

*descriptions of similar import, that are not fresh eggs. [as may appear upon proper test.]*

*No egg shall be deemed to be fresh which does not meet the standards of quality of fresh eggs as shall be established by the Department of Agriculture.*

Section 2  
amended.

Section 2. That section two of said act is hereby amended to read as follows:

What constitutes  
misrepresentation.

Section 2. Eggs shall be deemed to be misbranded under this act, if they are in any way branded, labeled, marked, stamped, as being fresh eggs or by a similar term, when they are in fact not fresh eggs. [as may appear upon proper test.]

Section 4  
amended.

Section 3. That section four of said act is hereby amended to read as follows:

Enforcement.

Section 4. That the [Dairy and Food Commissioner] *Department of Agriculture* shall be charged with the enforcement of the provisions of this act.

Section 5  
amended.

Section 4. That section five of said act is hereby amended to read as follows:

Disposition of  
fines.

Section 5. That all fines and penalties imposed and received for the violation of any of the provisions of this act shall be paid to the [Dairy and Food Commissioner or his agent,] *Department of Agriculture*, and, when so collected and paid, shall thereafter be, by the [Dairy and Food Commissioner] *department*, paid, *through the Department of Revenue*, into the State Treasury for the use of the Commonwealth.

APPROVED—The 10th day of June, A. D. 1931.

GIFFORD PINCHOT

No. 156

### AN ACT

Relating to the trespassing of live stock on improved lands; providing for the taking up, impounding and sale thereof; imposing duties on and fixing the fees of constables, justices of the peace, and viewers appointed in connection therewith; prescribing the procedure for repossession by the owner thereof; providing for the fixing and taxing of costs, including attorneys' fees; and repealing inconsistent legislation.

Trespass of live  
stock on improved  
lands.

"Live stock,"  
defined.

Section 1. Be it enacted, &c., That whenever the words "live stock" are used in this act, they shall include all cattle, horses, sheep and/or swine of every age and sex, and shall include the plural as well as the singular, and whenever a singular noun is used in this act, it shall include also the plural thereof.

Live stock to be  
taken up.

Section 2. If any person, being either the owner or the tenant of any improved lands within this Common-

wealth, shall discover upon his, her, or their improved lands, whether inclosed or not inclosed, any live stock, such person may take up the same; and shall forthwith give notice thereof to the constable of the township, borough or ward in which such lands lie or to any constable of the county, if the constable hereinbefore designated is not available for the purpose at the time, and such constable shall impound such live stock in the possession of the person who originally took up the same or in the possession of some other person, as such constable may deem best, and the reasonable cost of keeping the same shall be part of the costs of the care.

Notice to constable.

Impounding.

Section 3. If the owner of such live stock be known and resides within the county where the trespass has been committed, it shall be the duty of said constable to give written notice to such owner of the fact that such live stock has been impounded, the place where impounded, and the name of the person who has suffered injuries by reason of said trespass, said notice to be served within twenty-four (24) hours after such live stock has been impounded by such constable, said notice to be served according to any of the methods prescribed by the laws of this Commonwealth for the service of a summons in assumpsit.

Notice to owner of stock.

Time and method of serving notice.

Section 4. If the owner of such live stock be known and does not reside within the county where the trespass has been committed, it shall be the duty of said constable to give written notice to such owner of the fact that such live stock has been impounded, the place where impounded, and the name of the person who has suffered injury by reason of said trespass, said notice to be served by registered mail to be mailed within twenty-four (24) hours after such live stock has been impounded by such constable.

Notice to be given by registered mail if owner is not resident of county.

Section 5. If the owner of any such live stock taken up as aforesaid shall appear and make satisfaction to the party injured for the damages sustained by such trespass, and for the costs of keeping such live stock taken up as aforesaid, and the fees of the constable for the said services as hereinbefore prescribed, within three (3) days after the same were impounded as aforesaid, the said live stock so taken up as aforesaid shall be released to the owner thereof.

Release upon payment of damages.

Section 6. If the said owner shall not make satisfaction to the party injured for the damages so sustained, the cost of keeping such live stock and the fees of the constable as hereinbefore stated, it shall be the duty of said constable, on the fourth day after the same were taken up as aforesaid, to complain to any justice of the peace of the county wherein said trespass was com-

Failure to make satisfaction.

**Duties of constable and justice of the peace.**

**Viewers.**

**Recovery of possession.**

**Replevin.**

**Payment of costs.**

**Unredeemed stock to be sold.**

**Advertisement of sale.**

mitted; and said justice of the peace forthwith shall issue his warrant directed to three (3) disinterested and honest freeholders of the vicinity where the damage was done, commanding and enjoining them forthwith to view the trespass, and value and appraise the same, with the expenses and costs of keeping the said live stock, and to make report thereof to him, the said justice, within five (5) days thereafter, which valuation and appraisal and return, they, the said freeholders, are hereby required to make accordingly.

Section 7. The owner of any live stock impounded under the provisions of this act shall have the right, at any time before the same are sold as hereinafter provided, but not afterwards, either to pay all costs then accrued and the amount of the damages awarded in the appraisal made by the viewers and thereby recover possession of his live stock, or to recover possession thereof by an action in replevin in which the person who took up the live stock and caused same to be impounded shall be defendant; and if the judgment in replevin be for the plaintiff, it shall be conditioned upon the plaintiff paying the amount of damages sustained by the party injured, the cost of keeping the live stock while impounded, and the fees of the constable, the justice of the peace, and the three viewers appointed by the justice of the peace to value and appraise said damages. The verdict of the jury shall itemize such costs, fees, and damages. In the event that the verdict returned by the jury in the matter of the damages suffered by the party injured is equal to or greater than the amount claimed by the party so injured, if no viewers have been appointed, or awarded by the viewers, if viewers have been appointed, the costs shall be paid by the plaintiff and the court shall tax, as part of said costs in the replevin case, a reasonable fee for the attorney for the defendant in the replevin case, the amount thereof to be fixed by the court. In the event that the verdict so rendered is less than the amount claimed by the party injured or awarded by the viewers, as the case may be, the costs shall be paid by the plaintiff, but no fee of any kind for the attorney for the defendant shall be taxed as part of said costs.

Section 8. If the owner shall not redeem said live stock within one (1) day after the return of said viewers shall have been filed with the justice of the peace, it shall be the duty of the said constable to cause an advertisement, either printed or in writing, particularly describing such live stock, to be posted at (6) of the most public places in the vicinity of the property where the damage was done, setting forth a place

and a time where the said live stock will be sold at public sale.

Sale of stock.

Disposition of moneys realized from sale.

What costs are to include.

Fees of constable.

Proviso.

Fees of justice of the peace.

Fees of viewers.

Act of April 13, 1807 (4 Sm. L. 472) and act of 1705 (1 Sm. L. 70), repealed.

At the time and place so fixed, the constable shall proceed to sell said live stock to the highest bidder therefor, unless the owner thereof appears, pays the costs and damages then accrued, or brings action of replevin for the recovery of such live stock. If the constable shall have sold the said live stock, he shall forthwith make a written report thereof to the said justice of the peace, and said justice of the peace shall pay all costs and damages then accrued out of the money realized from said sale, and not less than three nor more than four months after the sale, pay over the surplus, if any there be, to the county treasurer of the county wherein the trespass was committed. If at any time within two years after the sale of the live stock herein provided for, the owner thereof appears and submits proof of his ownership satisfactory to the officer having said surplus, the said surplus shall be paid to him either by the justice of the peace or by the county treasurer depending upon which of such officers has such surplus in his possession at the time. In the event that the amount of the sale is less than the amount of the costs and damages then accrued, the costs shall first be paid out of the same, and the balance applied upon the damages awarded to the party injured in the appraisalment made by the viewers, and in the event that the amount is not sufficient to pay the costs, the same shall be divided pro rata among the persons entitled to said costs. The costs shall include the costs of the constable, of the justice of the peace, of the three viewers, and the expenses of keeping such live stock while impounded.

Section 9. The fees of the constable for the services contemplated by this act shall be one (\$1.00) dollar for each animal impounded, for the impounding thereof; two (\$2.00) dollars for each animal sold, for his services in the sale thereof: Provided, however, That in no one case shall the fees of the constable for impounding and selling amount to more than four (\$4.00) dollars. The fees of the justice of the peace shall be one (\$1.00) dollar for each case, without regard to the number of animals impounded, for all cases where no sale is made; and three (\$3.00) dollars for all cases where a sale is made. The fees of each of the viewers appointed to assess the damages shall be one (\$1.00) dollar for the first hour and fifty (50c) cents per hour for each hour necessarily engaged after the first hour.

Section 10. The act, approved the thirteenth day of April, one thousand eight hundred and seven (four Smith Laws, four hundred seventy-two), entitled "An act concerning strays," and an act passed in one thou-

sand seven hundred and five (one Smith Laws, seventy), being "An act to prevent the running of swine at large," is hereby repealed.

Repeal.

All other acts and parts of acts inconsistent herewith are hereby repealed.

APPROVED—The 10th day of June, A. D. 1931.

GIFFORD PINCHOT

No. 157

AN ACT

To amend section nineteen of the act, approved the twenty-eighth day of May, one thousand nine hundred and fifteen (Pamphlet Laws, five hundred eighty-seven), entitled "An act to protect the public health by regulating the manufacture, preparation, handling, storage, sale, transportation, and possession of meat and meat-food products; prescribing the powers and duties of the State Livestock Sanitary Board incidental thereto," to prohibit the unlawful making, duplicating, using, possession, affixing, and attaching of stamps, brands, emblems, tags, and markings in connection with meat and meat-food products.

Meat and meat-food products.

Livestock Sanitary Board.

Section 19, act of May 28, 1915 (P. L. 587), amended.

Section 1. Be it enacted, &c., That section nineteen of the act, approved the twenty-eighth day of May, one thousand nine hundred and fifteen (Pamphlet Laws, five hundred eighty-seven), entitled "An act to protect the public health by regulating the manufacture, preparation, handling, storage, sale, transportation, and possession of meat and meat-food products; prescribing the powers and duties of the State Livestock Sanitary Board incidental thereto," is hereby amended to read as follows:

Section 19. [It is unlawful to make, imitate, duplicate, reproduce, or counterfeit any stamp, mark, tag, certificate, or emblem, used, or authorized by the board to be used, for marking or designating animals or meat or meat-food products that have been either approved or condemned under the provisions of this act.

It is unlawful, without specific authority in writing from the board, to use for any purpose any such stamp, mark, tag, certificate or emblem.]

Violations.

*It shall be unlawful and a violation of this act for any person, without specific authority in writing from the Department of Agriculture,*

Unlawful duplication, use, etc., of official stamp on meats, etc.

*(a) To make or duplicate or reproduce or use or possess any stamp, mark, tag, certificate, or emblem in imitation of an official stamp, mark, tag, certificate, or emblem that is used, or that is authorized to be used, by the Department of Agriculture for stamping, marking, or otherwise identifying meats and meat-food products*