

detained and, in the case of cows, milk them. He can claim compensation for the fodder.

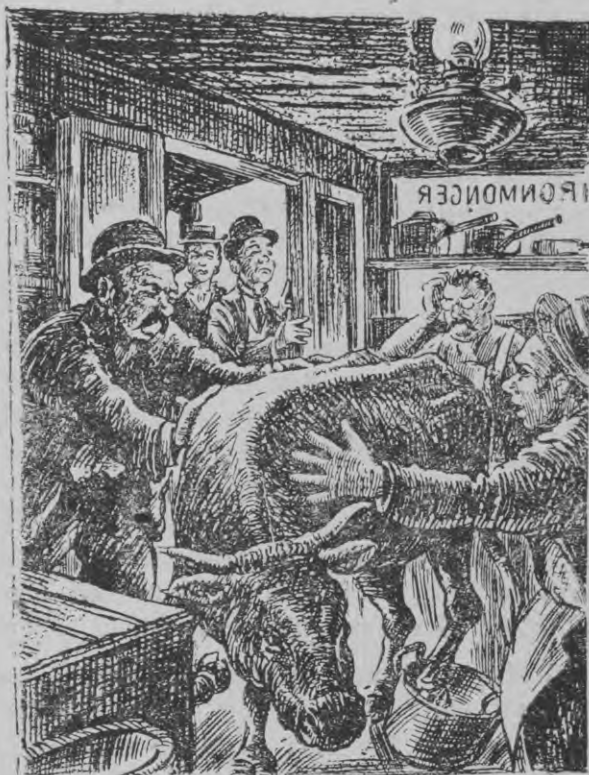
A further remedy is the right given by the Impounding Act, 1908. This Act empowers the occupier of any land trespassed on by cattle to impound them, but, except as provided for in the Act, in regard to pigs or goats, the occupier of any unfenced land is not normally entitled to demand or recover any damages whatever by reason of the trespass thereon of any cattle, except fees for driving or giving notice of their detention. In this respect, however, should be noted the provisions of the Statutes Amendment Act 1939, Sec. 32, which state that "notwithstanding anything to the contrary in the Impounding Act, the occupier of any unfenced land trespassed upon by cattle may claim the same trespass rates or damages under the principal Act as if the land had been fenced, if he proves that the trespass on his land, or on to any land adjoining his land and not fenced therefrom, was not directly, or indirectly, or wholly or partly due to the fact that his land or the adjoining land, as the case may be, was not fenced."

The occupier of fenced land, on the other hand, may sue for the trespass rates or for actual damages incurred, but in the latter case, the cattle may not be detained in the pound until payment is made.

The above two provisions do not apply in Nelson, Marlborough, Westland and Otago in respect of which special provisions are laid down.

Cattle must normally be impounded in the nearest accessible pound to the place of trespass. Instead of sending them to the pound, an occupier of any land trespassed on by cattle, if he knows the owner of the animals, may impound them in a convenient place upon his own land.

In the case of trespass by pigs, goats (other than branded angora goats) or poultry on any fenced land in artificial grass, or under cultivation, the occupier of the land may destroy the trespassers. But he must within twenty-four hours send in writing a description of the animal to the owner



A different version of a bull in a china shop

if known, otherwise to the nearest Police Station. If within forty-eight hours of their destruction the owner does not remove the carcasses the occupier must bury them.

Mention must be made of the "Scienter Rule". This may be explained in the following way—if you own or are in control of an animal which you know to be mischievous, or if the law presumes you know of its mischievous disposition, you must keep it secure and prevent it from doing damage. Liability under the rule requires two essentials—(a) vice or ferocity of some sort and (b) knowledge (actual or imputed) of that vice or ferocity.