall be subject to the same obligations and restrictions, and the consideration moneys payable for such Licenses shall be recoverable in the same manner, as if the said Licenses had been issued under the authority and pursuant to the provisions of this Ordinance.

Passed the Provincial Council the tenth day of October, one thousand eight hundred and fifty four.

I. NEWTON WATT,
 Speaker.

Assented to on behalf of the Governor the twelfth day of October one thousand eight hundred and fifty four.

CHARLES BROWN,
 Superintendent.

SCHEDULE.

FORM OF LICENSE.

In exercise of the powers in me vested by an Ordinance of the Superintendent and Provincial Council of the Province of New Plymouth, passed in the 2nd Session of the said Council, intituled "An Ordinance to regulate the occupation of certain unenclosed lands in the Town of New Plymouth," I hereby authorise A. B. and his assigns to depasture neat cattle and sheep [*or neat cattle only, or, sheep only, as the case may require*] during the daytime on all unenclosed Lands lying waste and uncultivated within such part of the Town of New Plymouth [and Town Belt] as is delineated on the Plan hereto annexed and therein colored.... [*or any other other convenient description of the district may be inserted*].... Exclusive of Crown Lands and Native Reserves within the said limits—[*Here insert any necessary exception excluding and protecting particular Streets or Public Places*]. From the _____ day of _____ [*the day of sale, or—where the sale shall be made prior to the expiration of any current license comprising the pasturage sold—the day of the expiration of the current license*] until, and including the _____ day of _____ 18 _____ subject, nevertheless, to the provisions of the Ordinance above referred to.

Issued under my hand at the Town of New Plymouth, this
 day of _____ 18 _____

LIST OF LICENSES ALREADY GRANTED BY THE SUPERINTENDENT AND CONFIRMED BY THIS ORDINANCE.

DISTRICTS.	LICENSEES.
No. 1. North of the Mangatuku	George Yates Lethbridge, Butcher.
No. 2. South of the Mangatuku	William George, Publican.
No. 3. North of Devon-street	Samuel Vickers, Merchant.
No. 4. South of Courtenay-street.....	{ George St. George, Surgeon, and Edwin St. George.