

Judgment after verdict not to be reversed for want of form or substance in any writ.

Act shall extend to suits for debts due to the state.

All judicial proceedings to be in the English language, &c.

Act to be liberally construed.

Not to extend to indictments, &c.

15. That where any verdict hath been or shall be given in any action, suit, bill, plaint, or demand, in any court of record, the judgment thereupon shall not be stayed or reversed for any defect or fault, either in form or substance, in any bill, writ original or judicial, or for any variance in such writ from the declaration or other proceedings.

16. That this act shall extend to all suits, in any court of record, for the recovery of any debt due to this state, or for any debt, duty, or revenue belonging to the same; and also to all writs of mandamus, and informations in nature of quo warranto, and proceedings thereon.

17. That all proceedings, whatsoever, in every court of law and equity in this state, shall be in the English tongue and language, and in no other tongue or language, and shall be written or printed in a good, strong, legible hand or character, and in words at length, and not abbreviated, except such abbreviations as are commonly used in the English language; (a) *provided nevertheless*, that it shall and may be lawful to express numbers by figures, in like manner as hath been heretofore, or is now commonly used in the said courts respectively, and to express the proper and known names of writs or other process, or technical words, in such language as hath been commonly used, so as the same be written or printed in a common legible hand or character.

18. That this act shall be taken and construed, in all courts of justice, in the most ample, beneficial, and liberal manner, for the ease and benefit of the parties, and to prevent frivolous and vexatious delays.

19. That no part of this act, except that which directs proceedings to be in the English language, shall extend to any indictment or presentment for any criminal matter, or process upon the same; nor to any writ, bill, action, or information, upon any popular or penal statute, nor to any outlawry, or process thereupon, or in order thereunto. (b)

(a) The omission of a letter in a word will not vitiate, unless the meaning is thereby changed. *State v. Jay*, 5 *Vr.* 363. *United States v. Homan*, *Bald.* C. C. 232. Nor will the return of a road be set aside because one course is not actually delineated on the map. *State v. Miller*, 3 *Zab.* 383. If the term at which an indictment is found is stated in the caption in figures, instead of

words, it is no ground of reversal. *Johnson v. The State*, 5 *Dutch.* 453. But see *Berrian v. The State*, 2 *Zab.* 9. See, also, *Toppan v. Dayton*, 6 *Dick.* 262.

(b) After a writ of error, the supreme court cannot amend or order an amendment below in a criminal case. *Cruiser v. The State*, 3 *Har.* 206.

Animals.

I. PREVENTION OF CRUELTY TO ANIMALS.

1. Incorporation of New Jersey society for prevention of cruelty to animals.
2. Amended by section 13.
3. Amended by section 14.
4. Police force required to aid society.
5. Fines, how disposed of.
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8. Powers of district societies.
9. District societies to have common seal, &c.
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11. Disposition of fines.
12. Status of district societies heretofore organized.
13. New Jersey society may appoint officers, &c.
14. New Jersey society may hold real estate and personal property.
15. District societies, how organized.
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18. Penalty for fighting or baiting any bull, bear, dog, bird, &c.
19. Penalty for carrying any animal in a cruel manner in any vehicle.
20. Impounded animals to have food and water.
21. Amended by section 47.
22. Amended by section 41.
23. Fees of justice.
24. Procedure on violation of section 19.
25. When warrant for arrest may issue.

26. Cost of food and water to impounded animals, how collected.
27. When arrests may be made without warrants.
28. Penalty for using dogs to draw carts, &c.
29. Penalty for cruelty to animals.
30. Amended by section 42.
31. Powers of agents and members of society, &c.
32. Amended by section 46.
33. Scientific experiments not prohibited.
34. Proceedings when any person pleads guilty.
35. Fines for violation of ordinances, to whom paid.
36. Construction of words used in the act.
37. Summons or warrants, how indorsed.
38. Indictment not to relieve person from further penalty.
39. Certain acts repealed.
40. Amended by sections 43 and 45.
41. Proceedings in case of seizure of property.
42. Procedure in justices' and district courts.
43. Amended by section 45.
44. Animal or vehicle in charge of person arrested, how treated.
45. Act not applicable to shooting pigeons from traps.
46. Who may make arrests without warrant.
47. Disposition of sick or disabled animals found on highway, &c.

II. PRESERVATION OF SHEEP.

48. Tax on dogs.
49. Account to assessor required.
50. Who liable to tax.
51. When dogs may be killed by any person.

52. Dog tax, how appropriated and disposed of.
53. When owner of dog shall kill it.
54. Damages to sheep, how ascertained and paid.
55. List of owners of dogs and number thereof to be posted by assessor.
56. Sussex county, how far affected by the act.
57. Tax on dogs in Bergen county.
58. Regulations for marking sheep or cattle.
59. Penalty for illegal marking of sheep or cattle.
60. Tax on dogs in certain counties.
61. Penalty for refusal to give account of number of dogs to assessor.
62. Assessors to make return to township committee.
63. Amount of dog tax to be ascertained by township committee.
64. Tax, how apportioned.
65. Tax, how collected.
66. Repealer.
67. Certificate of appraisement to be verified by oath.
68. Limit of damage allowed.
69. Penalty for false swearing.
70. Appraisement of damages to be verified by oath.
71. Provisions of act extended to destruction of all domestic animals by dogs.
72. Taxes, how to be collected.
73. Penalty for neglect of tax collector.
74. Repealed by section 78.
75. Compensation of assessors and collectors.
76. Repealer.
77. When township committee may kill dogs.
78. Proceedings for recovering damages and fixing amount of dog tax.
79. Liability of owner of dog doing damage to party sustaining the damage.
80. Liability of such owner to township.
81. Dogs required to be registered and collared.
82. Amended by section 87.
83. Amended by section 88.
84. Amended by section 89.
85. Amended by section 90.
86. Act not applicable to first and second-class cities.
87. This act not to repeal any other law as to taxing dogs.
88. Book for registering dogs to be provided.
89. Penalty for clerk's neglect to register dogs.
90. Persons may be appointed to kill dogs.
91. Compensation of dog-killers.

III. CONTAGIOUS AND INFECTIOUS DISEASES.

92. Powers and duties of township committee to prevent spread of disease.
93. Regulations concerning sick cattle.
94. No portion of cattle killed by reason of disease to be stored, &c.
95. Town committee may prevent transportation of cattle.
96. Penalty for selling diseased cattle.
97. State agricultural society may take measures for preventing disease.
98. Such society may prohibit importation of cattle into this state.
99. Owner of infected animals to notify state board of health.
100. State board may require infected animals to be slaughtered.
101. Value of animals slaughtered, how ascertained.
102. When herds may be inoculated.
103. State board of health, with local board, may prohibit bringing cattle into any district.
104. Owners not to add animals to any herd while quarantined.
105. Penalty for not notifying board of disease, &c.
106. Disposition of dead animals.
107. When post-mortem examinations may be made.
108. State board of health to report annually.
109. Annual appropriation to state board.
110. Additional appropriation, how made in case of emergency.
111. How bills for expenditure of moneys shall be approved and paid.
112. Repealer.
113. Registry of cattle may be required in cities by local boards of health.
114. Local board may cause inspection of animals in case of suspected disease.

115. Duty of state dairy commissioner.
116. Commission on tuberculosis, how appointed and duties of.
117. Amended by section 121.
118. Commission to keep record of their proceedings.
119. Annual appropriation.
120. Bills, how audited and paid.
121. Value of slaughtered animals, how ascertained.
122. Commission may employ a secretary.
123. Commission to furnish certificate when animals are found to be sound.
124. Commission may co-operate with United States bureau of animal industry.
125. Annual appropriation.
126. When horses having glanders to be destroyed.
127. Penalty for keeping such horses.
128. Local and state boards of health to be notified of existence of glanders.
129. Local boards to aid state board.
130. How animals may be quarantined.
131. Destruction of animals diseased with glanders.
132. Penalty for neglecting to notify state board of existence of glanders.
133. Compensation for services under act, how fixed.

IV. STRAY AND TRESPASSING ANIMALS.

134. Record of stray animals, how kept.
135. Stray animals, when and how sold.
136. Effect of not giving notice required by act.
137. Record of estrays to be kept open.
138. Township clerks to advertise estrays.
139. Penalty for suffering stone-horses to run at large.
140. Trespassing swine may be killed.
141. Damage by trespassing swine, how ascertained and recovered.
142. When swine may be sold to pay damages.
143. When rams shall not run at large.
144. Remedy when rams are found running at large.
145. Inhabitants of township may determine by vote whether swine shall run at large.
146. Part of any township may also vote on same question.
147. Impounding and selling swine running at large.
148. Pounds provided and pound-keepers elected.
149. Fees on impounding animals.
150. Voters to decide whether cattle, sheep or horses shall be allowed to run at large.
151. Impounding and selling animals.
152. Fee for bringing animals to public pound.
153. Impounding and selling impounded animals.
154. Fees for bringing animals to pound.
155. Penalty for obstructing any person taking animals to public pound.
156. Repealer.

V. BIRDS.

157. Insectivorous and harmless birds not to be destroyed.
158. Eggs of such birds not to be destroyed.
159. Proceedings on violation of act.
160. Penalty on conviction.
161. Repealer.
162. Killing insectivorous or songbirds prohibited.
163. Destroying birds' nests prohibited.
164. Killing birds for preservation as ornaments prohibited.
165. Penalty for violating act.
166. Act not to apply to English sparrows.

VI. MAD DOGS.

167. When dogs running at large may be destroyed.
168. Authority to appoint persons to kill dogs.
169. Compensation of dog-killers, how fixed.

VII. MUSKRATS.

170. When muskrats may not be killed.
171. Penalty for violating act.

VIII. LIVE-STOCK MARKETS.

172. Boards of chosen freeholders may institute markets for sale of live-stock.
173. How such markets shall be regulated.

I. Prevention of cruelty to animals.

An act to incorporate the New Jersey society for the prevention of cruelty to animals.

P. L. 1868, p. 781.

Incorporation
of society.32-1
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Approved April 3, 1868.

1. That Thomas T. Kinney, Moses Bigelow, Theodore Runyon, Adolph Schalk, A. A. Smalley, Theodore P. Howell, John Y. Foster, Edward N. Fuller, P. T. Quinn, R. Watson Gilder, and such other persons as shall be associated with them, and their successors, are hereby constituted a body politic and corporate under the name of "the New Jersey society for the prevention of cruelty to animals," for the purpose of the enforcement of all laws which are now or may hereafter be enacted for the protection of dumb animals. [See Sec. 6, *post.*]

2. [This section amended and supplied by Sec. 13, *post.*]

3. [This section amended and supplied by Sec. 14, *post.*]

Police force to
aid society.

4. That the police force of all places in this state where police organizations exist, shall, as occasion may require, aid the society, its members or agents, in the enforcement of all laws which are now, or may hereafter be, enacted for the protection of dumb animals.

Fines, how
disposed of.

5. That one-half the fines and forfeitures collected through the instrumentality of the society, its members or agents, for violations of such laws, shall accrue to the benefit of said society, for the furtherance of the objects thereof.

Supplement.

Approved April 1, 1869.

P. L. 1869, p. 1111.

What constitutes
quorum.

6. SEC. 1. That four of the incorporators named in the first section of the act to which this is a supplement shall constitute a quorum for the transaction of business.

Supplement.

Approved March 21, 1873.

P. L. 1873, p. 55.

Powers of district
societies.

7. SEC. 1. [This section amended and supplied by Sec. 15, *post.*]

8. SEC. 2. That the said district societies shall have power to elect officers and agents for carrying on the business of the same; to establish such by-laws and regulations as shall seem necessary and expedient for their government, and to elect members of the same, which members, immediately on election, shall become eligible for the position of "special agents" of the New Jersey society for the prevention of cruelty to animals, and may be appointed as such by the president of the said district society if he thinks fit.

May have com-
mon seal, sue
and be sued.

9. SEC. 3. That said district societies may make and use a common seal, and alter the same at pleasure (which seal may be the same as that of the New Jersey society for the prevention of cruelty to animals), and that all suits at law or in equity, to be brought by or against said district society, shall be in the name of "the New Jersey society for the prevention of cruelty to animals;" *provided, nevertheless*, that where in any case a suit shall be brought against the said "the New Jersey society for the prevention of cruelty to animals," wherein the cause of action relates only to a district society, then and in such case the judgment or decree obtained in such suit shall bind only the property of such district society.

Disposition
of fines.

10. SEC. 4. [This section amended and supplied by Sec. 16, *post.*]

11. SEC. 5. That of all fines, penalties and moneys imposed and collected under the provisions of any act of this state for the prevention of cruelty to animals, or for the protection of dumb animals, and not specially provided for in this act, one-half shall be paid by the justice, or by the clerk or other officer of the court receiving the same, to the informer, complainant or prosecutor, and the other half to the district society for the prevention of cruelty to animals of the county where the same were imposed and collected, if one is in existence in that county, and if not, then to "the New Jersey society for the prevention of cruelty to animals," to be used by said society in aid of the benevolent purposes for which it was incorporated.

12. SEC. 6. That wherever in any county of this state any district society may have been organized before the passage of this act, such district society, provided the same be consistent with the provisions of this act, shall be taken and considered as if organized by virtue of this act, and may proceed thereunder without organization.

Status of district societies heretofore organized.

Amendatory act.

Approved March 27, 1893.

P. L. 1893, p. 452.

13. SEC. 1. That section two of the act to which this is amendatory shall read as follows :

New Jersey society may appoint officers, &c.

[That the said society shall have power to elect and appoint officers and agents for carrying on the business of the same, also to make and use a common seal and alter the same; also to establish such by-laws and regulations as shall seem necessary and expedient for the government of said corporation, and by its corporate name shall be known in law, and have power to sue and be sued, and to defend and be defended in all courts, whether in law or in equity; the members of said society, in good standing, may use a common badge, which shall be authority for making arrests, and any person not a member using said badge shall be deemed guilty of a misdemeanor, and for every such offense shall, on conviction thereof, be punished by a fine not exceeding one hundred dollars nor less than fifty dollars.]

Penalty for using society's badge without authority.

14. SEC. 2. That section three of the said act shall be amended to read as follows :

New Jersey society may hold real estate and personal property.

[That this society shall not, in its corporate capacity, purchase and hold real estate exceeding in value, at any one time, the sum of seventy-five thousand dollars; but it may take by devise or gift any and all real estate or personal property, which is or may be devised or given it, without regard to value.]

Amendatory act.

Approved March 27, 1893.

P. L. 1893, p. 453.

15. SEC. 1. That section one of the act entitled "An act for the prevention of cruelty to animals," (1) be and the same is hereby amended to read as follows :

District societies, how organized.

[That the president of the New Jersey society for the prevention of cruelty to animals may, from time to time, and at such times as he shall deem proper, appoint in the several counties in this state as many persons as he shall deem fit, to organize in the county where they reside a district society for the purpose of the enforcement of all laws which are now or may hereafter be enacted for the protection of dumb animals; such society shall be organized under and by virtue of a certificate of authority issued by the president of the New Jersey society for the prevention of cruelty to animals for that purpose, which certificate may be revoked by said president at any time for cause; said county district society may organize other societies in said county, by and with the approval of the president of the state society.]

16. SEC. 2. That section four of the said act [see Sec. 10, *ante*] shall be amended to read as follows :

District societies may take and hold real and personal property by purchase, devise or gift.

[That said district societies may purchase and hold real estate, in the counties where they are organized, not exceeding in value at any one time the sum of ten thousand dollars; but the New Jersey society for the prevention of cruelty to animals and said district societies may take by devise or gift any and all real estate and personal property, which is or may be devised or given to them without regard to value; the title, however, to all such real estate to be taken in the name of "the New Jersey society for the prevention of cruelty to animals," to its own proper use or as trustee for said district society, according to the will of the testator; but the disposition of the same in the latter case to be under the control of the president of said district society.]

Title to be in name of.

(1) The section here referred to is evidently section 1 of the supplement of March 21st, 1873. See section 7, *ante*.

An act for the prevention of cruelty to animals.

P. L. 1880, p. 212.

Approved March 11, 1880.

A.—WHAT SHALL BE DEEMED CRUELTY—CRIMINAL PROCEEDINGS AGAINST OFFENDERS.

Cruelty to animals made a misdemeanor.

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17. SEC. 1. That any person who shall overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, or unnecessarily or cruelly beat or otherwise abuse, or needlessly mutilate or kill, or who shall cause or procure to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, or to be unnecessarily or cruelly beaten, or otherwise abused, or needlessly mutilated or killed, any living animal or creature; and any person having the charge or custody of any living animal or creature, either as owner or otherwise, who inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, shelter or protection from the weather, shall be deemed guilty of a misdemeanor, and for every such offense shall, on conviction thereof, be punished by fine not exceeding two hundred and fifty dollars, or by imprisonment in the county jail not exceeding six months, or both, in the discretion of the court.

Punishment.

Penalty for keeping or being in any place kept for the purpose of fighting any bull, bear, dog, &c.

18. SEC. 2. That any person who shall keep or use, or in any way be connected with or interested in the management of, or who shall receive money or other consideration, for the admission of any person to any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock, bird, or other living animal or creature, and every person who shall be present and witness, encourage, aid or assist therein, or who shall permit or suffer any place owned or controlled by him to be so kept or used, shall be deemed guilty of a misdemeanor, and for every such offense shall, on conviction thereof, be punished by fine not exceeding one thousand dollars, or by imprisonment at hard labor not exceeding two years, or both, at the discretion of the court.

Penalty for carrying in a vehicle any animal in a cruel manner.

19. SEC. 3. That any person who shall carry or cause to be carried, in or upon any vehicle or otherwise, any living animal or creature, in a cruel or inhuman manner, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished as is provided in section one of this act. [See Sec. 24, *post.*]

Impounded animals to have food and water.

20. SEC. 4. That any person who shall impound or confine, or cause to be impounded or confined, in any pound or other place, any living animal or creature, shall supply to the same during such confinement a sufficient quantity of good and wholesome food and water, and, in default thereof, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished as is provided in section one of this act.

21. SEC. 5. [This section amended and supplied by Sec. 47, *post.*]

B.—SEIZURE OF PROPERTY.

22. SEC. 6. [This section amended and supplied by Sec. 41, *post.*]

Fees of justice.

23. SEC. 7. That the justice of the peace, for his services in the foregoing section named, shall be allowed the following and no other fees, to wit:

- For drawing the application, per folio, fifteen cents;
- For drawing the notice, per folio, fifteen cents;
- For printing (the fees now allowed by law to printers, to be paid to the printer by the said justice);
- For the hearing, one dollar;
- For swearing each person, twenty-five cents;
- For making order in regard to forfeiture and sale, or other disposition of said articles, fifty cents;
- And such other fees as are now allowed by law; and in addition the justice shall pay all expenses of the custody of said articles, and retain

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the same out of the proceeds of sale; or in case of no sale, cause the same to be paid by the party making the seizure.

24. SEC. 8. That the person arresting the person or persons offending against the provisions of section three of this act shall take charge of such vehicle and its contents; and all necessary expenses which may be incurred for taking charge of and keeping and sustaining the same, shall be a lien thereon, to be paid before the same can be lawfully redeemed; and if the same shall not be redeemed within ten days from the time the same is seized, then the person so seizing the same shall cause the same to be advertised to be sold, by advertisements, published in a newspaper circulating in the neighborhood in which the said seizure was made, for at least three times in a daily paper, or one time if in a weekly paper, stating the time and place of such sale, the articles to be sold, and the reason for selling the same; and at the time and place so appointed he shall sell the same to the highest bidder, and out of the proceeds of said sale he shall pay all necessary expenses incurred, and the balance he shall pay to the owner or owners of said articles; and if the proceeds of said sale shall not be sufficient to pay such expenses, the balance may be recovered by the person seizing said articles, from the owner or owners thereof; in an action of debt, before any court of competent jurisdiction.

Proceedings on arrest of person and seizure of vehicles, &c.

C.—ENTERING AND SEARCHING BUILDINGS.

25. SEC. 9. That when complaint is made on oath or affirmation before any justice of the peace or police magistrate that the complainant believes, and has reasonable cause to believe, that the law in relation to cruelty to animals has been or is being violated in any particular building or place, such justice of the peace or police magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant, authorizing any sheriff, undersheriff, constable, police officer, or agent of the New Jersey society for the prevention of cruelty to animals, to enter and search such building or place, but no such search shall be made between the hours of six o'clock in the afternoon and six o'clock in the morning, unless specially authorized by such justice of the peace or police magistrate upon satisfactory cause shown; *provided*, that any such officer or agent may at any time enter any place, building or tenement as provided for in section eleven of this act.

Justice of the peace may issue search warrant when complaint is made on oath or affirmation.

D.—IMPOUNDED ANIMALS.

26. SEC. 10. That in case any living animal or creature shall be at any time impounded or confined as aforesaid, and shall continue to be without necessary food and water for more than twelve successive hours, it shall be lawful for any person, from time to time, as often as shall be necessary, to enter into and upon any pound in which such living animal or creature shall be so impounded or confined, and to supply it with necessary food and water so long as it shall remain so impounded or confined; such person shall not be liable to any action for such entry; and the actual cost of such food, water and bedding, together with twenty per centum additional, may be collected by such person of the owner or owners of such animal or creature, in an action of debt, together with costs, before any court of competent jurisdiction, and the said animal or creature shall not be exempt from levy and sale upon an execution issued upon a judgment therefor.

Cost of food and water to impounded animals may be collected of owner or owners.

E.—SUMMARY PROCEEDINGS BEFORE A JUSTICE OF THE PEACE.

27. SEC. 11. That any sheriff, undersheriff, constable, police officer or agent of the New Jersey society for the prevention of cruelty to animals may enter any place, building or tenement where there is an exhibition of the fighting or baiting of any bull, bear, dog, cock, bird or other living

Agent, sheriff, &c., may enter buildings and make arrests without warrant.

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animal or creature, or where preparations are being made for such an exhibition, and without warrant arrest all persons there present; and take possession of all bulls, bears, dogs, cocks, birds or other living animals or creatures engaged in fighting or there found, and also all implements or appliances used or to be used in such exhibition; such persons so arrested shall be taken before the nearest police magistrate, district court or justice of the peace, who, upon complaint being made and warrant issued, returnable immediately, the parties being in custody, and he being satisfied as to the guilt of said parties, may adjudge that each of said persons shall forfeit and pay such sum, not to exceed one hundred dollars, together with cost, as the said police magistrate, district court or justice of the peace shall determine, and the said person or persons so arrested shall be imprisoned and kept in custody until the said amount and cost, if any, are paid. [See Sec. 46, *post.*]

Penalty for using dogs for purpose of drawing cart, carriage or other vehicle.

28. SEC. 12. That any person who shall hereafter use any dog or dogs for the purpose of drawing or helping to draw any cart, carriage, truck, barrow, vehicle, for business or other purposes, shall forfeit and pay a fine of one dollar and costs for the first offense and ten dollars and costs for each subsequent offense; such offender, together with the dog or dogs, cart, carriage, truck, barrow or other vehicle, shall be taken before a justice of the peace, district court or police magistrate, who, upon being satisfied, shall impose said fine, which said fine, as soon as imposed, shall have the force and effect of a judgment, and execution may be immediately issued thereon, and the articles so seized, levied upon and sold to pay and satisfy the said fine, together with the costs.

F.—PROCEEDINGS FOR PENALTY IN THE NAME OF THE NEW JERSEY SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS—WHAT SHALL BE DEEMED CRUELTY.

Penalty for over-driving, over-loading, over-working, &c.

29. SEC. 13. That any person or persons who shall overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, or cruelly beat or otherwise abuse, or needlessly mutilate or kill, or who shall, by their agents, servants, employes or otherwise, cause or procure to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, or to be unnecessarily or cruelly beaten, or otherwise abused or needlessly mutilated and killed, any living animal or creature, and any person having the charge or custody of any living animal or creature, either as owner or otherwise, who inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, shelter or protection from the weather, and any person who shall keep or use, or in any way be connected with or interested in the management of, or who shall receive money or other consideration for the admission of any person to any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock, bird or other living animal or creature, and every person who shall be present, and witness, encourage, aid or assist therein, or who shall permit or suffer any place owned or controlled by him to be so kept or used, and any person who shall carry or cause to be carried, in or upon any vehicle or otherwise, any living animal or creature, in a cruel or inhuman manner, and any person who shall hereafter use any dog or dogs for the purpose of drawing or helping to draw any cart, carriage, truck, barrow or other vehicle for business purposes, and any person who shall impound or confine, or cause to be impounded or confined, in any pound or other place any living animal or creature, and shall fail or neglect to supply to the same during such confinement a sufficient quantity of good and wholesome food and water, and any person who shall abandon to die, in any public place, any maimed, sick, infirm or disabled animal or creature, shall forfeit and pay such sum, not to exceed one hundred dollars, together with costs, as the court shall determine, to be sued for and recovered in an action of debt, with costs of suit, by any person or persons, in the name of the

For tormenting, mutilating, beating or killing.

For using dog or dogs for purpose of drawing, &c.

For abandoning to die.

New Jersey society for the prevention of cruelty to animals, before any justice of the peace, district court or police magistrate in the county or city where the defendant resides, or where the offense or offenses were committed. (a)

G.—PROCEEDINGS.

30. SEC. 14. [This section amended and supplied by Sec. 42, *post.*]

H.—MISCELLANEOUS.

31. SEC. 15. That any agent, member or officer of the New Jersey society for the prevention of cruelty to animals, or any sheriff, undersheriff, constable or police officer may make arrests and bring before any justice, court or magistrate as aforesaid, offenders found violating the provisions of this act; and of all fines, penalties and moneys imposed and collected for any offense being in violation of this act, or under the provisions of this act and not herein specially provided for, one-half shall be paid by the justice, court or magistrate, or by the clerk or other officer of the court receiving the same, to the informer, complainant or prosecutor, and he shall pay within thirty days, and without demand, the other half to the district society for the prevention of cruelty to animals of the county where the same were imposed and collected, if one is in existence in that county, and if not, then to the New Jersey society for the prevention of cruelty to animals, to be used by said society in aid of the benevolent objects for which it was incorporated; and any member, officer or agent of the New Jersey society for the prevention of cruelty to animals may exercise and perform the like powers and duties as an agent of said society who has been specially deputized by the sheriff of any county in this state.

Agents, police officers, &c., may arrest persons violating this act.

Fines, how disposed of.

Powers and duties of officers, members and agents.

32. SEC. 16. [This section amended and supplied by Sec. 46, *post.*]

33. SEC. 17. That nothing in this act contained shall be construed to prohibit or interfere with any properly-conducted scientific experiments or investigations, which experiments or investigations shall be performed only under the authority of some regularly-incorporated medical society of this state; nor shall the same be construed to prohibit or interfere with the killing or disposing of any animal or creature by virtue of the order of any of the constituted authorities of this state.

Acts not to be construed to prohibit or interfere with scientific experiments, &c.

34. SEC. 18. That any person or persons against whom proceedings have been or are about to be begun before any justice of the peace, court or magistrate as aforesaid, in the name of the New Jersey society for the prevention of cruelty to animals, for the penalty prescribed in sections eleven, twelve or thirteen of this act, may appear before said justice, and if he, she or they so request, and then and there plead guilty to a violation of the provisions of the sections of this act aforesaid, the said justice, court or magistrate as aforesaid may immediately impose upon said party or parties the payment of any sum he or it may, in the exercise of his or its discretion, see fit, not to exceed the amount set forth in sections eleven, twelve or thirteen of this act, which said sum, and the costs of said proceedings, if any, shall be then and there paid by the said party or parties, and the said proceedings shall then cease and determine, and the said justice shall so enter in his docket; and if the said penalty so imposed is not so paid, the said suit shall continue to judgment, and execution shall issue as hereinbefore provided for by this act.

Proceedings when any person or persons plead guilty of violation.

35. SEC. 19. That where, by the laws of this state or any ordinance of any city, town or borough, any police justice, recorder or other magistrate shall collect any fine or fines for cruelty to animals, that henceforth all moneys collected from such fines shall be paid to the district society for the prevention of cruelty to animals of the county where the same were

Fines collected for violation of ordinances, to whom paid.

(a) The complaint must be treated as a state of demand setting out the plaintiff's cause of action. *Roeder v. Society, &c.*, 18 Vr. 237. Complaint must allege that the defendant did the act of cruelty complained of, or that he caused or procured it to be

done. *Ib.* Sworn complaint must conform to the statute. Objection to it may be taken on appeal. *Ib.* On appeal, party aggrieved is entitled to relief, both as to matter of law and matter of fact. *Penna. R. R. Co. v. Society, &c.*, 10 Vr. 400.

imposed and collected, if one is in existence in that county, and if not, then to the New Jersey society for the prevention of cruelty to animals; and that the term "cruelty," in this section mentioned, shall be held to include all the acts mentioned in the preceding sections of this act.

Construction of words used in this act.

36. SEC. 20. That in this act the words "animal" or "animals," "creature" or "creatures," shall be held to include the whole brute creation, and the words "owner" and "person," or "owners" and "persons," shall be held to include corporations as well as individuals, and the knowledge and acts of agents of and persons employed by corporations in regard to animals transported, owned or employed by or in the custody of such corporations shall be held to be the knowledge and acts of such corporations.

Summons or warrants, how indorsed.

37. SEC. 21. That in all proceedings under this act, it shall not be necessary to indorse the summons or warrant as in *qui tam* actions with the time of issuing the same, or the title of the act under which it is issued.

Indictment of any person not to relieve him from liability for penalty.

38. SEC. 22. That the indictment of any person under the provisions of this act, or the holding of any person to bail to await the action of any grand jury or court of special sessions of any county in this state, shall not in any way relieve the said person from his liability to be sued for the penalty prescribed in section eleven of this act.

Certain acts repealed.

39. SEC. 23. That the acts entitled "A supplement to the act entitled 'An act for the punishment of crimes,'" approved March twenty-seventh, one thousand eight hundred and sixty-seven; a further supplement to the act entitled "An act to incorporate the New Jersey society for the prevention of cruelty to animals," approved April third, one thousand eight hundred and sixty-eight, which supplement was approved April second, one thousand eight hundred and sixty-nine; "An act for the prevention of cruelty to animals," approved March twenty-second, one thousand eight hundred and seventy-one; a further supplement to the act entitled "An act to incorporate the New Jersey society for the prevention of cruelty to animals," approved March fifth, one thousand eight hundred and seventy-two; "An act for the prevention of cruelty to animals," approved April first, one thousand eight hundred and seventy-three; a supplement to an act entitled "An act for the prevention of cruelty to animals," approved April first, one thousand eight hundred and seventy-three, which said supplement was approved March twenty-fifth, one thousand eight hundred and seventy-five; and all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall be deemed and taken as a public act and shall take effect immediately.

40. SEC. 24. [This section amended and supplied by Secs. 43 and 45, *post.*]

Supplement.

Approved March 23, 1883.

P. L. 1883, p. 159.

41. SEC. 1. That section six of the act to which this is a supplement [see Sec. 22, *ante*] be amended so as to read as follows:

B.—SEIZURE OF PROPERTY.

Proceedings in case of seizure of property.

[That the person arresting the person or persons offending against the provisions of section eleven of this act, and so seizing such living animals, creatures, implements or appliances as in said section provided, shall, within twenty-four hours after such seizure, make application to a justice of the peace, district court or police magistrate, to have the same forfeited and sold; which application shall be in writing, and shall specify the articles seized, the place where they were seized, and state for what reason the same were seized; and the said justice shall thereupon cause a notice to be published in a newspaper circulating in the neighborhood of the place where such seizure was made, for at least three times if in a daily paper, or one time if in a weekly paper, stating that a seizure has been made, the names of the articles seized, the place where the same were seized, and the

reason for such seizure; and in such notice shall appoint a time and place, not less than five nor more than ten days from the date of such seizure, when and where all parties may be heard, and show cause why the application should not be granted: and if, upon the hearing of such application, it shall be found and adjudged that at the time of said seizure the same were engaged or used in violation of said section, or were owned, possessed or kept by any person with the intent that the same should be so engaged or used, they shall be adjudged forfeited, and the said justice, court or magistrate shall order the same sold in such manner as he shall deem proper, and after deducting the costs and expenses, shall pay one-half the proceeds of such sale to the district society for the prevention of cruelty to animals, if one is in existence in his county, and, if not, then to the New Jersey society for the prevention of cruelty to animals, and the other half to the person making the seizure aforesaid; should it be found and adjudged that any such bird or animal is of no use or value, the same shall be set at liberty, or disposed of as the said justice, court or magistrate may direct; but should the creature or property so seized be adjudged not forfeited, the same shall be returned to the owner, and the party making the seizure shall pay all the costs and expenses of the same.]

42. SEC. 2. That section fourteen of the act to which this is a supplement [see Sec. 30, *ante*] be amended so as to read as follows:

G.—PROCEEDINGS.

[That any justice of the peace in the county, or any district court or police magistrate in any city where any offense shall have been committed under the above section thirteen of this act, is hereby authorized and directed, upon receiving sufficient proof by affidavit of the same, and of any of the following particulars, to proceed as follows:

Proceedings in justices' and district courts.

I. By summons: when the defendant or defendants are resident within the jurisdiction of the court;

By summons.

II. By warrant: when the defendant or defendants are temporarily within the jurisdiction of said justice, court or magistrate, but not residing therein; or when the said person or persons is or are likely to evade judgment by removal therefrom; or when the name or names and residence or residences of said person or persons is or are unknown;

By warrant.

III. By attachment: when said justice, court or magistrate is satisfied by affidavit that the owner or owners of any animal which has been or is being cruelly treated within the provisions of section thirteen of this act, is the party chargeable with such offense under said section, and that said owner or owners reside out of the local jurisdiction of such justice, court or magistrate, the said justice, court or magistrate shall order and enforce the same by summary attachment against the animal so cruelly treated, and the vehicle, truck, cart, barrow or wagon to which said animal is or may be fastened, yoked, hitched or harnessed at the time of said offense, together with the appurtenances.

By attachment.

PLEADINGS.

The following shall be the form of the summons issued in all cases under this act, and the warrant, when the party is arrested in a proceeding for the penalty prescribed in section eleven, shall conform to the same, as far as practicable, viz.:

Form of summons.

State of New Jersey, }
 _____ county, } ss.

[L. s.] To any constable or police officer (as the case may be) of said county: _____ summon _____ to appear before me, at my office, _____, in the _____ of _____, on the _____ day of _____, at _____ o'clock in the _____ noon, to answer the New Jersey society for the prevention of cruelty to animals, _____ prosecutor, in a plea of debt, for the penalty of one hundred dollars, by virtue of an act entitled "An act for the prevention of

cruelty to animals," approved ———, one thousand eight hundred and ———; hereof fail not.

Given under my hand and seal, this ——— day of ———, one thousand eight hundred and ———;

When suit is instituted by warrant.

When the suit shall be instituted by warrant, the justice, court or magistrate shall cause the following order to be indorsed on the affidavit filed in said cause, and shall affix his name to the same, viz.:

Form of order.

Having read the within affidavit, and being satisfied as to the sufficiency of the same, I do hereby order and adjudge that a warrant (or warrants, as the case may be,) do issue against the defendant (or defendants, as the case may be,) therein named;

When suit is instituted by attachment.

When the suit shall be instituted by attachment, as provided for in this act, the justice, court or magistrate shall cause the following order to be indorsed on the affidavit filed in said cause, and shall affix his name to the same, viz.:

Form of order.

Having read the within affidavit, and being satisfied as to the sufficiency of the same, I do hereby order and adjudge that a writ of attachment do issue and be enforced against said animal (or animals, as the case may be,) so cruelly treated as aforesaid, and the vehicle, truck, cart, barrow or wagon to which said animal (or animals, as the case may be,) were fastened, yoked, hitched or harnessed at the time of said offense, together with the appurtenances;

Proceedings as in other cases of attachment.

The proceedings on said attachment before the said justice, court or magistrate shall be the same, so far as practicable, as in other cases of attachment provided for by law before a justice of the peace;

When affidavit a sufficient demand.

In all prosecutions instituted and begun under the provisions of section thirteen of this act, an affidavit of the violation thereof shall be sufficient demand or pleading, which said affidavit shall be filed with said justice before issuing the process.

JUDGMENT AND EXECUTION.

Proceedings may be instituted before district court or magistrate.

The proceedings mentioned in the thirteenth section of this act may be instituted before any justice of the peace in and for the county where the offense or offenses is or are committed, or before any district court or police magistrate in any city where the offense or offenses is or are committed, and such justice, district court or police magistrate shall have competent jurisdiction for such purpose; and the amount of the forfeiture or penalty so to be recovered as in said section provided for, shall be determined and judgment rendered for the same, together with costs, in like manner as in actions for the recovery of money or damages in the court for the trial of small causes; and execution may thereupon issue against the body or goods of the defendant; and all proceedings in said section mentioned shall, except as otherwise specially provided, conform to the course and practice of the court or jurisdiction before which the same shall be instituted.

APPEAL.

Appeals to be allowed as in other cases.

An appeal to the court of common pleas of any county in this state shall be allowed from the decision of any justice of the peace, court or magistrate before whom such proceedings are instituted, in the same way and upon the same terms as appeals are allowed by law from the judgments of such justice, court or magistrate in other cases.]

43. SEC. 3. [This section, amending Sec. 40, *ante*, is amended and supplied by Sec. 45, *post*.]

Animal or vehicle of party arrested to be treated as stray or abandoned.

44. SEC. 4. That when any person or persons arrested under the provisions of the act for the prevention of cruelty to animals, or of any supplement thereto, shall at the time of such arrest be in charge of any animal or animals, with or without any vehicle attached, it shall be lawful (in case the owner of such property, or any employe of said owner, other than the person or persons arrested, be not then present,) to consider and treat such animal or vehicle, with its contents, in like manner as if such animal or

property were estray, or abandoned in a public place, and the same may be delivered to the local police or constabulary force, or some member thereof, whose duty it is hereby made to receive and take charge of the same; but in case no police officer or constable can be found, such duty may be undertaken and performed by any proper person, at the request of the person making such arrest; and all necessary expenses which may be incurred for taking charge of and keeping and sustaining such animal or property shall be a lien upon the same, and shall be paid and satisfied before the same can be lawfully reclaimed; which lien may be enforced by sale thereof at public vendue, upon order of the justice or court or magistrate before whom the party arrested shall have been brought, and at such reasonable time and by such suitable person as in said order shall be directed; and application for such order of sale may be made by the person or officer then having custody of said animal or property, or by the person who made the arrest; but before such sale may lawfully take place, the justice or court or magistrate aforesaid shall cause notice to be published in a newspaper circulating in the neighborhood in which said arrest was made, for at least three times if in a daily paper, or one time if in a weekly paper, stating the time and place of sale, the article to be sold, and the reason for selling the same, also the name of the owner, if known; and the proceeds of sale so to be made shall be paid into court, and out of the same shall be satisfied all necessary expenses incurred as aforesaid, up to the time of said sale, together with costs as allowed by law in like cases or for like services, and the balance thereof shall be paid or disposed of as the right of ownership may appear; *provided always*, the property so advertised may be redeemed by the owner or owners at any time before sale, upon payment of expenses and costs aforesaid.

Expense of keep,
&c., to be a lien.

Sale to satisfy
expenses.

Proviso.

Supplement.

Approved April 2, 1889.

P. L. 1889, p. 144.

45. SEC. 1. That section twenty-four of the act to which this is a supplement [see Secs. 40 and 43, *ante*] be amended so as to read as follows:

[That nothing in this act contained shall be held to prohibit or affect the shooting of pigeons from a trap upon the grounds of any shooting or athletic club; *provided*, the birds are gathered up immediately upon being so shot, or the shooting or taking game or game fish in such manner and at such times as is or may be allowed or provided by the laws of this state.]

Act not applied to
shooting pigeons
from traps.

Amendatory act.

Approved March 16, 1893.

P. L. 1893, p. 361.

46. SEC. 1. That section sixteen of the act to which this is amendatory [see Sec. 32, *ante*] shall read as follows:

[That any member, officer or agent of the New Jersey society for the prevention of cruelty to animals, or any sheriff, undersheriff, constable or police officer shall have power to arrest, without warrant, any person or persons found violating the provisions of this act in the presence of said member, officer, agent, sheriff, undersheriff, constable or police officer, and to take the same before the nearest magistrate or justice of the peace or court as aforesaid, there to be proceeded against as provided for in section eleven of said act.]

Who may make
arrests without
warrant.

Amendatory act.

Approved May 1, 1894.

P. L. 1894, p. 168.

47. SEC. 1. That section five of the act to which this is amendatory [see Sec. 21, *ante*] shall read as follows:

[That whenever any animal or creature is found on the highway or elsewhere, whether abandoned or not, in a maimed, sick, infirm or disabled condition, it shall be lawful for any justice of the peace, or sheriff of the county, or agent of the New Jersey society for the prevention of cruelty to animals in this state, to appoint a suitable person to examine and destroy such animal or creature if unfit for further use; and if any maimed, sick,

Person may be
appointed to
destroy sick
or disabled
animal.

Person abandoning such animal may be punished.

Animal may be sold.

infirm or disabled animal or creature shall be abandoned to die by any person in any public place, such person shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished as is provided in section thirteen of this act; and the animal or creature thus abandoned, if fit for further use, may be advertised and sold in such manner as any justice of the peace or agent of the New Jersey society for the prevention of cruelty to animals may direct, and the proceeds, after deducting expenses, shall be paid to the district society for the prevention of cruelty to animals, if one is in existence in the county; if not, then to the New Jersey society for the prevention of cruelty to animals.]

II. Preservation of sheep.

An act for the preservation of sheep.

Rev. 746, 754, 796.

Har. 4, 106.

R. S. 9.

Tax on dogs.

[Repealed.

P. L. 1850, p. 51.]

Revision—Approved April 14, 1846.

Proviso.

48. SEC. 1. That every person who shall keep or harbor a dog or bitch [above the age of six months] shall be taxed, yearly and every year, for one dog or bitch so kept or harbored, the sum of fifty cents, and for every additional dog or bitch [above the age of six months] the sum of one dollar; which tax shall be assessed and collected by the assessor and collectors appointed for the assessing and collecting the state, county or township tax in the several townships of this state, in the same manner and at the same time as other annual taxes raised for the use of the state, county or township shall be hereafter assessed and collected; *provided always*, that the inhabitants of the respective townships shall have power, at their annual town meetings, to lay any additional tax on dogs, not exceeding five dollars on each; and the same fees shall be allowed for assessing and collecting the same as are allowed for assessing and collecting the said state, county or township tax; and the assessors and collectors shall be subject to the same fines and penalties for neglect of duty as are or shall be authorized by law for neglect of duty in assessing and collecting taxes for the use of the state, county or township.

A true account required.

49. SEC. 2. That every inhabitant who shall refuse or willfully neglect to deliver in to the said assessor, when by him required, a true account of the number or age of the dog or dogs, bitch or bitches, made taxable by this act, and owned or harbored by him or her as aforesaid, he or she shall for every such refusal or neglect forfeit and pay the sum of two dollars and fifty cents, to be recovered, with costs, by the collector of the township wherein the offense shall be committed, to and for the benefit of the township.

Penalty.

Who liable to dog tax.

50. SEC. 3. That any person who shall keep or harbor any dog or bitch shall be considered liable to the yearly tax aforesaid; *provided, also*, that it shall and may be lawful for the assessors of their respective townships to strike off his duplicate or rate-book the tax assessed against any person for a dog or dogs, on its being proved to the satisfaction of the assessor, by the owner thereof, that he, she or they have killed, or caused to be killed, such dog or dogs before the delivery of the duplicate to the collector.

Who may kill.

51. SEC. 4. That it shall be lawful for any person to kill any dog or bitch which may be found chasing, worrying or wounding any sheep or lamb.

Appropriation of tax.

52. SEC. 5. That the taxes collected by virtue of this act shall be appropriated to make good any loss or losses which may be sustained by any person or persons, (a) by the destruction or wounding of his, her or their sheep, within the township wherein said tax shall be collected, and shall be kept as a fund by the township committee for that purpose, who shall pay all such damage so sustained within the year, in case the money so raised by said tax shall be sufficient to pay the same, and if not, then in such equitable proportions to the individuals injured, according to their respective

(a) If sheep are destroyed or wounded by dogs within any township in this state, the owner of the sheep, although he resides out of that township, is entitled to remuneration out of the dog tax of that township, the fund provided for relief in

such cases. If the town committee improperly refuse relief out of such fund, to any person entitled to it, he has no remedy by an action against the township. *The Inhabitants of Washington v. Applegate, 2 Zab. 42.*

losses, as the said fund arising from such tax will enable them to do, to be adjusted at the annual settlement of the accounts of said township by the township committee, and reported to the town meeting; and in case there shall remain in the hands of the township committee a surplus of money, after paying all the damages sustained as aforesaid, it shall be in the power of the inhabitants of such township, by public vote at their annual town meeting, to appropriate such surplus to any other township purposes, or to let the same remain in the hands of the township committee, to answer any damages as aforesaid which may be sustained in the next ensuing year, and so on from year to year, at the discretion of said inhabitants.

53. SEC. 6. That if any dog or bitch shall be found killing, worrying or wounding any sheep or lamb, and the owner or person harboring any such dog or bitch, being informed thereof, shall refuse or neglect to kill such dog or bitch for the space of twenty-four hours from the time of receiving such information, such owner or person harboring such dog or bitch shall forfeit and pay to any person who shall sue for the same, the sum of ten dollars to be recovered with costs, by action of debt, before any justice of the peace of the county; and moreover shall pay triple damages for any injury done by said dog or bitch to sheep or lambs, after receiving such information, to the owner or owners thereof. (a)

When owner shall kill.

Penalty.

54. SEC. 7. That when any person shall sustain damage or injury, by reason of his or her sheep or lambs being killed or wounded by a dog or dogs, wolf or wolves, it shall be lawful for such person to take two respectable freeholders of the township wherein such damage was done, who are in no wise of kin to the party so calling them, to view the sheep or lambs so killed or wounded; and if it shall appear to their satisfaction that the said sheep or lambs were killed or wounded by a dog or dogs, wolf or wolves, then the said freeholders shall make a return or certificate thereof in writing, stating the amount of damages such person may have sustained, which shall in no case exceed five dollars for one sheep or lamb so killed or wounded, which said certificate shall entitle the person so injured to the sum stated therein, as the damage sustained, to be paid by the township committee, in conformity to the provisions made therefor in the fifth section of this act; and in case the damage so certified shall appear to the town committee to be excessive, it shall and may be lawful for said committee to require the facts stated and claim exhibited to be investigated before them upon oath or affirmation, and shall award payment accordingly; [provided always, that nothing herein contained shall extend to cases wherein a recovery of damages can be obtained of the owner or owners of such dog or dogs as shall have committed the injury.] (1)

Damages ascertained and paid.

Claim may be investigated.

Proviso.

55. SEC. 8. That it shall be the duty of the assessors of the respective townships of this state to set up in at least five of the most public places in their respective townships, within ten days after having taken the annual list of the ratables, lists of the names of each person who shall have delivered to him an account of the dog or dogs, bitch or bitches, and the number given in by each person; and each assessor shall be entitled to receive, on settlement of his accounts, one dollar and fifty cents for the list so set up, to be paid out of the moneys collected from the tax on dogs.

Lists to be set up.

Fee.

56. SEC. 9. That the fourth and sixth sections of this act only, shall extend to the county of Sussex, and that the other sections of said act shall not extend to or be in force in that county.

Sussex, how far affected.

57. SEC. 10. That the inhabitants of the several townships in the county of Bergen may, at their annual town meetings, by a majority of votes to be taken, lower the tax on dogs or bitches to any sum below the present tax; provided, the tax so to be lowered or brought down shall not be less than twenty-five cents on the first dog or bitch, and not less than fifty cents on a second one kept by the same person; and the said tax to be levied, collected and applied as is directed in this act.

Bergen may vary tax.

(a) In an action for this penalty the facts on which the action is grounded must be set out, not merely the title of the act which gives the right of action. *Van Dyke v. Speer, Pen. *993.*

(1) The proviso contained within the brackets is repealed by section 76, post. The provisions of the act are now extended to all domestic animals destroyed by dogs. See section 71, post.

Marking of sheep or cattle, how regulated.

58. SEC. 11. That from and after the passing of this act, no person or persons within this state shall put, or cause to be put, any artificial mark, by cutting off, or what is more usually termed cropping, both the ears of any sheep or cattle, nor shall they cut or crop either ear more than one inch from the tip end thereof, nor shall cut or half-crop both the ears of any sheep or cattle, nor on either ear more than one inch from the tip end as aforesaid, nor shall he or they have or keep in his or their possession any sheep or cattle, which they shall claim as their own, marked contrary to this act, unless they were so marked before the passing of this act, except they shall make it appear they were bought in market or of a stranger.

Penalty for illegal marking.

59. SEC. 12. That any person or persons offending against the eleventh section of this act, on conviction thereof shall forfeit and pay two dollars, by the head, for all such sheep and cattle so by them marked or kept in their possession, to be recovered in an action of debt, with costs of suit, in any court having cognizance thereof, one moiety to the overseers of the poor, for the use of the poor of the township where the offense shall have been committed, and the other moiety to the use of the person who shall prosecute the same to effect. (1) (2)

Supplement.

Approved March 24, 1852.

P. L. 1852, p. 384.

Tax on dogs in certain counties.

60. SEC. 1. That every person who shall keep or harbor a dog or bitch, shall be taxed yearly and every year, for each and every dog or bitch so harbored or kept, the sum hereinafter provided for, which tax shall be assessed and collected by the assessors and collectors appointed for the assessing and collecting of the state, county or township taxes, in the several townships in the counties of Somerset, Morris, Monmouth and Essex, except the city of Newark, and the townships of Belleville, Elizabeth and Union, in the said county of Essex, in the same manner and at the same time as other annual taxes raised for state, county or township purposes are assessed and collected; and the same fees shall be allowed the said assessor and collector as are allowed for assessing and collecting the state, county or township tax; and the assessors and collectors shall be subject to the same fines and penalties for neglect of duty as are prescribed in the act to which this is a supplement.

Penalty for refusing to give account of number of dogs.

61. SEC. 2. That every inhabitant who shall refuse willfully, or neglect to deliver to the said assessor, when by him required, a true account of the number of dogs or bitches made taxable by the act to which this is a supplement, and owned or harbored by him, her or them as aforesaid, he, she or they shall, for every such refusal or neglect, forfeit and pay the sum of five dollars, to be recovered in an action of debt, with costs of suit, by the collector of the township wherein such offense shall have been committed, and for the benefit of the township.

Assessors to make return to township committee.

62. SEC. 3. That it shall and may be lawful, and it shall be the duty of the assessors of the several townships in this state, except in such townships or county as are exempted in the act to which this is a supplement, to set down, on a separate column on their several duplicates, opposite the name of each person or persons, the number of dogs or bitches which he, she or they may own or harbor on his, her or their premises at the time of making their several annual assessments, and make a return of the same to the township committee of the several townships in this state, at their meeting on the first Monday of October, in each and every year, before said duplicate is delivered to the collectors of said townships.

Damage sustained to be appraised.

63. SEC. 4. That any person or persons having sustained any damage by dog or dogs, bitch or bitches, to them unknown, in said townships, shall proceed to have the damage appraised according to the act to which this is

(1) By supplement of March 6th, 1850 (P. L. p. 234), the first, second, third, fifth, seventh and eighth sections of the act of April 14th, 1846, shall not extend to township of Pahaquarry, county of Warren. By supplement of February 8th, 1870 (P. L. p. 119), the same sections shall not extend to the township of Montague, county of Sussex.
(2) By supplement of March 9th, 1853, act of April 14th, 1846 (P. L. p. 362), repealed as to township of Frelinghuysen, Warren county. By supplement of March 10th, 1854 (P. L. p. 348), as to township of Hardwick, Warren county.

a supplement; he, she or they shall present said certificate to the aforesaid township committee, under the same regulation and requirements as are provided in the act to which this is a supplement, on the first Monday of [September] in each and every year; and the said committee, after having received said bills up to that day, shall consider their amount as to the amount of damage done for that year, and shall be the amount to be assessed on the number of dogs in said township, as returned by the said assessor. [See Sec. 78, *post.*] (a)

[P. L. 1872, p. 32.]

64. SEC. 5. That the said township committee, after having ascertained the amount of damage done, and the number of dogs and bitches in said township, shall have power to levy such amount of tax on each and every owner or harbinger of said dogs or bitches as shall be sufficient to pay the whole amount of damage done to sheep in said township, together with the expenses of assessing and collecting the same; and whatever the amount of damage is found to be, shall be apportioned on the number of dogs and bitches so returned as aforesaid, and that amount shall be the dog tax for that year; and the said township committee or assessor shall enter in his duplicate, opposite the name of such person or persons as he shall have assessed, the amount as directed by the township committee as dog tax for that year, and no more.

Tax, how apportioned.

65. SEC. 6. That the said township collectors shall be empowered to collect the said tax in the same manner as is directed by the act to which this is a supplement; *provided always*, that nothing herein contained shall extend to cases wherein a recovery of damages can be obtained of the owner or owners of such dog or dogs, bitch or bitches, as shall have committed the injury. [See Sec. 72, *post.*]

Tax, how collected.

66. SEC. 7. That the first, second and fifth sections of the act to which this is a supplement, so far as relates to the counties of Somerset, Morris, Monmouth and that part of Essex included in the first section of this act, shall be, and the same are hereby repealed. (1) (2)

Repeal of part of act of 1846 as to certain counties.

Supplement.

Approved March 19, 1857.

P. L. 1857, p. 307.

67. SEC. 1. That no certificate of appraisement of damage, under the provisions of the fourth section of the supplement to the above-entitled act, approved March twenty-four, eighteen hundred and fifty-two [see Sec. 63, *ante*], shall be received by the township committee of any township in the county of Morris, as provided in said section, unless the same shall have been first verified by the oaths or affirmations of the said appraisers, and of the person or persons claiming to have sustained damage, respectively, taken in writing before some person authorized by law to administer an oath in this state, and which oaths or affirmations shall state that such damages, so appraised and certified by said appraisers, were to the amount mentioned in such certificate, which oaths or affirmations shall be duly filed and preserved by said township committee among the papers of the said township. [See Sec. 70, *post.*]

Certificate of appraisement of damage to be verified by oath, in county of Morris.

68. SEC. 2. That the amount of damages so certified and appraised shall in no case exceed the sum of four dollars for each sheep or lamb killed or wounded.

Limit of damage.

(a) See *Rogers v. Neptune Township*, 23 Vr. 488.

(1) By act of March 9th, 1853 (P. L. p. 368), supplement of 1852, extended to townships of Hohokus, Franklin and Washington, county of Bergen, and Tewksbury, county of Hunterdon. By act of March 1st, 1860 (P. L. p. 193), extended to township of Franklin, county of Warren. By act of March 6th, 1862 (P. L. p. 122), extended to township of Piscataway, Middlesex county, and to counties of Ocean and Sussex. By act of February 16th, 1863 (P. L. p. 47), extended to township of Readington, county of Hunterdon. By act of March 14th, 1863 (P. L. p. 274), extended to townships of Washington, in the county of Mercer, and Lebanon, in the county of Hunterdon. By act of March 29th, 1865 (P. L. p. 636), extended to the township of East Windsor, county of Mercer. By act of March 26th, 1866 (P. L. p. 683), extended to townships of Union, county of Hunterdon, and Hamilton, county of Mercer. By act of March 3d, 1868 (P. L. p. 210), extended to township of Franklin, county of Hunterdon. By act of February 24th, 1869 (P. L. p. 97), extended to township of Ewing, county of Mercer. By act of March 9th, 1869 (P. L. p. 284), extended to township of Washington, county of Warren. By act of March 1st, 1870 (P. L. p. 345), extended to township of Greenwich, county of Warren. By act of March 8th, 1870 (P. L. p. 404), extended to township of Hopewell, county of Mercer. By act of March 26th, 1872 (P. L. p. 84), extended to the several townships and wards in the county of Warren. By act of March 12th, 1873 (P. L. p. 346), extended to the townships of Cranbury, in the county of Middlesex, and Pompton, in the county of Passaic.

(2) By act of April 9th, 1867 (P. L. p. 912), it was repealed as to township of Millstone, county of Monmouth.

ANIMALS.

Penalty for false swearing.

69. SEC. 3. That if any person making such oath or affirmation, as is provided in the first section of this act, shall falsely, willfully and corruptly affirm or declare therein any matter or thing which, if the same had been sworn or deposed in the usual form, would have amounted to willful and corrupt perjury, then such person so offending shall be deemed and adjudged to be guilty of willful and corrupt perjury, and on being convicted thereof shall be punished accordingly.

Supplement.

P. L. 1863, p. 466.

Appraisal of damages to be verified by oath.

What damages to be allowed.

Approved March 24, 1863.

70. SEC. 1. That the appraisal of damages for sheep or lambs killed by a dog or dogs, made by two freeholders, as authorized and directed by the act to which this is a supplement, and the supplements to said act, shall be verified to be just and true by the oath or affirmation of the freeholder making the appraisal, and also by the oath or affirmation of the claimant, and the damages which shall be allowed for the killing and wounding any sheep or lamb shall be the real, true and actual value of the sheep or lamb so killed or wounded; but if any sheep or lamb be only wounded, and not fatally injured, then the damage to be allowed for such wounded sheep or lamb shall not be more than a compensation for the injury actually done to such sheep or lamb.

Supplement.

P. L. 1866, p. 839.

Provisions of act extended to destruction of all domestic animals by dogs.

Taxes, how to be collected.

Penalty for neglect of collector.

Approved March 29, 1866.

71. SEC. 1. That the provisions of the act and supplements to which this is a further supplement, be and the same are hereby extended to include the destruction of all domestic animals, by any dog or dogs, bitch or bitches, and that the same shall be operative in all the counties of this state; and it shall be lawful for any township to pay any damages which have or may be assessed in accordance with this act.

72. SEC. 2. That it shall be lawful for the collector, or the person or persons having the authority and power to collect the taxes authorized to be assessed by virtue of the aforesaid act and the supplements thereto, and he or they are hereby required to kill, or cause to be killed, any dog or dogs, bitch or bitches, of any person or persons, who may neglect or refuse to pay the said taxes, and the expense of killing the same shall be paid by the township committee of the township wherein said collector or person is authorized to collect said taxes, the same not to exceed fifty cents for each dog or bitch.

73. SEC. 3. That if said collector, or person or persons having the authority and power to collect said taxes, shall neglect or omit to fulfill the requirements of this act, he or they shall forfeit and pay to the township committee of the township wherein such neglect occurs, the whole amount of tax assessed against the owner or harbinger of such dog or bitch, to be appropriated by the township committee toward payment of the damage done to such denomination of animals.

74. SEC. 4. [This section repealed by Sec. 76, *post.*]

Supplement.

P. L. 1873, p. 126.

Compensation of assessors and collectors.

Approved April 3, 1873.

75. SEC. 1. That the assessors and collectors of the several townships, cities, wards and boroughs of this state, shall each be entitled to receive five cents and no more, for every dog or bitch assessed according to the provisions of the said act and the several supplements thereto; *provided* nothing herein contained shall be construed to affect any special law of any township, city, ward or borough of this state. (a)

(a) See *Demarest v. Inhabitants, &c., of New Barbadoes*, 11 Fr. 604.

Supplement.

Approved March 5, 1884. P. L. 1884, p. 39.

76. SEC. 1. That the proviso in section seven of an act for the preservation of sheep, approved April fourteenth, eighteen hundred and forty-six [see Sec. 54, *ante*], as follows:

[*Provided always*, that nothing herein contained shall extend to cases wherein a recovery of damages can be obtained of the owner or owners of such dog or dogs as shall have committed the injury]; and also section four of a supplement thereto, approved March twenty-ninth, eighteen hundred and sixty-six [see Sec. 74, *ante*], be and the same are hereby both repealed.

77. SEC. 2. That when any dog or dogs, bitch or bitches, are found killing or worrying any sheep or other domestic animals, and the owner shall refuse or fail to kill the same as provided for in section six of said act for preservation of sheep, approved April fourteenth, eighteen hundred and forty-six, the township committee, upon complaint being made to them, shall have power and are hereby authorized and required to kill, or cause to be killed, such dog or dogs, bitch or bitches, the expense of which killing shall not exceed two dollars for each animal so killed, the same to be paid out of the money raised by the tax upon dogs.

Repealer of certain proviso and section.

When township committee may kill dogs.

Supplement.

Approved April 6, 1888. P. L. 1888, p. 386.

78. SEC. 1. That any person or persons having sustained any damage by dog or dogs, bitch or bitches, shall proceed to have such damages appraised according to the act to which this is a supplement, and he, she or they shall present such certificate to the township committee of the township in which such damage was done, together with the certificate of the person or persons claiming to have sustained damages, stating the names of the owner or owners of said dog or dogs, bitch or bitches, if known; and if not, then that the said damage was done by unknown dog or dogs, bitch or bitches, which last certificate shall be verified by the oath or affirmation of the person or persons sustaining damage, before the first Tuesday of September of each and every year, and the said committee shall on said day consider the claim so presented and order the assessor to assess such sum as shall be sufficient to pay the claims allowed by them, upon the dogs in said township as returned by said assessor.

79. SEC. 2. That neither this supplement nor the act to which this is a supplement shall exempt the owner, possessor or harbinger of any such dog or dogs, bitch or bitches, but he or she is hereby declared to be responsible for such injury, and an action of trespass may be brought or maintained in any court of competent jurisdiction by any person or persons sustaining any injury, for the full amount of the same, against such owner or possessor, and in which action it shall not be necessary to prove that the said dog or bitch was accustomed to commit the injury complained of or any similar injury; *provided, however*, that the presentation of any claims for damages to the township committee shall be a waiver of all claims against the owner of such dog or bitch.

80. SEC. 3. That in case any claim for damages is presented and allowed by the township committee, the said committee may institute suit against the owner or owners of such dog or bitch in the name of and for the benefit of such township, in any court of competent jurisdiction, to recover the amount of damages so allowed by them.

Proceeding to recover damages for injury done by dogs.

Owner or harbinger of dogs responsible for injury.

Action may be brought.

Proviso.

Township committee may institute suits to recover damages allowed.

Supplement.

Approved April 4, 1894. P. L. 1894, p. 42.

81. SEC. 1. That every person who shall own, keep or harbor any dogs, bitch or bitches shall have the same registered and numbered with the clerk of the township, borough or city in which the owner or person harboring the same shall reside, and shall place upon the neck of each dog or bitch kept or harbored a collar, having engraved thereon, upon a metal sur-

Dogs shall be registered.

Lawful to kill
stray dogs.

face, the name of the owner of said dog or bitch and the registered number thereof; and it shall be lawful for any person to kill any dog or bitch found straying off the owner's premises without such collar upon its neck.

82. SEC. 2. [Amended and supplied by Sec. 87, *post.*]

83. SEC. 3. [Amended and supplied by Sec. 88, *post.*]

84. SEC. 4. [Amended and supplied by Sec. 89, *post.*]

85. SEC. 5. [Amended and supplied by Sec. 90, *post.*]

Shall not apply
to first and second-
class cities.

Shall not repeal
dog tax.

86. SEC. 6. That the provisions of this act shall not apply to or affect cities of the first and second class in this state.

87. SEC. 7. That none of the provisions of this act shall be construed to repeal the provisions of any law now in existence providing for the taxing of dogs.

Amendatory act.

Approved March 22, 1895.

P. L. 1895, p. 578.

88. SEC. 1. That the second section of the act of which this is amendatory [see Sec. 82, *supra*] be amended so as to read as follows:

Book shall be pro-
vided for register-
ing dogs.

[That it shall be the duty of each township, village, borough or city in this state to provide a book for the purpose of registering the owner's name of every dog or bitch and the number, numbering them in the order of the owners applying for said registration, and giving to each person information of the registered number thereof; the person applying for registration shall pay the sum of one dollar for each dog or bitch thus registered, of which the clerk shall receive twelve cents for each registration, the balance to be applied to paying damage done by dogs to domestic animals or poultry, after the same shall have been appraised by two freeholders, as authorized and directed by the act to which this is a supplement and the supplements to said act, and in case there is no damage, such balance to become a part of the general fund of such township, village, borough or city, as the case may be.]

Registry and
clerk's fees.

Fund shall be
applied to paying
damages.

Balance shall be
paid to general
fund.

89. SEC. 2. That the third section of said act of which this is amendatory [see Sec. 83, *supra*] be amended so as to read as follows:

Clerk shall be
liable to penalty
for refusing to
make register.

[That in case the clerk of any township, village, borough or city shall neglect or refuse to so register any dog or bitch when application shall be made to him for that purpose, he shall forfeit and pay the sum of ten dollars for each refusal, which shall be paid to the treasurer of the township, village, city or borough, and be applied to the general fund of such township, village, city or borough, as the case may be.]

90. SEC. 3. That the fourth section of the said act of which this is amendatory [see Sec. 84, *supra*] be amended so as to read as follows:

Governing body
may appoint
persons to kill
unregistered dogs.

[That the common council or governing board of any incorporated city, village, borough or town, or the township committee of any township in this state are hereby authorized and empowered and whose duty it shall be to appoint one or more persons in their respective cities, villages, boroughs, towns or townships with full power and authority to kill any dog, male or female, found straying off the owner's premises without such collar as above provided for upon its neck.]

91. SEC. 4. That the fifth section of the said act to which this is amendatory [see Sec. 85, *supra*] be amended so as to read as follows:

Governing body
may fix compen-
sation of dog-
killers.

[That the common council or governing board of any incorporated city, village, borough or town, and the township committee of any township are hereby authorized to fix the compensation to be paid to any person or persons appointed as above provided for and to pay the same out of any moneys in the treasury of said city, village, borough, town or township.]

III. Contagious and infectious diseases.

An act to prevent the spread of contagious diseases amongst cattle and stock.

P. L. 1861, p. 387.

Approved March 14, 1861.

Powers and duties
of town commit-
tee to prevent
the spread of
disease.

92. SEC. 1. That the town committees of each township in this state, upon notice of the existence of any disease amongst cattle or stock in their townships, supposed to be contagious, be authorized and required to

personally examine the cases, and if the symptoms which characterize contagious diseases are exhibited, they shall cause all such sick animals to be immediately removed, and kept separate and apart from all other cattle or stock, and the remaining cattle or stock of said owner or owners shall be kept isolated from the sick ones, and from all other cattle or stock; and both they and the sick animals shall be kept distant, at least five hundred feet from every public highway or other road, and the same distance from the premises of any and all neighbors; and if any shall die of any contagious disease, or shall be killed while so diseased, the same shall be buried as soon as possible at the nearest convenient place, at least five hundred feet distant from any public highway or other road, and the same distance from the premises of any and all neighbors, and not less than four feet below the surface of the ground; *provided*, that in case the owner or owners of such cattle or stock are not in the possession of such premises as will enable them to provide such suitable and safe place of isolation or burial, the town committee are hereby authorized and empowered to assign a place on any premises adjoining or near thereto, with power to compensate the owner of such premises for the use of the same.

Proviso.

93. SEC. 2. That no cattle or stock that have been sick and are supposed to have recovered, or which have been isolated and separated by order of the said town committee, shall be removed or permitted to mingle with other cattle or stock until the said town committee has given their permit.

Regulations concerning sick cattle.

94. SEC. 3. That any person who shall knowingly store the hide or any portion of an animal that has died or has been killed by reason of any contagious disease, in any building or premises within five hundred feet distant from the premises of any neighbor, nor shall any person erect, use or occupy any premises or building for bone-boiling, swill-distillery or slaughtering within the same distance of five hundred feet from the premises of any neighbor. [Some words appear to have been omitted.]

No portion of cattle killed by reason of disease to be stored, &c.

95. SEC. 4. That the said town committee be authorized to prohibit the importation or passage of cattle from other places into or through their respective townships, and any person who shall import or drive any cattle into or through any township after the same shall have been publicly prohibited by the said town committee, shall pay a fine of one hundred dollars for every bull, ox, steer, cow, heifer or calf, so driven into a township, and any person who shall interfere with, or prevent the action of any town committee, in conformity with the provisions of this act, shall pay a fine of one hundred dollars for each and every offense, and any person who shall disregard the provisions of section three, shall pay a fine of five hundred dollars for each offense.

Town committee may prevent importation of cattle.

96. SEC. 5. That any person who shall dispose of any cattle or stock, knowing or having good reason to suppose it to be the subject of any contagious disease, shall pay a fine of one hundred dollars for any such animal sold within the township, or one hundred dollars if sold and taken out of the township where the seller resides; and during the prevalence of any contagious disease amongst cattle or other stock, said township committee shall publish notice of the existence of such disease, and of the penalties prescribed in this act, by at least four notices in one or more of the newspapers published in the county, and by posting printed notices thereof at the principal post-offices and public places in their townships; and the fines and penalties named and provided for in this act shall be sued for by said town committees in an action of debt in any court of competent jurisdiction, for the benefit of the township; *provided*, that nothing in this act shall conflict in any wise with the corporate rights of any incorporated village, town or city.

Penalty for selling diseased cattle.

An act to prevent disease among cattle.

Approved April 5, 1866. P. L. 1866, p. 981.

WHEREAS, There is good cause to fear that a disease of cattle known as "rinderpest" may be introduced into this state unless proper precautions be taken; therefore,

State agricultural society may take measures for the prevention of cattle disease.

No cattle to be brought into the state from any place when prohibited by the society.

Penalty for bringing cattle into the state contrary to the provisions of this act.

97. SEC. 1. That the New Jersey agricultural society are hereby authorized to take such measures for the prevention of the introduction or increase of the said or other disease, as to the said society shall seem expedient, and that the expenses incurred, with the approval of the governor of this state, shall be paid out of the treasury of this state; *provided*, such expenses shall not exceed the sum of fifteen hundred dollars.

98. SEC. 2. That until the permission to that end of the said society shall be given by public advertisements in three newspapers of this state, no cattle from foreign countries or from any parts of this country from which the introduction of cattle shall, by the order of the said society advertised as aforesaid, be prohibited, shall be brought into this state; and any cattle brought into this state contrary to this provision shall be seized by the authorized agent or agents of the said society, and, without compensation to the owner, killed or disposed of as the said society or its agents shall deem proper; and the person or persons bringing or causing to be brought any cattle into this state contrary to the provisions of this law, shall be subject to a fine of not less than fifty nor more than three hundred dollars, to be sued for and recovered in the name of the said society before any justice of the peace of this state, and all moneys received by the said society under the provisions of this act are to be paid into the treasury of this state.

An act concerning contagious and infectious diseases among animals and to repeal certain acts relating thereto.

F. L. 1886, p. 329.

Approved May 4, 1886.

Owners of animals infected to notify state board of health.

99. SEC. 1. That in case any contagious or infectious disease shall appear or be suspected to exist in any locality in this state, it shall be the duty of all persons owning or having any interest in animals infected or supposed to be infected, and of any person having knowledge or suspicion thereof, at once to notify the state board of health, or some officer or member of said board, of the facts, and it shall be the duty of the said board, upon receiving such information, or any information in regard thereto, to investigate the same, or cause the same to be investigated, and if any such disease is found to exist, or likely to break out, to quarantine such animal or animals, and to take such precautionary measures with relation to other animals exposed to such disease as shall be deemed necessary, and to enforce such regulations in relation to such diseases as the said board may adopt.

When state board may cause infected animals to be slaughtered and buried.

100. SEC. 2. That whenever in the judgment of the said board, its agents or appointees, it shall appear that such disease is not likely to yield to remedial treatment, or that the expense of such treatment will be greater than the value of the animal or animals infected; and when in any case such disease is likely, in the judgment of said board, its agents or appointees, to be communicated to other animals, they shall cause the animals infected to be immediately slaughtered, their remains to be buried at least four feet beneath the surface of the ground, and all places in which the same have been kept to be thoroughly cleansed and disinfected.

Value of animals slaughtered, how ascertained and appraised.

101. SEC. 3. That when any animal or animals shall be slaughtered as directed in the preceding section, the value of the same may, at the request of said board or any person interested, be ascertained and appraised by three disinterested freeholders resident in this state, who shall make and sign a certificate thereof, in the presence of a witness who shall attest the same; such appraisement shall be made on the basis of the market value of the animal or animals slaughtered, just prior to the time when they became so diseased, and shall be limited to the sum of one hundred dollars for registered animals, and to forty dollars for all others; one-half of the valuation so ascertained shall be paid by the state on the presentation of such certificate, with the approval of the said board indorsed thereon, to the owner or owners.

Limitation of value, and by whom paid.

102. SEC. 4. That when any herd or portion thereof has been or is so exposed to any contagious or infectious disease, and the state board of health deem the disease likely to spread to that portion of the herd still unaffected, although isolated or quarantined, said herd may, with the consent of the owner or owners, and with the restrictions agreed upon between them and the executive officer of the state board of health, cause or allow said herd or herds to be inoculated for the prevention of such diseases as can be thus mitigated; but any loss resulting from such inoculation shall not constitute any claim against the state or the board of health; *provided*, that inoculation for pleuro-pneumonia shall in no case be allowed without the consent and approval of the state board of health, and shall be made under its direction.

State board may cause herds to be inoculated to prevent spread of disease, &c.

Proviso.

103. SEC. 5. That when any city, township or district shall be threatened with any contagious or infectious disease among animals to such an extent as to seem to require more general precautions, the state board of health shall notify the local board of health, and, with the advice and consent of the local board of health, may for a time prohibit the bringing of any cattle into such city, township or district without inspection and a written permission, and may prohibit the running at large of animals in any township, if not already prohibited by law, for such time as the township board of health shall advise; and the state board of health may call upon local boards of health to discover and report cases of contagious disease and aid in measures for its abatement and prevention.

State board to notify local boards of threatened contagious diseases, &c.

May prohibit bringing of cattle without inspection, and running at large, &c.

104. SEC. 6. That when any animal or herd of animals is held in quarantine under authority given by the laws of this state to the state board of health, it shall not be lawful for the owner or keeper thereof to add any animals to such herd, by purchase or otherwise, without the written consent of said board, under penalty of being adjudged guilty of a misdemeanor, and fined therefor to an amount not exceeding one hundred dollars.

Unlawful for owners to add any animals to herd in quarantine.

Penalty.

105. SEC. 7. That any person or persons refusing or neglecting to notify said board of health, or any one of them, of the existence of pleuro-pneumonia, rinderpest, or any other contagious or infectious disease among animals, shall be deemed and adjudged guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than two hundred dollars, or by imprisonment not exceeding one year, or both, at the discretion of the court; and that if any person or persons shall knowingly buy or sell, or cause to be bought or sold, any animal or animals affected with the pleuro-pneumonia, rinderpest, or any other contagious or infectious disease, or that has been exposed to a contagious or infectious disease, or is a part of any herd or stock held in quarantine, all such person or persons shall be deemed and adjudged guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding two hundred dollars, or imprisonment not exceeding one year, or both, at the discretion of the court. (a)

Penalty for refusing or neglecting to notify board of contagious diseases.

Penalty for buying or selling animals affected with contagious diseases.

106. SEC. 8. That when, by reason of the locality of an infected animal or herd within a city, or by reason of frozen ground or extreme heat, it is, in the judgment of the state board of health, or those acting under its authority, inexpedient or impossible to bury any such dead or slaughtered animals on the premises, the board may authorize any veterinarian acting for said board to slash the skin and cut the flesh of the same, and, either under his direct oversight, or that of a city board of health, or contractor for the disposal of dead carcasses, to give over the same to the use of a bone-boiling or glue or other establishment for the disposal of dead animals, but in no case shall the same, or any part thereof, be disposed of for food, and any such disposal of the same shall make the party or parties concerned guilty of a misdemeanor and punishable by a fine not to exceed one hundred dollars, or imprisonment in the county jail for a period not exceeding six months.

When impossible to bury dead animals, board may authorize disposal.

Penalty for disposing of dead animals for food.

(a) See *Hess v. State*, 16 Vr. 445.

Post-mortem examination may be made between certain dates.

Carcass to be removed, &c.

State board of health to keep record and report annually.

Annual appropriation.

Amount allowed for services, and by whom determined.

Additional amount may be authorized in case of prevalence of contagious diseases.

Bills for money expended, by whom approved and paid.

Acts repealed recited.

107. SEC. 9. That if, between the first day of October and the first day of May of any year, a veterinarian who has been regularly graduated in veterinary medicine, desires to make a post-mortem examination of any animal he has attended, or at the request of the owner of any animal that has died within the city limits, he may do so, if such examination is made within twenty hours of the death or slaughter of said animal; in every such case he shall notify the city scavenger, or remover of carcasses of animals, of the hour of his examination, and said scavenger shall arrange to remove the carcass in not more than three hours after the beginning of said examination.

108. SEC. 10. That it shall be the duty of the state board of health to keep a full and complete record of all the proceedings under this act, and report the same annually to the state board of agriculture, and such report shall be printed in and form a part of the annual report of said board of agriculture.

109. SEC. 11. That the sum of two thousand dollars is hereby annually appropriated to the state board of health to defray the expenses of the said board in the duties imposed by this act, and that the governor, secretary of state and the comptroller be and they are hereby authorized to determine what sum annually shall be allowed to said board or any member thereof for services in the oversight and execution of the duties hereby imposed, but the amount allowed shall not exceed the sum of five hundred dollars in any one year.

110. SEC. 12. That if, on account of the prevalence of any contagious disease of animals, or the necessary guarding against the same, any greater expenditure shall seem to be required, the state board of health shall present the facts to the governor, the secretary of state and the comptroller, who shall authorize such additional amount as they may think necessary, but in no case shall the yearly amount thus authorized to be expended exceed five thousand dollars.

111. SEC. 13. That all bills for money expended under this act shall be audited by the comptroller of this state, and then submitted to the governor for his approval, and after being thus audited and approved by the governor, shall be paid by the state treasurer upon warrant of the comptroller.

112. SEC. 14. That the following acts, to wit: (1) A supplement to an act entitled "An act to establish a state board of health," approved March ninth, one thousand eight hundred and seventy-seven, which act was approved on the twelfth day of March, one thousand eight hundred and eighty; (2) A further supplement to an act entitled "A supplement to an act entitled 'An act to establish a state board of health,'" approved March ninth, one thousand eight hundred and seventy-seven, which supplement was approved March twelfth, one thousand eight hundred and eighty, which further supplement was approved on the twenty-third day of March, one thousand eight hundred and eighty-one; (3) A supplement to an act entitled "An act to establish a state board of health," approved March ninth, one thousand eight hundred and seventy-seven, which supplement was approved March twelfth, one thousand eight hundred and eighty, and also a supplement to the further supplement to said act, approved March twenty-third, one thousand eight hundred and eighty-one, which supplement was approved March seventeenth, one thousand eight hundred and eighty-two; (4) Supplement to an act entitled "An act to establish a board of health," approved March ninth, one thousand eight hundred and seventy-seven, and to supplements thereto relating to the contagious diseases of animals, which supplement was approved on March twenty-second, one thousand eight hundred and eighty-three, and all other acts and parts of acts inconsistent with the provisions hereof be and the same hereby are repealed, but any rights acquired under the said acts or either of them, and any suits pending under the same shall not be affected by the repeal.

Supplement.

Approved May 16, 1893.

P. L. 1893, p. 362.

113. SEC. 1. That the local board of health of any city of this state shall by ordinance require, from time to time, a registry of all cattle kept within the limits of said city, which registry shall state the place of keeping, the number in each case kept, and the number of these intended, or used, as milch cows; and it shall be the duty of the owner of any such cattle to make registry thereof at the time, place and in the manner that the board of health of said city may direct, under a penalty not exceeding fifty dollars for any neglect of the same; *provided*, that no such registry shall be made by any board of health until after the examination of the stables and place in which said cattle are kept, and until it is known to the satisfaction of said board that they are in good sanitary condition.

Registry of cattle to be kept in cities.

Duty of owners of cattle.

114. SEC. 2. That whenever any local board of health of any city shall have reason to suspect the existence of any contagious disease among cattle, or such as may be a risk or danger to the food or milk-supply, or whenever they may deem it necessary, in order to prevent the occurrence of such risk or danger, they shall order the inspection of all cattle that are kept or intended for meat or milk production, by a competent veterinarian chosen by them, and may for such inspection require so much payment for such service as may be necessary for the expenses attending such inspection; *it being, however, provided*, that in no case shall the amount charged exceed fifty cents a head per year for dairies of ten cows or under, and for all dairies above ten cows, twenty-five cents per head per year; *provided, further*, that no charge shall be made against anyone keeping a single cow for family use.

When inspection shall be ordered.

Payment of expenses.

115. SEC. 3. That whenever any local board of health, or any veterinary inspector appointed by said board, shall find or suspect any disease in any cow, or in any herd of milk-producing cattle, which may prove harmful to the meat or milk-supply, the state board of health and the state dairy commissioner shall be notified, and it shall be the duty of the dairy commissioner to investigate the same, and he shall prohibit the sale or use of the milk from any such milch cow, but he, or the owner of said milch cow, may ask, through the state board of health, a report from some veterinarian appointed by the state board of health as to whether, or how long, it will be necessary to continue the prohibition of the use of said milk, and the dairy commissioner or the state board of health may prohibit the use of said milk or of meat of any animal declared by a veterinarian of the state board to be unfit for use.

When state dairy commissioner shall be notified, and his duties.

Supplement.

Approved May 22, 1894.

P. L. 1894, p. 475.

WHEREAS, It is said that tuberculosis in cattle prevails in some sections of this state, whereby the health of our citizens is imperiled; therefore,

Preamble.

116. SEC. 1. That the president of the state board of agriculture shall appoint five persons, citizens and taxpayers of this state, who, together with himself and the secretary of the state board of agriculture, shall constitute a commission who shall, at the request of two members of the state board of health or the state dairy commissioner or any owner of suspected animals, investigate the existence of tuberculosis, or cause the same to be investigated, and if any such disease is found to exist, to enforce such regulations in relation to the same as the said commission may adopt.

Commission on tuberculosis, how appointed and duties of.

117. SEC. 2. [Amended by Sec. 121, *post*.]

118. SEC. 3. That it shall be the duty of said commission to keep a full and complete record of all their proceedings under this act, and report the same annually to the state board of agriculture, and such a report shall be printed in and form a part of the annual report of the state board of agriculture.

Commission shall keep record and make report.

119. SEC. 4. That the sum of five thousand dollars is hereby annually appropriated to said commission to defray its expenses and the value of

Annual appropriation for expenses.

the cattle to be slaughtered by its direction; *provided*, that no other compensation shall be allowed said commission than the expenses actually incurred in the execution of the duties hereby imposed. [See Sec. 125, *post*.]

Bills shall be audited and paid.

120. SEC. 5. That all bills for money expended under this act shall be audited by the comptroller of this state and then submitted to the governor for his approval, and after being thus audited and approved by the governor shall be paid by the state treasurer upon the warrant of the comptroller.

Supplement.

Approved March 28, 1895.

P. L. 1895, p. 732.

121. SEC. 1. That the second section [see Sec. 117, *ante*] of the act entitled "A supplement to an act entitled 'An act concerning contagious and infectious diseases among animals, and to repeal certain acts relating thereto,'" approved May fourth, one thousand eight hundred and eighty-six, which supplement was approved May twenty-second, one thousand eight hundred and ninety-four, be and the same is hereby amended to read as follows:

Value of cattle ordered to be slaughtered shall be appraised.

[That when any animal or animals shall be slaughtered by direction of said commission, the value of the same shall be ascertained and appraised by three disinterested freeholders, resident in this state, who shall make and sign certificates thereof in the presence of a witness, who shall attest the same; such appraisement shall be made on the basis of the market value of the animal or animals slaughtered, and shall be limited to the sum of one hundred dollars for registered animals and to forty dollars for all others; three-fourths of the valuation so ascertained shall be paid by the state on the presentation of such certificate, with the approval of the said commission indorsed thereon, to the owner or owners; *provided*, no compensation shall be made for animals considered by the commission to be of no value.]

Appraisement limited.

54-122
S98-352

Commission may employ a secretary.

122. SEC. 2. That it shall be lawful for the state tuberculosis commission to employ one of their number as secretary of the commission, and to fix by resolution such compensation for his services as they, in their judgment, may deem reasonable, which compensation shall be paid in monthly installments, out of the appropriation to said commission, by the state treasurer, upon the warrant of the state comptroller.

Certificate shall be furnished of animals in good health.

123. SEC. 3. That whenever the state tuberculosis commission shall have made, or caused to be made, any examination of any animal or herd of animals within this state, and shall have ascertained such animal or herd of animals to be sound and in good health, they shall, upon request from the owner thereof, give to him a certificate in writing, signed by the president and secretary of said commission, certifying to the fact of such examination and of the good health and condition of such animal or herd of animals.

Commission may co-operate with U. S. bureau of animal industry.

124. SEC. 4. That the said state tuberculosis commission shall have the power to co-operate with the bureau of animal industry of the United States in any general national system which may be adopted by such bureau for the prevention of the spread of bovine tuberculosis and its eradication in the United States and its territories.

Appropriation.

125. SEC. 5. That there shall be appropriated to the said state tuberculosis commission the sum of five thousand dollars for defraying its expenses and for the payment of the proportion of the appraised value of slaughtered animals required to be paid out of the treasury of this state, all which payments and expenses shall be made by the treasurer of this state upon the warrants of the state comptroller; that in cases of emergency the said commission may, with the consent of the governor, comptroller and treasurer, in addition to the sum of money hereby appropriated, expend such further sums of money for the purposes of this act not to exceed in the whole the sum of five thousand dollars in any one year.

54-125
A01-182

An act to prevent the spread of glanders in horses.

Approved March 31, 1864.

P. L. 1864, p. 615.

126. SEC. 1. That hereafter, if complaint be made to any justice of the peace of this state, verified by the oath or affirmation of the complainant, that any person or persons, body politic or corporate, have in his, her, or their possession any horses, mares, geldings, asses or mules, having in or upon them the disease known by the name of "glanders," to order an inquiry and examination to be made of the condition of such horses, mares, geldings, mules or asses, under the supervision of some competent and skillful veterinary surgeon; and if by the report of the said surgeon it shall be made to appear to the satisfaction of the said justice, that such horse or horses, mare or mares, gelding or geldings, mule or mules, ass or asses, as is or are mentioned in the said complaint, is or are diseased with glanders, by his warrant, directed to the owner or owners, or person or persons having the same in possession, forthwith to destroy such horse or horses, mare or mares, gelding or geldings, mule or mules, ass or asses.

When horses having glanders may be destroyed.

127. SEC. 2. That any person or persons who shall sell, expose to sale, or keep in his or their possession, or keep or suffer to be kept on his or their premises, or lead, drive or bring into any street, road or public place, any horse or horses, mare or mares, gelding or geldings, mule or mules, ass or asses, afflicted with glanders, knowing such horse or horses, mare or mares, gelding or geldings, mule or mules, ass or asses, to be so afflicted, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not less than one hundred dollars and not exceeding five hundred dollars, or by imprisonment in the state prison not less than one month and not exceeding one year, or both, at the discretion of the court.

Penalty for keeping horses afflicted with glanders.

Supplement.

Approved March 12, 1884.

P. L. 1884, p. 76.

128. SEC. 1. That in the event of the disease called by the name of "glanders," being known or suspected to exist in any locality of this state, it shall be the duty of all persons owning or having any interest in or having in their possession or under their control any horse or horses, mare or mares, gelding or geldings, ass or asses, mule or mules, having in or upon them, or being suspected to have in or upon them, such disease, forthwith to notify the local board of health or any member thereof that such disease exists, or is suspected to exist, and thereupon it shall be the duty of the said board of health to notify the state board of health, or someone designated by them, to investigate the same and quarantine said animal or animals and the premises where they are kept and take such other precautionary measures as to any animal or animals sick, or as to other animals that have been or are in proximity thereto, as shall be deemed necessary, and to enforce such regulations as are provided for in the law to which this is a supplement or such additional regulations as in the judgment of said state board of health the exigencies of the case may seem to require, or if said board or any member thereof, without notification, shall have any reason to believe that the said disease exists in or among any animals in this state, it shall have the same power of inquiry and examination and the same rights of jurisdiction as are herein provided where there has been notification by the owner or person having interest in or possession or control of such animals.

Duty of persons to notify local board of health of existence of disease called glanders.

State board of health to be notified to investigate, &c.

129. SEC. 2. That the said state board of health may call upon local boards of health to discover cases of the disease known by the name of "glanders" and to aid in provisions for their abatement.

State board may call upon local boards to discover cases of glanders.

130. SEC. 3. That for the purpose of quarantining animals the said state board of health or its representatives may take and retain in their control property, real and personal, of the owner or person having interest in or possession or control of such sick animal or animals to the extent and for the time necessary in the judgment of said state board of health or its said representatives to prevent the spread of such disease.

Proceeding by state board to quarantine animals.

Animals diseased with glanders to be destroyed, &c.

Penalty for refusing or neglecting to notify state board of existence of disease.

Who to determine amount to be allowed for services required by act.

131. SEC. 4. That the said state board of health, or any member thereof, whenever satisfied that any horse or horses, mare or mares, gelding or geldings, ass or asses, mule or mules, is or are diseased with glanders, shall cause the same to be immediately destroyed, and all places in which said animal or animals have been kept to be cleansed and disinfected and kept under quarantine until considered safe.

132. SEC. 5. That any person or persons refusing or neglecting to notify said board of health or a member thereof of the existence or suspected existence of the said disease known by the name of "glanders" among any of the animals aforesaid, shall be deemed and adjudged guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment not exceeding one year, or both, at the discretion of the court.

133. SEC. 6. That the governor, the secretary of state and the comptroller shall determine the amount to be allowed to said board, or any member thereof, for services in the oversight and execution of all things in and by this act required to be done. (a)

IV. Stray and trespassing animals.

An act concerning stray cattle, horses and sheep.

Revision—Approved April 10, 1846.

Rev. 288.

P. L. 1837-8, p. 229.

R. S. 6.

Record of stray animals, how kept.

Fees.

In what case to be sold.

Sale to be advertised.

134. SEC. 1. That any person or persons who, at any time hereafter, shall discover any stray neat cattle, horses or sheep upon his, her or their improved lands, shall forthwith deliver to the clerk of the city, township or precinct where such estray or estrays shall happen to be found, a note in writing containing their several ages, colors and marks, natural and artificial, as near as may be, together with his, her or their name or names and place or places of abode; which said clerk shall, on the receipt of every such note, forthwith make a full entry thereof at large in a book provided for that purpose, for which entry, so made, the said clerk shall have twenty-five cents, by the head, for all neat cattle and horses, and six cents for each sheep, to be paid by the person or persons delivering such note; and the person or persons delivering such note shall have for so doing twenty-five cents, by the head, for all neat cattle and horses, and six cents for each sheep, described in such note; and such person or persons may detain such estray or estrays until the owner or owners thereof shall appear and pay the fees, as well for delivering the said note as making the said entry, together with all reasonable charges for keeping the said estray or estrays, to be adjudged by any one indifferent freeholder, chosen by the parties; upon which the said estray or estrays shall be delivered to the said owner or owners. (b)

135. SEC. 2. That if no owner or owners of such estray or estrays shall appear to claim the same, on or before the first day of May next after the making such entry as aforesaid, or if the said owner or owners shall refuse or neglect to pay the fees aforesaid and reasonable charges for the keeping, to be adjudged of as aforesaid, then the possessor of such estray or estrays shall within the space of five days give notice to one of the overseers of the poor of the said city, township or precinct where the said estray or estrays was or were found, who is hereby required within five days after such notice given to set up advertisements in at least three of the most public places of the said city, township or precinct, appointing the time and place of the sale of such estray or estrays at public vendue, not less than five nor more than ten days after setting up such advertisements, and shall, at the same time and place, proceed to sell the said estray or estrays

(a) This act is within the police powers of the state, and is not within the prohibition of the fourteenth amendment. *Newark, &c., Horse E. R. Co. v. Hunt*, 21 *Pr.* 308.

(b) A stolen horse, left by the thief tied to a post in the public

road, is not an estray. Nor will such horse be brought under the statute, if the person finding him remove him and tie him in a private stable. *Hall v. Gilderleeve*, 7 *Pr.* 235.

at public vendue, to the highest bidder; and out of the moneys arising from such sale, the said overseer shall pay the possessor of such estray or estrays the fees of giving notice of and entering the said estray or estrays as aforesaid, and such charges for keeping the same as shall be adjudged by any indifferent freeholder, chosen by the overseer and the possessor, to be just and reasonable, whose determination shall be final; and the said overseer shall and may retain and keep to his own use ten per cent. for his trouble in advertising and attending the said sale, and for defraying the charges and expenses thereof, and the remainder of the moneys arising from such sale shall be paid to the owner or owners of such estray or estrays, provided he, she or they shall appear, demand the same, and make good his, her or their title thereto within one year after the said sale; but if no owner or owners shall appear and make demand of the said overplus moneys, and show his, her or their right to the same within the said year, then the said owner or owners shall forever after be barred from recovering or having the said moneys, or any part thereof and the said moneys shall thereupon be applied by the said overseer to the use of the poor of the city, township or precinct where such estray or estrays shall have been sold as aforesaid; and the said overseer shall be accountable for the said overplus moneys to his successor in office, in the manner prescribed by law; and the said overseer is hereby authorized and required to give a receipt to the purchaser or purchasers of such estray or estrays, for any sum or sums which the same shall have been sold for, which receipt shall be a sufficient voucher for the payment of the same, and shall vest in the said purchaser or purchasers a lawful right and title to such estray or estrays, without his, her or their being any further accountable to the owner or owners, or any other person whatsoever.

Proceeds,
how applied.

When owner
barred.

136. SEC. 3. That any person or persons who shall at any time hereafter, between the first day of November and the first day of April, in any year, have any such stray neat cattle, horses or sheep as aforesaid, upon his, her or their improved lands, or in his, her or their possession, and do not acquaint the owner or owners therewith, or give the notice prescribed by this act within the space of twenty days after discovery or knowledge thereof, such person or persons so offending shall not only lose any demand he, she, or they might otherwise have had for keeping and feeding such estray or estrays, but shall also forfeit to the owner or owners thereof, for every such offense, the sum of six dollars for each and every such stray cattle or horse, and fifty cents for every sheep, to be recovered by action of debt before any one justice of the peace, with costs of suit; and if the said owner or owners shall not appear and prosecute the same within twenty days after the first day of April aforesaid, then the overseers of the poor of the city, township, or precinct where the said estray or estrays shall have been so concealed, upon notice thereof, are hereby required to prosecute the same to effect, and to apply the said penalty or penalties, when recovered, to the use of the poor.

Effect of not
giving notice
required by act.

Penalty for
neglect.

When overseer
to prosecute.

137. SEC. 4. That the books so to be kept by the respective clerks of each city, township and precinct, shall always by them be kept open and free for any person or persons who at any time may have occasion to search therein for any such estrays, and for which search such clerk shall not ask or receive any fee or reward, under the penalty of three dollars, to be recovered by the party aggrieved, in manner aforesaid, with costs of suit.

Books kept open.

138. SEC. 5. That it shall be the duty of the clerks of the different townships of this state to advertise all the estray cattle and horses recorded in the township-book, their several ages, colors, and marks, natural and artificial, the person's name in whose possession the same are, the expenses to be paid by the owners of the estrays, and where no owner appears, by the moneys arising from the sale of the said estray or estrays, to be advertised in one of the newspapers in the county where the said estray is, and if no paper be published in said county, then in a newspaper published nearest to the same, once a week for the space of three weeks from the first, immediately after said estray shall be recorded in his town-book; *provided*, that the provisions of this section shall not apply to the county of Atlantic.

Clerks to adver-
tise estrays.

Rev. 378.

R. S. 16.

Penalty for suffering stone-horses to run at large.

An act for preventing injuries to the breed of horses.

Passed March 15, 1798.

139. SEC. 1. That no person shall suffer a stone-horse of the age of eighteen months, whereof he is owner or hath the keeping, to run at large out of the inclosed ground of the owner or keeper; and whosoever shall willfully or negligently do so, after having notice thereof, and been admonished to confine such horse, shall forfeit and pay the sum of ten dollars, to be recovered by any person who shall sue for the same, in an action of debt, with costs of suit, in any court having cognizance thereof.

Rev. 377.

R. S. 17.

Swine trespassing on inclosed lands may be killed.

An act concerning trespasses by swine.

Passed March 15, 1798.

140. SEC. 1. That it shall and may be lawful for any freeholder within this state, his servant or tenant, finding swine trespassing on his or her inclosed land, to kill such swine, and inform the owner thereof, if easily to be found, (a) and if no owner can be so found, or if found shall not appear and take such swine away, then the person injured shall, within fifteen hours after such killing, give notice to the overseers or overseer of the poor of the township, who shall dispose of such swine for the use of the poor of the township where the same was killed.

Damages for trespass done by swine to be ascertained and recovered.

141. SEC. 2. That if any such person as aforesaid shall find swine trespassing on his or her land, for which he or she shall pay taxes, whether the same be inclosed or not, and do not choose to kill such swine, as in the preceding section is allowed and directed, then such person may take and put such swine into his or her yard or other inclosure, and give notice to the owner, if easily to be found, who shall pay double damages to the person injured, to be appraised and certified in writing by two reputable freeholders, to be chosen by the parties; and if the owner of such swine shall refuse or neglect, for twenty-four hours after notice, to choose one of the said appraisers, or if such owner cannot easily be found, then the person injured may choose them both himself; and in case the appraisers so chosen cannot agree in the appraisement to be made, then the said appraisers may choose a third person to join them therein, any two of whom agreeing, their appraisement, made and certified as aforesaid, shall be binding and conclusive, and double the sum so appraised shall and may be recovered by action of debt with costs of suit, in any court where the same may be cognizable. (b)

In what cases swine shall be sold to pay the damages.

142. SEC. 3. That if inquiry be made, and no owner appears and pays the damages so as aforesaid appraised, within three days after such appraisement, it shall and may be lawful for the person injured to set up advertisements, at three of the most public places next adjacent to where the trespass was committed, describing the number of the said swine, and the natural or artificial marks thereon; and if no owner shall appear within two weeks from the date of such advertisement, and pay the damage, and also the expense of keeping, to be appraised as aforesaid, then it shall and may be lawful for the overseers or overseer of the poor of the township where the said trespass was committed to sell the said swine, so advertised as aforesaid, at public vendue, and after paying the damage and expense of keeping, and retaining fifty cents for his or their attendance on the sale and collecting the money, to apply the overplus, if any there be, to the use of the poor of the said township.

(a) Averments must be made showing a case within the act. An omission to perform the duties enjoined on him will subject the person killing the swine to an action. *Sinnickson v. Dungan*, 3 Hal. 226.

(b) The plaintiff must show that the *locus in quo* is in his possession, that he pays taxes for it, that the trespass was committed by the swine of the defendant, that he has proceeded in the manner prescribed to appoint appraisers and given the defendant notice of the appraisement.

The appraisement is only evidence of the damage, not the foundation of the suit. *Boyle v. Lindsley*, Pen. *250. *Jessup v. Sharp*, Pen. *344. *Voorhels v. Ferrine*, 1 Har. 359. See *Broadwell v. Nixon*, 1 South. *362.

Appraisers are not authorized to summon, swear or examine witnesses. Damages must be seen and determined by them without the intervention of proof. *Warne v. Oberly*, 21 Vr. 108.

An act concerning rams.

Passed May 31, 1799.

Rev. 452.

R. S. 17.

143. SEC. 1. That from and after the twentieth day of August until the first day of November in every year, no ram shall be permitted to go at large out of the inclosure of his owner; but every ram shall, during the said period, be confined and kept within some inclosed pasture field or ground, secured by a fence so close and high as not to admit sheep to pass the same.

Rams not to run at large, when.

144. SEC. 2. That if, during the said period, any ram shall go over or break through the fence or inclosure of his owner, or shall trespass upon the inclosure of any other person, or shall run at large out of such inclosed pasture field or ground of the owner, it shall and may be lawful for any person to take the said ram and castrate him; or such person may impound the said ram, for which the owner shall pay fifty cents.

Rams going at large or trespassing, remedy.

An act to prevent swine from running at large in this state.

Approved March 18, 1852.

P. L. 1852, p. 230.

145. SEC. 1. That it shall and may be lawful for the inhabitants of any township or ward in this state, at their annual town meeting, to vote, viva voce or by ballot, whether swine shall be permitted to run at large in said township; and if a majority of the voters voting thereupon shall vote to prevent the same, such determination shall continue in force, and shall not be altered for the term of three years.

Inhabitants of township to decide by vote whether swine shall run at large.

146. SEC. 2. That it shall be lawful for the inhabitants of a part of any township or townships in this state, of an area not less than one square mile in extent, wishing to come under the provisions of this act (if there be no special law on this subject in force relative to such township or townships), to meet at some convenient place within the said district, upon ten days' previous notice, given by advertisements set up in three of the most public places in said district; and if a majority of the legal voters actually resident at the time of such meeting within the said district, then and there assembled, shall vote in favor of preventing swine from running at large within said district, the provisions of this act shall have full force and effect within the said district.

Part of any township may vote to prevent swine running at large.

147. SEC. 3. That it shall and may be lawful for any person, who is a resident of the said township or district, respectively, to drive or convey to the public pound of the township any swine found running at large in the public streets, highways, or otherwise, and impound the same; and the keeper or keepers of the public pounds in said township is or are hereby required and authorized to receive all such swine; and the keeper shall have [fifteen cents] per head, for letting in and out of the pound, and for feeding and keeping, [twenty-five] cents per head, for every twenty-four hours they shall continue in said pound; and if the owner or owners of the said swine, so impounded, shall not pay the charges of impounding and keeping the said swine, within six days after said swine shall be impounded, and take the same away, it shall be the duty of the said poundkeeper to set up advertisements in three of the most public places in said township or district, describing such swine, and giving at least ten days' notice of an intended day and place of sale; and if the owner or owners of such swine do not appear and redeem the same before the time so notified, then the said poundkeeper shall sell the same accordingly, and, out of the money arising from such sale, shall pay the charges of conveying to the pound, and retain in his hand his fees for impounding, keeping and feeding said swine, and [one dollar] for advertising sale and collecting the money for each swine, and pay the surplus to the owner or owners of the said swine, if they shall appear and claim such surplus within six months after such sale; and if the owner shall not appear within the time specified, the same shall be paid to the overseer of the poor of the said township, for the use of the poor of the said township. [See Sec. 149, *post*.]

Impounding of swine running at large.

Fees of keepers of pound.

[P. L. 1872, p. 39.]

When pound-keeper to sell.

[P. L. 1872, p. 39.]

Poundkeepers
to be elected.

148. SEC. 4. That it shall and may be lawful for the inhabitants of any town, village, or district, coming under the provisions of this act, to elect one or more poundkeepers, who shall be residents for the time being of said town, village, or district, to erect, or cause to be erected, a public pound or other inclosure, at the expense of the townships or districts, respectively, for the safe keeping of swine found running at large as aforesaid. (1)

Pounds to be
erected.

An act relating to fees for impounding animals in the several townships in this state.

P. L. 1872, p. 39.

Approved March 20, 1872.

Fees on impound-
ing animals.

149. SEC. 1. That from and after the passage of this act, the poundkeepers in the several townships of this state shall be entitled to have and receive the sum of twenty-five cents for each horse, mule or head of cattle, and fifteen cents for each goat, sheep or swine, to be paid for the use of the poundkeeper for letting in and out of the pound kept by him; and the person bringing such animals to be impounded shall also be entitled to receive the same fees for each animal so brought by him; and for feeding and attending, the poundkeeper shall be entitled to receive and have the further sum of forty cents per head for each horse, mule or head of cattle, and twenty-five cents for each goat, sheep or swine, for every twenty-four hours they remain in the pound kept by him; and the further sum of one dollar for setting up the advertisements and notice of sale, and for selling every such animal in the manner prescribed by law. [See Secs. 151, 152, 153 and 154, *post.*]

An act authorizing townships to prevent cattle running at large.

P. L. 1881, p. 21.

Approved February 14, 1881.

Voters to vote
whether cattle,
sheep or horses
shall run at large.

150. SEC. 1. That it shall be lawful for the voters of any township in this state, if there be no special law on the subject then in force in said township, at their annual town meeting, to vote by ballot, whether cattle, sheep or horses shall be permitted to run at large in said township; and if a majority of the voters voting at said election shall vote to prevent the same, such determination shall continue in force and shall not be altered for the term of two years.

(1) Special acts have been passed to prohibit swine from running at large in Mount Holly, Burlington county (1849, p. 20); Medford township, Burlington county, and Lower and Upper Rahway, and Leeseville, in counties of Essex and Middlesex (1849, p. 170); township of Bridgeton, Cumberland county, and Haddonfield, Camden county (1849, p. 246); Lumberton, Burlington county (1850, p. 159); Carpenter's Landing, Bridgeport, Swedesboro and Woodbury, Gloucester county; Columbus and Moorestown, Burlington county; Hoboken, in the county of Hudson; Freehold, Turkey and New Egypt, in the county of Monmouth; Gloucester City, in the county of Camden; Woodstown, Salem county, and Morristown, Morris county (1850, p. 300); Glassboro, Gloucester county (1851, p. 94); Rancocas, Burlington county (1851, p. 95); Boonton, Morris county; Vincentown, Burlington county, and Allentown, Monmouth county (1851, p. 459); Paulsboro, Gloucester county (1857, p. 196).

Special acts have been passed to prevent horses, cattle, sheep and swine from running at large in Hackensack and Harrington townships, Bergen county (1852, p. 24); New Barbadoes township, Bergen county (1853, p. 137); Union township, Bergen county (1854, p. 363); Belleville township, Essex county; Piscataway and North Brunswick, Middlesex county, and Franklin, Bergen county (1855, p. 413); Hamilton township, Mercer county, and village of Blackwoodtown, Camden county (1857, p. 470); village of Plainfield, Union county; part of Warren township, Somerset county, and Hobokus, Bergen county (1858, p. 160); Springfield township, Union county (1859, p. 458); Mannington township, Salem county; Plainfield township, Union county; Morris township, Morris county; Piscataway township, Middlesex county, and part of Warren township, Somerset county (1860, p. 191); part of Pequannock township and township of Chatham, Morris county (1860, p. 675); townships of Harrison, Woolwich and Deptford, Gloucester county, and Pilesgrove, Salem county (1861, p. 197); part of Pequannock township, Morris county; New Providence township, Union county; Montgomery township, Somerset county (1861, p. 433); townships of Bridgewater, Hillsborough and Branchburg, Somerset county; Chester, Morris county; South Orange, Essex county; Stockton, Camden county; Northampton and Mansfield, Burlington county, and Greenwich, Cumberland county (1862, p. 122); township of Hopewell, Cumberland county, and township of Mendham, Morris county (1862, p. 160); Pequannock township, Morris county (1862, p. 197); South Brunswick township, Middlesex county, and Franklin, Somerset county (1862, p. 316); part of Clayton township, Gloucester county (1862, p. 343); townships of Bernards and Bedminster, Somerset county (1863, p. 85); Haddon School District, No. 1, Camden county (1863, p. 425); Upper Alloways Creek, Salem county (1863, p. 485); part of Newton township and city of Camden, Camden county (1864, p. 615); Hohokus township, Bergen county (1865, p. 135); Middle township, Cape May county (1865, p. 419); Gloucester and Delaware townships, Camden county (1865, p. 433); Lumberton township, Burlington county (1865, p. 48); Chester township, Burlington county (1865, p. 645); part of Plumstead township, Ocean county (1865, p. 661); Lower township, Cape May county (1868, p. 757); East Brunswick township, Middlesex county (1868, p. 1160); part of township of Winslow, Camden county (1869, p. 535); Linden township, Union county (1869, p. 816); Boonton, Montville and Pequannock townships, Morris county (1869, p. 861); Middletown township, Monmouth county (1869, p. 859); Downe township, Cumberland county (1869, p. 1072); Dennis township, Cape May county; Monroe township, Camden county, and Greenville township, Hudson county (1869, p. 1103); Mantua, Franklin and Clayton townships, Gloucester county (1870, p. 644); Maurice River township, Cumberland county (1870, p. 258); Upper Alloways Creek township, Salem county (1870, p. 447); Upper township, Cape May county (1870, p. 114); part of Hardyston township, Sussex county (1872, p. 914); Washington township, Morris county (1872, p. 1130); Randolph, Bass River and Chesterfield townships, Burlington county (1872, p. 1373); village of Pointville, Burlington county (1874, p. 306); Wantage township, Sussex county (1874, p. 387); Haddon township, Camden county (1874, p. 404); Raritan township, Monmouth county (1875, p. 417); Centre township, Camden county (1875, p. 536).

To prevent animals from running at large in village of Branchville, Lafayette township, Sussex county (1868, p. 989); Upper Pittsgrove township, Salem county (1869, p. 1147); Marlboro township, Monmouth county (1870, p. 533); part of Cinnaminson township, Burlington county, and Monroe township, Middlesex county (1870, p. 639); part of Union township, Ocean county (1873, p. 562); Willingborough and Westampton townships, Burlington county (1874, p. 328).

To prevent cattle and sheep from running at large in Fairfield township, Cape May county (1868, p. 455); to prevent cattle, sheep and swine in Upper Freehold township, Monmouth county (1869, p. 1156).

To prevent horses, mules, cattle, sheep and swine from running at large in the county of Hunterdon, approved March 18th, 1874 (1874, p. 306).

To prevent horses, mules and cattle from running at large in Tuckerton township, Burlington county (1857, p. 192).

151. SEC. 2. That it shall be lawful for any person to drive or convey to the public pound of the township voting as aforesaid, any cattle, sheep or horses found running at large in the streets or highways, and impound the same; and the keeper or keepers of the public pounds in the township are required to receive all such cattle, sheep or horses, under a penalty of ten dollars, to be recovered in an action of débt, in any court of competent authority, by any person prosecuting for the same, for his own use and benefit, for each infraction of this act; the keeper shall have twenty-five cents per head for letting in and fifteen cents per head for letting out of the pound, and for feeding and keeping while in the pound twenty-five [cents] per head for each day or part of a day they shall continue in said pound; and if the owners of said cattle, sheep or horses so impounded shall not pay the charges for impounding and keeping the said cattle, sheep or horses, within five days after the same shall be impounded, and take the same away, it shall be the duty of the said poundkeeper to sell the same, giving at least five days' notice of such intended sale, set up in three or more public places in such township; and if the owner shall not redeem the same before the time so notified, then the poundkeeper shall sell the same accordingly, and out of the money arising from such sale shall pay the charges of conveying to and letting in the pound, keeping and feeding the same, and one dollar for advertising and selling the same, and pay the surplus to the owner or owners of said cattle, sheep or horses, if they shall appear and claim the same within six months after such sale; and if the owner or owners shall not appear within six months as aforesaid, then to the overseer of the township, for the use of the poor of said township.

When cattle, &c., may be impounded.

Fee for letting in and out of pound.

Failure of owner to pay for impounding, &c., keeper to sell cattle, &c.

152. SEC. 3. That for bringing cattle, sheep or horses to the pound, the party bringing the same shall receive twenty cents a head from the poundkeeper, to be by him collected from the owner, in the same manner as fees provided for in second section.

Fee for bringing cattle, &c., to the public pound.

An act to prevent cattle pasturing or running at large in the streets or highways in the townships.

Approved April 17, 1884. P. L. 1884, p. 223.

153. SEC. 1. That it shall be lawful for any person to drive or convey to the public pound of the township, any cattle, sheep, horses or swine found pasturing upon or running at large in the streets or highways of any township, and impound the same, and the keeper of the public pound in the said township is required to receive all such cattle, sheep, horses or swine, under a penalty of ten dollars, to be recovered in an action of debt, in any court of competent authority, by any person prosecuting for the same, for his own use and benefit, for each infraction of this act; the keeper shall have twenty cents per head for letting in, and fifteen cents per head for letting out of the pound; and for feeding and keeping while in the pound, twenty-five cents per head, for each day or part of a day they shall continue in said pound; and if the owners of said cattle, sheep, horses or swine so impounded, shall not pay the charges for impounding and keeping the said cattle, sheep, horses or swine, within five days after the same shall be impounded, and take the same away, it shall be the duty of the said poundkeeper to sell the same, giving at least five days' notice of such intended sale, by setting up in three or more public places in such township, and if the owner shall not redeem the same before the time so notified, then the poundkeeper shall sell the same accordingly, and out of the money arising from such sale shall pay the charges of conveying to and letting in the pound, keeping and feeding the same, and one dollar for advertising and selling the same, and pay the surplus to the owner or owners of said cattle, sheep, horses or swine, if they shall appear and claim the same within six months after such sale; and if the owner or owners shall not appear within six months as aforesaid, then to the overseer of the township for the use of the poor of said township.

Cattle, sheep, &c., found running at large may be impounded.

Fees of keeper of pound.

Sale of animals.

Fees for bringing cattle, sheep, &c., to pound.

154. SEC. 2. That for bringing said cattle, sheep, horses or swine to the pound, the party bringing the same shall receive twenty-five cents per head from the poundkeeper, to be by him collected from the owner in the same manner as fees provided for in section one.

Penalty for interfering with any person taking or driving animals to pound.

155. SEC. 3. That if any person, whether having charge of any cattle, sheep, horses or swine, pasturing upon or running at large in any such street or highway, attempt to hinder or take away such cattle, sheep, horses or swine, from any person taking or driving or attempting to take and drive them to the pound, he shall be liable to a penalty of ten dollars, to be recovered in an action of debt, in any court of competent jurisdiction, by any person prosecuting the same for the use of the person so prosecuting; *provided*, that nothing in this act shall be so construed as to debar any person from driving any cattle, sheep, horses or swine along and over such streets and highways to or from pasture, or in any lawful way using such street or highway for the purpose of driving over the same.

Proviso.

Repealer.

156. SEC. 4. That all acts and parts of acts, whether general or special, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall go into effect immediately.

V. Birds.

An act to prevent the destruction of insectivorous, small and harmless birds.

P. L. 1869, p. 881.

Approved March 30, 1869.

Insectivorous and harmless birds not to be killed or destroyed.

157. SEC. 1. That it shall not be lawful for any person or persons in this state to wantonly shoot, entrap for the purpose of killing, or in any other manner to destroy any upland birds whose principal food is insects, comprising all the species and varieties of birds represented by the several families of whippoorwills, swallows, fly-catchers, thrushes, creepers, warblers, finches, larks, orioles, nuthatches, woodpeckers, humming-birds, cuckoos, and all other species and varieties of land birds, whether great or small, of every description, regarded as harmless in their habits, and whose flesh is unfit for food, including the fish-hawk and turkey-buzzard, but excepting from the protection and provisions of this act the following birds, to wit: the eagle, raven, crow, all hawks and owls which prey upon other birds, all the species and varieties of water birds comprised in the families of the waders and swimmers, and all birds usually known and described as game birds, comprising the ruffed grouse, quail and woodcock.

Eggs and young of the birds intended to be protected, not to be destroyed.

158. SEC. 2. That it shall not be lawful for any person or persons to take or destroy the eggs or young of any of the species or varieties of birds which are intended to be protected by this act; *provided*, that nothing herein contained shall be construed to prevent the killing of birds or taking their eggs for the purpose of preserving them as specimens in cabinets of natural history, nor shall any person be prevented from protecting any crops of fruit or grain on his lands from the destructive depredations of any birds herein intended to be protected.

Proceedings for violation of provisions of this act.

159. SEC. 3. That it shall be lawful for any person to make complaint, under oath or affirmation, before any justice of the peace in this state of any violations of the provisions of this act, and upon every such affidavit it shall be the duty of such justice to forthwith issue, under his hand and seal, a warrant against the person or persons so offending, and all subsequent proceedings before the justice shall be regulated according to the provision of the act entitled "An act constituting courts for the trial of small causes;" *provided, however*, that it shall not be necessary to file any statement of demand.

Penalties on conviction.

160. SEC. 4. That every person offending against any of the provisions of this act, shall on conviction, be fined in any sum not less than ten nor more than twenty dollars, with costs of suit, in the discretion of the court before whom such conviction shall be had, one-half of which sum so fined shall be paid to the complainant.

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161. SEC. 5. That "An act to prevent the destruction of small and harmless birds," approved March sixth, eighteen hundred and fifty, and "a supplement thereto," approved March ninth, eighteen hundred and fifty-nine, and all other acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Repealer.

An act for the preservation of birds.

Approved April 20, 1885.

P. L. 1885, p. 271.

162. SEC. 1. That no person shall at any time within this state, catch, kill, trap or expose for sale, or have in his possession after the same has been caught, killed or trapped, any night-hawk, whippoorwill, sparrow, thrush, meadow lark, skylark, finch, martin, swallow, woodpecker, robin, oriole, red or cardinal bird, cedar bird, wren, tanager, catbird, bluebird, snowbird, tern, gull or any insectivorous or song bird, not generally known as a game bird.

Unlawful to catch, kill, &c., insectivorous or song birds.

163. SEC. 2. That no person shall in the months of March, April, May, June, July or August in any year, within this state, knowingly or willfully molest, tear down or destroy the nest of any wild bird, or take, carry away or destroy the egg or eggs of any such wild bird; nor shall any person, at any time whatever, sell, offer or expose for sale or buy the egg or eggs of any bird named in sections one and three of this act.

Unlawful to destroy nest of wild birds during certain months.

164. SEC. 3. That it shall not be lawful for any person to kill or catch, buy or sell any of the birds mentioned in section one of this act, or any of the birds commonly known as game birds, or any sandpiper, plover, willet, curlew, marlin or other bird of the species commonly called shore or bay birds, or any heron, crane, fish-hawk, kingfisher, yellow hammer or blue jay, for the purpose of preserving or stuffing the same as an article of ornament or apparel.

Not lawful to kill birds for preserving as ornaments.

165. SEC. 4. That any person violating any of the provisions of sections one and two shall forfeit the sum of five dollars for each offense, and any person violating the provisions of section three shall forfeit the sum of fifty dollars; the said penalties shall be recovered in the manner provided in the act entitled "An act to provide a uniform method of procedure for the recovery of penalties for the several laws relating to game and game fish."

Penalty.

How recovered.

166. SEC. 5. That nothing in this act contained shall be held to apply to or affect the bird commonly known as the English sparrow.

Act not to apply to English sparrows.

VI. Mad dogs.

An act for protection against mad dogs.

Approved March 23, 1862.

P. L. 1862, p. 315.

167. SEC. 1. That the mayor of any incorporated town in this state, by the advice and consent of the common council of the town, and the township clerk of any township in this state, by the advice of the township committee, be and are hereby authorized, whenever in his and their opinion the public safety may require, to issue his proclamation authorizing the destruction of all dogs, male and female, found running at large within the limits of the town, except such as shall be properly muzzled with a wire muzzle about the nose, securely fastened, after one day's public notice by written or printed handbills; *provided*, that nothing in said proclamation shall apply to a dog or dogs of a non-resident passing through the town accompanied by the owner or owners of such dog or dogs.

When dogs running at large may be destroyed.

Proviso.

Supplement.

Approved March 26, 1889.

P. L. 1889, p. 96.

168. SEC. 1. That the common council of any incorporated city or town, and the township committee of any township in this state, are hereby authorized and empowered to appoint one or more persons in their

Authority to appoint persons to kill dogs running at large.

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respective cities, towns or townships, with full power and authority to kill any dog, male or female, found running at large without a muzzle, within such cities, towns or townships, after a proclamation shall have been issued in pursuance of the first section of the act to which this is a supplement, and such person or persons so appointed shall have full power and authority and they are hereby authorized to kill any dog, male or female, found running at large within their respective cities, towns or townships in which such a proclamation shall have been issued, after said proclamation shall have been issued for one day; *provided*, that nothing in this act shall empower or authorize said officers to kill any dog or dogs accompanied by the owner or owners of such dog or dogs.

Proviso.

Compensation of persons appointed, how fixed.

169. SEC. 2. That the common council of any incorporated city or town, and the township committee of any township, are hereby authorized to fix the compensation to be paid to any person or persons appointed as above provided for, and to pay the same out of any moneys in the treasury of such city, town or township.

VII. Muskrats.

An act for the preservation of muskrat fur.

Har. 198.

R. S. 15.

When muskrats may not be killed.

Passed January 21, 1829.

170. SEC. 1. That it shall not be lawful, after the passing of this act, for any person to catch, shoot, trap or in any way kill any muskrat or muskrats in this state, between the twentieth day of April and the first day of December in every year, except such muskrat or muskrats be so caught, shot, trapped or killed on the banks cast up to prevent the flooding of low lands or mill or forge dams, and the land thus embanked.

171. SEC. 2. That any person or persons violating this law, shall be liable to a penalty of four dollars for every muskrat so caught, shot, trapped or killed, to be recovered by action of debt, with costs of suit, in any court of competent jurisdiction, by any person being an inhabitant of the state, in the name of the state of New Jersey; the one-half to go to the person prosecuting, and the remaining half to and for the support of the poor of the township where the offense was committed.

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Penalty.

VIII. Live-stock markets.

An act to provide for the establishment of markets for the sale of live-stock in the several counties of this state.

R. S. 1048.

The boards of chosen freeholders may institute markets for the sale of live-stock.

Passed February 29, 1804.

172. SEC. 1. That it shall and may be lawful for the board of chosen freeholders of each and every county of this state, to institute a market, once or oftener in every year, at any place or places within the said county, which in the opinion of the said board may be most convenient for the sale of live-stock, namely, horses, cattle, sheep, and hogs, from the hour of eight in the morning until four in the afternoon, of any number of successive days, not exceeding four, which the said board may appoint; which time and place shall be advertised in three of the most public places in the county, at least thirty days previous to the time appointed for holding the said market.

May pass by-laws, &c., for the regulation of.

173. SEC. 2. That it shall and may be lawful for the said board of chosen freeholders to pass ordinances and by-laws for the regulation of said markets; *provided*, that the same be not repugnant to the constitution and laws of the United States or of this state.