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Stock Theft Provisions in the Criminal Law Amendment Bill 2002 (Qld)

The Criminal Law Amendment Bill 2002 (Qld) contains provisions that increase the maximum penalties for livestock theft and related offences. The increases will result in Queensland having some of the strongest penalties for livestock offences in Australia. Queensland and Western Australia are the only two States that maintain a dedicated stock investigation squad, as the other States have absorbed stock investigation work into general policing.

Wayne Jarred

Research Brief No 2002/08

Queensland Parliamentary Library
Research Publications and Resources Section

Ms Mary Seefried, Director	(07) 3406 7116
Ms Karen Sampford, Research Publications Officer	(07) 3406 7310
Mr Wayne Jarred, Senior Parliamentary Research Officer	(07) 3406 7422
Ms Nicolee Dixon, Parliamentary Research Officer	(07) 3406 7409
Ms Cathy Green (part time), Parliamentary Research Officer	(07) 3406 7641

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ISSN 1443-7902

ISBN 0 7345 2818 3

APRIL 2002

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Inquiries should be addressed to:
Director, Research Publications & Resources
Queensland Parliamentary Library
Parliament House
George Street, Brisbane QLD 4000
Director: Ms Mary Seefried. (Tel: 07 3406 7116)

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CONTENTS

1	INTRODUCTION.....	1
2	STOCK OFFENCE PROVISIONS IN THE CRIMINAL LAW AMENDMENT BILL 2002 (QLD).....	2
3	ARE THERE INDICATIONS AS TO THE SOURCE OF LIVESTOCK THEFT?	3
4	CIRCUMSTANCES OF AGGRAVATION AND HIGHER PENALTIES FOR OFFENCES TO WHICH THEY APPLY.....	4
4.1	CIRCUMSTANCES OF AGGRAVATION PROVIDING A GREATER PENALTY WITHOUT CREATING A DIFFERENT OFFENCE	5
5	COMMUNITY EXPECTATIONS OF INCREASED PENALTIES	6
6	HISTORICAL OVERVIEW OF STOCK OFFENCES AND PENALTIES UNDER CRIMINAL LAW	7
7	LIVESTOCK STATISTICS	9
7.1	BEEF HERD	9
7.2	PIG PRODUCTION	10
7.3	SHEEP AND LAMBS	10
8	POLICING OF AGRICULTURAL CRIME.....	10
9	THE NATIONAL LIVESTOCK IDENTIFICATION SCHEME	12
10	COMPARISON OF AUSTRALIAN STATES	14
10.1	QUEENSLAND	14
10.1.1	Legislative provisions	14
10.1.2	Other livestock issues	15
10.2	NEW SOUTH WALES	15
10.2.1	Legislative provisions	15
10.2.2	Other livestock issues	16
10.3	VICTORIA	18

10.3.1	Legislative provisions.....	18
10.3.2	Other livestock issues.....	18
10.4	SOUTH AUSTRALIA.....	19
10.4.1	Other livestock issues.....	20
10.5	WESTERN AUSTRALIA.....	21
10.5.1	Legislative provisions.....	21
10.5.2	Other livestock issues.....	21
10.6	NORTHERN TERRITORY.....	22
10.6.1	Legislative provisions.....	22
10.6.2	Other livestock issues.....	23
11	THE EXTENT OF RURAL CRIME	23
11.1	LIVESTOCK OFFENCES.....	23
11.2	THE QUEENSLAND STOCK SQUAD.....	25
12	CONCLUSION.....	26
	APPENDIX A - REPORTED STOCK RELATED OFFENCES SATISFACTORILY INVESTIGATED BY POLICE AND THE AVERAGE PRICE OF CATTLE 1986-1987 TO 2000-2001	27
	APPENDIX B – NEWSPAPER ARTICLES	28
	RECENT QPL RESEARCH PUBLICATIONS 2002	33

1 INTRODUCTION

Stock theft is estimated to cost Queensland producers approximately \$2 million per year. With graziers enjoying higher prices for their herds, the proceeds from stock theft also increases, making such ventures more lucrative and attractive. Commensurate with increased prices, police predict that stock stealing will also increase¹ and this is echoed by producer groups such as the Victorian Farmers Federation.²

The use of motorcycles, portable yards, trained dogs, livestock transports and even helicopters in remote areas are measures of the arsenal available to contemporary livestock thieves³ but policing is not far behind with access to global positioning systems, laptop computers, video cameras and satellite telephones.⁴ Livestock theft is the most visible face of rural crime which encompasses the wider theft of such things as farm machinery and equipment, fencing materials, crops, fuel, fertilisers and chemicals. All State jurisdictions have in recent times been on the receiving end of criticism over a perceived lack of resources being committed to solving rural crime. The judiciary has also been criticised for a perceived failure to hand out penalties sufficiently harsh enough to deter would-be offenders.⁵

In 2001 the University of Sydney began offering a rural crime investigation and research course at its Orange campus. The course, which has been developed in conjunction with the New South Wales Police Service, is aimed at addressing a perceived decline in the effective policing of rural crime, particularly in New South Wales.

¹ Elaine Barclay, *A Review of the Literature on Agricultural Crime*, Report to the Criminology Research Council, Institute for Rural Futures, University of New England, Armidale NSW, August 2001, p 38.

² Sally Brown, 'Stock theft proves costly to farmers', *Southern Farmer*, August 2001, p 1 <<http://www.nenews.com.au/southernfarmer/aug01/010802.htm>> Downloaded 22 February 2002

³ Alan Harman, 'Combating Rural Crime', *Law and Order*, June 1999, pp 103-106, p 104. <www.lawandordermag.com>

⁴ Leon Margetts, 'Stock Squads are the key to the fight against rural crime', *Vedette*, 171, September 1998, pp 26-27, p 26.

⁵ Mark Phelps, 'Rebuild Stock Squad: AgForce', *Queensland Country Life*, 29 March 2001, p 1.

The provisions of the Criminal Law Amendment Bill 2002 relating to stock offences represent a legislative response on the part of the Queensland government in answering criticism that the social and economic impact of stock theft in rural communities is not fully appreciated.

2 STOCK OFFENCE PROVISIONS IN THE CRIMINAL LAW AMENDMENT BILL 2002 (QLD)

In keeping with the Government's announcement in September 2001 which foreshadowed amendments to the *Criminal Code Act 1899* relating to stock offences, the Criminal Law Amendment Bill 2002 contains amendments that raise the maximum penalties that the courts may impose.

Clause 8 inserts a definition of the term 'stock' into **s 1** *Criminal Code*. This new definition does not subtract from the groups of animals currently listed in **s 398(2)** *Criminal Code*. There are emerging areas of animal husbandry producing such animals as ostrich, emu, crocodile and other aquatic animals that do not fall within the ambit of this definition but, as they are still capable of being stolen, they are covered by the general provision of stealing under **s 398**.

Clause 12 of the Bill amends **s 398(9)** *Criminal Code* by stating explicitly that the stealing of stock in excess of a value of \$5,000 will make offenders liable for a maximum penalty of 10 years imprisonment. By this amendment the offence of stock stealing is drawn into the category of special cases. Special cases are viewed as offences that specifically warrant a greater maximum penalty.

The rationale for specifically including stock theft above a value of \$5,000 as an offence that warrants liability for a greater maximum penalty is two-fold. Firstly, the financial loss on the owner of the stock is more substantial and secondly, at a macro level the theft of stock is detrimental to the entire industry by increasing the possibility of the spread of stock diseases.

Clause 14 amends **s 444A** by providing for a doubling of the total value of any fine that may be imposed from \$25,000 to \$50,000. In keeping with the intent of **s 444A** as it now stands, the new maximum level will apply irrespective of how many animals have been stolen.

The 3 year maximum level of imprisonment that currently applies for the offence of using registered brands with criminal intent under **s 444B** is being raised to 5 years: **clause 15**. Commensurate with the doubling of the maximum fine allowable for killing stock with intent to steal, **clause 15** also doubles the current \$25,000 maximum fine allowable to \$50,000 for the use of brands with criminal intent.

Clause 17 amends **s 445(1)** by increasing the existing maximum 1 year term of imprisonment for the offence of unlawfully using stock to a maximum of 5 years

imprisonment. **Section 445(2)** is also amended by **clause 17** through the raising of the maximum level of fine that may be imposed from \$25,000 to \$50,000.

Currently, **s 446(1)** provides for a maximum term of imprisonment of 1 year for the offence of the possessing stock, or skin or carcass suspected of being stolen and this is being raised to a maximum 5 years whilst in cases where a fine is imposed the maximum level is being raised from \$5,000 to \$50,000 (**Clause 18**).

Clause 19 raises the maximum term of imprisonment from 1 year to 5 years for the offence of illegal branding and raises the maximum fine level from \$5,000 to \$50,000. The offence of defacing brands under **s 448** and the offence of possession of stock carrying defaced brands under **s 448A** are also similarly amended by **clauses 20** and **21** respectively.

3 ARE THERE INDICATIONS AS TO THE SOURCE OF LIVESTOCK THEFT?

There is no statistical data that provides a profile of who is responsible for livestock theft. However, a spokesperson for the producer group Agforce believes that the perception that organised professionals are mainly responsible is overstated. When asked in a radio interview as to whether organised gangs or locals were responsible for livestock theft, the spokesperson said:

...we're probably talking more about neighbours or near neighbours or people in the district that are doing the bulk of stealing. That's the easy way to go about it. The idea that trucks come in the night and load up truckloads of cattle and take them miles away. I have to say that that does happen, but I think it's not the rule, it's the exception.⁶

There is evidence from the Western Australian police service that suggests that local involvement in cattle theft is in fact a reality. In 2002 the police service in that State investigated the largest single complaint of cattle theft in 10 years. The investigation culminated with a local producer being charged with the theft of 800 head of cattle between April and October 1998.⁷

The extent of local involvement is very difficult for police to prove as, where there are no boundary fences, stock can wander between properties naturally and this

⁶ ABC Radio AM program 21 March 2001 'Cattle stealing on the increase'. <<http://www.abc.net.au/am/s263835.htm>> Downloaded 4 March 2002.

⁷ ABC Radio AM program 2 May 2000 'Growth in cattle stealing in Western Australia'. <<http://www.abc.net.au/am/s122762.htm>> Downloaded 4 March 2002.

becomes even more pronounced during seasons of flood.⁸ In the other scenario where stock are transported from their properties of origin, it is much easier to prove that there was an intention to steal.

However, there must be an element of organised involvement in stock theft. For instance, the Western Australian police service reported a victory in cooperating with the State Meat Industry Authority in the identification and closure of several illegal abattoirs preventing the fraudulent sale of meat products to businesses and the general public.⁹

The potential that stock theft (along with other adversities) has to hurt rural producers can be discerned when it is realised that the cattle and sheep producing sectors are still overwhelmingly family oriented businesses. Large producers may, to some degree, be able to absorb losses in this way but family holdings are less able to do so. This draws the distinction between those producers who are able to view livestock production solely as a business and those who experience it as a business and a lifestyle.

A former cattle producer who ran a herd in Far North Queensland has written a book about her experience with cattle theft, indicating that it played a major part in a decision to exit the industry. The book, which was launched at the 2001 Byron Bay Writers' Festival, covers the experience of a family from South Australia who purchased a cattle property in the gulf country of North Queensland and who were to find that over the following 6 years they were to be the victims of stock theft which she described as a practice that is alive and well.¹⁰

4 CIRCUMSTANCES OF AGGRAVATION AND HIGHER PENALTIES FOR OFFENCES TO WHICH THEY APPLY

In September 2001 the government announced that it would amend the *Criminal Code* to include stock theft as a circumstance of aggravation in line with other provisions of aggravated theft. The Ministerial Media Release is included in the Appendix to this paper.

In the case of *Kingswell*, an appeal to the High Court against conviction and sentence, the impact of circumstances of aggravation was summarised:

⁸ ABC Radio AM program 2 May 2000 'Growth in cattle stealing in Western Australia'.

⁹ Barclay, p 27.

¹⁰ ABC Radio Northern Territory Country Hour, 'Cattle stealing forces family off their property', <<http://www.abc.net.au/rural/nt/stories/s340462.htm>> Downloaded 4 March 2002. The book is *The Devil's Triangle*, written by Frances M Boyle and published by Crawford House.

There is a close analogy between those cases in which the existence of the circumstances of aggravation converts the offence from a lesser to a greater one and those in which the existence of the circumstances of aggravation renders the accused liable to a penalty greater than that which could have been imposed if the circumstances did not exist. In cases of the first-mentioned kind the circumstances of aggravation become elements of a distinct offence and therefore must be specifically alleged in the indictment. Where the circumstances of aggravation do no more than increase the maximum penalty, they do not alter the nature of the charge although they do affect sometimes vary materially, the legal consequences that sometimes flow from a conviction.¹¹

Providing for a greater maximum penalty based on the value of the stock stolen falls within the latter category as discussed in the High Court.

The criminal law contains numerous examples of provisions that provide for circumstances of aggravation with respect to the commission of those offences. The existence of a circumstance of aggravation results in the courts being able to apply a stronger penalty than if the circumstance did not exist. The circumstance is written into the statutory provision.

The criminal law is not the only type of legislation to which circumstances of aggravation may apply. For example, the misdemeanour of driving a motor vehicle whilst under the influence of alcohol or a drug in s 16 *Traffic Act 1949* attracts a higher penalty based on such things as the level of intoxication, previous convictions, the type of vehicle concerned (eg. a public or a private vehicle) and the level of danger to which other persons were subjected.

4.1 CIRCUMSTANCES OF AGGRAVATION PROVIDING A GREATER PENALTY WITHOUT CREATING A DIFFERENT OFFENCE

Circumstances of aggravation may be applied to those offences where the legislature decides to impose a higher maximum penalty even though the actual offence does not change. For example, the offence of receiving stolen property under s 433 *Criminal Code Act 1899* is generally enforceable by the imposition of a maximum penalty of 7 years imprisonment but where the offence is committed by a pawnbroker or dealer in second hand goods, whether acting under a licence or otherwise, the maximum penalty liable to be imposed is 14 years imprisonment. The circumstance of aggravation in s 433 is the status of the offender being either a pawnbroker or dealer in second hand goods.

Another example is the use of an offender's previous criminal record to attract a higher penalty. For instance, s 425(1) *Criminal Code 1899* provides that a person

¹¹ *Kingswell v The Queen* (1985) 60(1) ALJR, p 22.

found to be in possession of instruments used in connection with unlawful entry of a dwelling or premises is liable to a maximum term of imprisonment of 3 years. **Section 425(2)** further provides that if the offender has previously been convicted of a crime relating to property then the maximum term of imprisonment is 7 years.

The authority of the parliament to provide for a stronger penalty without altering the nature of the offence has been described in the High Court:

*...there is no fundamental law that declares what the definition of an offence shall contain or that requires the Parliament to include in the definition of an offence any circumstance whose existence renders the offender liable to a maximum punishment greater than that which might have been imposed if the circumstance did not exist. The existence of a particular circumstance may increase the range of punishment available, but yet not alter the nature of the offence, if that is the will of the Parliament.*¹²

5 COMMUNITY EXPECTATIONS OF INCREASED PENALTIES

Raising public awareness of the issues involved can lead to a rational debate on the relationship between crime and punishment. There is a general debate as to whether increased penalties for offences actually lead to a decrease in the recorded level of crime. Opponents of increased levels of punishment argue that there is simply no research to connect increased penalties with lower offence rates.¹³

On the other hand, it is arguable that a higher level of punishment is deserved when the offence committed is a repeat offence, as it represents a blatant disregard for society's social norms and standards. The legal effect of a prior conviction on a subsequent offence is to diminish any leniency by reason of a claim of good character.¹⁴ It is also arguable that any approach that gives an offender a level of punishment that is less than the offence deserves is counter-productive in that it encourages further acts.

In establishing levels of punishment, society is protecting itself from offenders. Any society protects itself by preventing or discouraging further offences through its punishment regime. The cause of justice is not served when the penalty used as the basis for prevention actually metes out punishment that is either more or less than the level that is deserved. It has been argued that, the greater the discretion

¹² *Kingswell v The Queen* (1985) 60 (1) ALJR, p 20.

¹³ 'Crime and Punishment', *The Law Institute Journal*, 70(10), October 1996, p 3.

¹⁴ Benjamin Lindner, 'Second Offender', *The Law Institute Journal*, 67(12), 1993, p 1188.

that is available to the judiciary, the more likely it will be perceived that the courts are imposing less punishment than is deserved.¹⁵

AgForce, representing the Queensland cattle producer, has been critical of the penalties handed out to persons convicted of stock theft:

*The judiciary needs to recognise the seriousness of this crime. Unfortunately, it has been our experience that stock theft is not treated as seriously as other forms of property theft.*¹⁶

The opposing view is:

When comparisons are made, it seems gross overkill for the Government to expect courts to impose up to \$25,000 and / or a 10- year jail term for a person who steals a truck load of cattle when another equally criminal person, who takes one of several motor vehicles with a value of \$30,000 or more each, faces a much lenient sentence.

Most would sympathise with a primary producer who battles to elk out a living in the land, and nobody would wish his livestock to be stolen. But is it really a crime worthy of such a penalty?

*...don't hang by the toes waiting for a court to apply a \$50,000 fine or a 10-year jail term to a cattle duffer.*¹⁷

6 HISTORICAL OVERVIEW OF STOCK OFFENCES AND PENALTIES UNDER CRIMINAL LAW

The Queensland legislature has historically taken stock related offences seriously. The first piece of legislation passed by the Queensland parliament that related to livestock offences was the *Larceny Act 1865* when stealing of livestock and killing of livestock with intent to steal were specifically provided for. **Section 10** of the 1865 Act provided for a minimum 3 years imprisonment and a maximum of 14 years imprisonment for the offence of stealing cattle or other animals.

The genesis of the lawful authority for a court to convict a person charged with the stealing of livestock but found to be innocent of that charge but, on the facts, guilty of another livestock charge under s **588 Criminal Code Act 1899** also lies in s **10 Larceny Act 1865**. **Section 11** of the 1865 Act provided that the killing of any

¹⁵ Paul Robinson, 'Crime, punishment, and prevention', *The Public Interest*, vol 142, Winter 2001, pp 61-71, p 65.

¹⁶ Mark Phelps, 'Rebuild Stock Squad: AgForce', *Queensland Country Life*, 29 March 2001, p 1.

¹⁷ Tony Koch, 'Cattle duffers whipped, but car thieves roam free', *The Courier-Mail*, 18 October 2001, p 25.

animal with the intention of stealing the carcass or any part of the animal would attract the same minimum and maximum penalty as if the animal had been stolen which was at that time a minimum of 3 years and a maximum of 14 years imprisonment.

With the passing of the *Criminal Code 1899*, the maximum penalty for the crime of stealing under s 398 was 3 years imprisonment but the stealing of livestock was made one of a number of special cases whereby offenders were liable to a maximum penalty of 7 years imprisonment. The treatment of the offence of killing livestock with the intention of stealing, as stealing, which attracted the maximum penalty of 7 years imprisonment was a carry over from the former *Larceny Act 1865* even though the maximum level of imprisonment had been lowered from 14 years to 7 years.

Section 404 of the *Criminal Code 1899* provided for a maximum penalty of 3 years imprisonment for the offence of using a registered brand with the intention of facilitating the commission of a crime.

The enactment of the *Criminal Code 1899* effectively halved, from 14 years to 7 years, the maximum level of imprisonment that a court could order for a person found guilty of stealing livestock or killing with the intention of stealing as provided for in the *Larceny Act 1865*.

The unlawful use of stock, suspicion of stealing stock, illegal branding or the defacing of brands were all misdemeanours that attracted monetary penalties under the *Criminal Code 1899*.

Section 398(III) *Criminal Code 1899*, which provided for a maximum term of imprisonment of 7 years for the offence of stealing livestock, was omitted by the *Criminal Code and the Justices Act and Another Act (Stock Offences) Amendment Act 1973*. The result of this amendment was that the maximum penalty for stealing livestock was 3 years imprisonment under s 398, which provided the punishment for stealing generally.

The penalty for the offence of suspicion of stealing cattle in the *Criminal Code 1899* (s 446) was initially set in (dollar terms) at a maximum fine of \$100. The maximum monetary penalty had only ever risen to \$500 and this was further changed in 1973 to a maximum fine of \$200 for every animal suspected of being stolen or 1 year's imprisonment or both. The maximum penalty for the offence of illegal branding under the then s 447 was exactly the same as it was for suspicion of stealing livestock.

In cases where multiple stock numbers were involved, this 'per beast' approach resulted in higher monetary penalties being handed down by the courts. This represented a greater focus on those viewed as professional thieves looking for a quick return as opposed to individuals who stole for food.

Amendments in 1986 provided that the \$200 maximum penalty per beast that was imposed in 1973 would be the minimum monetary penalty that a court could impose for the offences of unlawfully using cattle, suspicion of stealing cattle, illegal branding, and defacing brands. However, the 1986 amendments obliged the courts to determine the value of the beast or beasts concerned and, if the value was higher than the \$200 minimum fine, then the determined value was to be the value of the fine imposed. The option of one year's imprisonment instead of a monetary penalty or both a monetary penalty and imprisonment remained at the court's discretion. The value of the livestock involved was to be determined by registered stock valuers in accordance with regulations under the *Code*.

The 1986 amendments added the proviso that persons found guilty of these stock related offences would not (despite the total value of the stock involved) pay more than \$25,000 in cases of stealing stock; \$5,000 in cases of killing stock with intent to steal; \$25,000 in cases of using registered brands with criminal intent; \$5,000 in cases of defacing brands and, in cases of suspicion of stealing livestock, a total sum of \$5,000.

7 LIVESTOCK STATISTICS

The Australian livestock industry is diverse with producers turning off beef, dairy produce, sheep, pigs, goats and poultry as well as minority herds such as alpacas, llamas, deer, emus, ostriches, horses, camels and buffalos.

7.1 BEEF HERD

The national beef herd was approximately 24.4 million in 2000 with Queensland producers being responsible for 11.8 million head (nearly 50% of the national herd), New South Wales 5.9 million head, Victoria 4.2 million head and Western Australia 2.1 million head. In Queensland, saleyard prices for beef cattle are expected to average an historically high level in 2001-2002 whilst the gross value forecast for cattle and calf disposals for 2001-2002 is \$3,370 million, making the beef sector the largest proportional contributor to Queensland's gross value of primary industries production. With the increased prices currently being fetched for beef cattle, this proportion is estimated to rise from 28% in 2000-2001 to 40%

in 2001-2002.¹⁸ In 2000, there were 11 503 beef producers in Queensland with an additional 305 producers running milk cattle and calves.¹⁹

7.2 PIG PRODUCTION

Nationally, the pig meat sector is only small in comparison to the beef cattle sector. In June 2000 the national total stood at only 2.5 million animals being prepared by 3,400 piggeries. Of this total, New South Wales accounted for 30% of the herd. In Queensland the forecast gross value of disposals in 2001-2002 is \$190 million. Rising export demand is expected to result in a 5% increase in disposals in 2001-2002 over the 2000-2001 level for Queensland.²⁰ In 2000 the number of Queensland piggeries numbered 870, second to New South Wales with 968.²¹

7.3 SHEEP AND LAMBS

In 2000, Queensland sheep and lamb producers accounted for 9.1 million head of Australia's 118.5 million head. New South Wales is by far the largest producer with 43.4 million, ahead of Western Australia with 26.1 million. Sheep and lamb turn off in Queensland for 2000 was 2.3 million head from 2 234 sheep producing properties.²²

8 POLICING OF AGRICULTURAL CRIME

There are factors generic to agricultural crime that inhibit the policing effort. Firstly, there is the problem of geographical vastness which is intrinsically linked with the grazing of livestock which accounts for the largest area of agricultural land use. Livestock grazing requires a large area of natural and sown pasture. In Queensland, there are approximately 145 million hectares devoted to the growing of native pasture and five million hectares of sown pasture for this purpose.

¹⁸ Queensland. Department of Primary Industries, *Prospects for Queensland's Primary Industries*, December 2001 Update, <<http://www.dpi.qld.gov.au/extra/pdf/business/prospectsbook2.pdf>> Downloaded 13 February 2002, pp 4 & 12.

¹⁹ Australian Bureau of Statistics, *Agriculture Australia 1999-2000*, Cat No 7113.0, p 96.

²⁰ Queensland. Department of Primary Industries, p 13.

²¹ Australian Bureau of Statistics, *Agriculture Australia 1999-2000*, Cat No 7113.0, p 98.

²² Australian Bureau of Statistics, *Agriculture Australia 1999-2000*, Cat No 7113.0, p 97.

The sheer numbers of stock, the ability to transport stock over distance in a short time and the availability of outlets for disposal such as private sale and live auction, live export, abattoirs and feedlots all combine to hinder policing.

All jurisdictions in Australia require that all animals being sold must be identified with either an ear or tail tag that identifies the owner or the property from which the animal came. The use of either one of these identification methods is the principal method whereby the proof of ownership can be established. Other methods that may be used are ear marking, freeze or hot iron or electric branding, tattooing or electronic identification. However, despite these various methods, policing can still be frustrated when earmarks are cut off or brands are defaced or altered with the imposition of another brand over the top. The differing legal requirements for stock identification between the States and Territories also hampers policing of stock theft.²³

Like Australia, the United States is a major cattle producer and both countries confront the common problem of resource allocation in the investigation of stock offences. The Oregon Department of Agriculture has, since January 1998, employed 2 retired police officers to assist State police in stock investigations.²⁴

The States of Texas and Oklahoma are major cattle producers. The Cattle Raisers Association, representing producers in both States, has organised the services of over 30 trained stock theft investigators who have been commissioned as Special Rangers by both State authorities to assist in the recovery of stolen stock and farm equipment and the identification of the persons responsible. As in Queensland, these two American States operate a centralised and computerised brand recording and retrieval system that is the central pillar in the investigation effort.²⁵

²³ Barclay, p 23.

²⁴ United States of America, Oregon Department of Agriculture, *Livestock theft investigators make a difference*, <http://www.oda.state.or.us/Information/sow/Livestock_theft.html> Downloaded 21 February, 2002; ODA 'beefs up' efforts to fight livestock theft, <http://www.oda.state.or.us/Information/sow/Livestock_cop.html> Downloaded 21 February 2002.

²⁵ United States of America, Texas and Southwestern Cattle Raisers Association, *Law Enforcement and Livestock Inspection*, <<http://www.texascattleraisers.org/theftProtection.asp>> Downloaded 21 February 2002.

9 THE NATIONAL LIVESTOCK IDENTIFICATION SCHEME

Branding of livestock has long since been regarded as a cost-effective method of determining ownership. However, brands can be altered and ear tags can be removed.

Meat and Livestock Australia has developed a central computerised data base on behalf of the cattle industry. This computerised system promises to deliver to the industry a national identification system that can identify individual animals once and which will last for the life of the beast. The animal may be fitted with a readable radio transmitter in the form of a microchip that is either contained in a rumen bolus that is deposited internally or an external ear tag. Once attached to the beast and recorded on the database, this information is accessible for the purpose of tracing lost, stolen or mortgaged cattle.

Producer participation in the scheme is voluntary but producers turning off cattle without these devices will not be able to sell to markets that require them to be used. Whilst the unique identification number can be entered onto the computer database for the sole purpose of identification, producers will also be able to enter other information unique to each animal such as body weight. On-farm software is available to producers for this purpose. Dairy farmers will also be able to access the system for animal identification purposes and production statistics.

Thus far the approved devices that producers may use are electronic radio frequency ear tags which may be used alone or radio frequency rumen pellets inserted down the throat of the animal that must be used in conjunction with matching non-electronic ear tags.

The impetus for the introduction of the national scheme since late 1999 has not been the recovery of stolen stock but tracing requirements for cattle slaughtered for the European Union market. Producers and abattoirs are required to choose from a list of accredited devices which include readers and on-farm software. Since late 2001, producers generally have been able to access the system that is based on a unique identification number for each beast which will also have common digits for the property of origin and age of the animal.

AgForce, the cattle producer representative body in Queensland, conducted information forums during February 2002 in Roma and Karara and will conduct more forums during March 2002 at Julia Creek, Charters Towers, Kingaroy, Goondiwindi and Beaudesert. Blackall will be the venue in May 2002.²⁶

²⁶ Meat and Livestock Australia, *National Livestock Identification Scheme*, <<http://www.mla.com.au/content.cfm?sid=131>> Downloaded 15 February 2002.

Despite government and peak body support for the system, there are signs that many producers will balk at the cost which is around \$3 per ear tag and about \$7 for a rumen bolus:

It is yet another cost to the producer, I think the processor should be footing the bill if they want further identification because we have an identification and traceback system that apparently works well now.

They were able to trace that contaminated meat the other day from America right back to a property in North Queensland, so you have to ask what is wrong with the ID system we already have.²⁷

If producers perceive that there is an adequate identification system already in use and the additional cost of a new system does not justify a changeover, then they will be reluctant to do so. The rumen bolus pellets can be recycled when the beast is slaughtered and there is scope for them to be leased at a much lower cost than purchase price.

From the producers' point of view, it is all about value for money. Any additional on-farm management features that the new recording system may inherently have, such as the recording of carcass yield and meat quality, should combine with the life identification feature to maximise producer acceptance.

The point has been made that stressing the positive side of individual beast identification that has nothing to do with tracing ownership is the way to go:

...animal identification has several purposes, including disease surveillance and traceback but, more significantly, it gives the ability to begin individual animal information management, permitting producers to make management decisions regarding genetics, livestock inventory, health and nutrition practices and other strategies that can improve production quality, prices and profitability.

The real benefits lie in improving production efficiency and keeping farmers in business. Traceability is a side benefit that will be great...²⁸

The New South Wales Police Association is in favour of the introduction of electronic identification from a stock security point of view.²⁹ On the other hand, Queensland Police are not convinced that electronic identification would offer the

²⁷ James Nason, 'New tag cost prohibitive, says producer', *Queensland Country Life*, 18 November, 1999, p 1.

²⁸ Tom Newsome, 'Livestock ID vital to protect market share', *Queensland Country Life*, 14 March 2002, p 12.

²⁹ Anthony Hoy, 'The Great Stock Take', *The Bulletin*, 20 June 2000, pp 44-46, p 46.

same level of stock security as traditional branding and that the removal of the latter would only benefit stock theft, not hinder it.³⁰

10 COMPARISON OF AUSTRALIAN STATES

10.1 QUEENSLAND

10.1.1 Legislative provisions

The offence of stealing generally is provided for in **s 398(1) *Criminal Code Act 1899*** where the maximum penalty is imprisonment for 5 years. **Section 398(2)** provides for the penalty that may be applied in cases where livestock is stolen. Subsection 2 provides that, where a fine is imposed in addition to or instead of a term of imprisonment, the fine shall be no less than \$1,000 or the value of the animal concerned, whichever is the greater amount. In effect, any fine imposed must be at least \$1,000 but it could be more if the animal concerned is valued at more than that figure. Additionally, subsection 2 is to apply to every animal that is stolen but the total level of fine that can be imposed is subject to the maximum provisions contained in the respective provisions covering livestock offences in the *Code*.

Chapter 44, Divisions 1 & 2, of the *Code* specifically provide for livestock offences that are analogous to stealing of livestock that are not provided for in **s 398**:

Section 444A *Code* currently provides for a maximum fine of \$25,000 in cases where a fine is imposed for the offence of killing livestock with the intent to steal. Where a fine is to be imposed, the section provides that the courts must impose a penalty of \$200 per animal or the value of the animal whichever is the higher value. This means that the minimum fine in practical terms will be \$200 per animal but that the total fine must not exceed \$25,000.

Section 444B provides for a 3 year term of imprisonment for the use of a registered brand without the permission of the registered owner and with criminal intent. If the courts determine that a monetary penalty is to be imposed instead of, or in addition to a term of imprisonment, the same minimum level of \$200 per animal and the same total maximum level of \$25,000 as applies to killing with intent to steal, also applies.

³⁰ James Nason, 'Electronic ID risks theft', *Queensland Country Life*, 21 May 1998, p 8.

The offence of unlawful use of livestock under **s 445** provides for a maximum term of imprisonment of 1 year and/or a minimum monetary penalty (at the court's discretion) of \$200 per animal up to the total allowable maximum penalty of \$5,000.

Section 446 provides for identical penalties for being in possession of livestock that is suspected of being stolen as are provided for in the offence of the unlawful use of livestock in **s 445**.

The offences of illegally branding (**s 447**), defacing or altering brands (**s 448**) and being found in possession of livestock carrying defaced or altered brands (**s 448A**) carry a maximum 1 year term of imprisonment and/or a minimum monetary penalty (at the court's discretion) of \$200 per animal up to the total allowable maximum monetary penalty of \$5,000.

10.1.2 Other livestock issues

It is compulsory to brand cattle over the weight of 100 kg that are for sale at a commercial venue.³¹ This provision is the same for horses and pigs. Commercial sales cannot be completed without the beast being identifiable by way of a registered brand or earmark and these registrations must be renewed annually. The central register is accessible by police working in the field by the use of lap top computers.

The possession of owner waybills for the movement of stock is central to stock tracing in Queensland.³² Waybills are required for the movement of all cattle and buffalo within the State. Stock being transported into Queensland must be issued with a travel permit at the relevant border crossing.

10.2 NEW SOUTH WALES

10.2.1 Legislative provisions

Section 126 Crimes Act 1990 provides that the maximum penalty for stealing livestock or killing livestock with the intention to steal is 14 years imprisonment

³¹ Queensland. Department of Primary Industries, 'A guide to regulations when selling cattle' *DPI Note*: <<http://www.dpi.qld.gov.au/health/3601.html>>

³² See the *Stock Act 1915* (Qld) ss 22 to 22G.

whilst the maximum penalty under s 131 for unlawfully using livestock, defacing brands or earmarks or fraudulently branding livestock, is 3 years imprisonment.

The *Crimes (Sentencing Procedure) Act 1999* provides for sentencing discretion on the part of the courts. The 14 and 3 year maximum terms of imprisonment that may be imposed for the above stock offences may be combined with other penalties or replaced altogether by those penalties. Under s 6 the courts may order that an offender sentenced to a term no greater than 3 years imprisonment may serve that sentence by way of periodic detention. Section 7 allows the courts to order that a term of imposed imprisonment that is no greater than 18 months be served by way of home detention.

Community detention orders (of a maximum of 500 hours) and good behaviour bonds pertaining to a time period no greater than 5 years may also be substituted in place of custodial sentences under ss 8 and 9 respectively but in accordance with s 13 they cannot both be imposed for the same offence. Under s 12 suspended sentences may be substituted for terms of imprisonment no greater than 2 years. A fine and a community service order may be used as a combined penalty under s 14.

10.2.2 Other livestock issues

The New South Wales Farmers' Association estimates about \$1.5 million of stock theft is reported annually in that State but that this would only represent approximately 20% of the actual level of theft that is in fact occurring.³³

It is a requirement in New South Wales that all pigs and horses be branded. Sheep must be earmarked for the purpose of identifying the property of origin only. The recording of brands that are used by producers is the responsibility of the various Rural Lands Protection Boards of which there are 49 across the State. The result is that there is no central brand index available that can be referred to in order to check the ownership of stock. Due to this situation, it is possible that more than one producer may be registered with the same brand as their properties lie within the geographical regions of different Rural Lands Protection Boards.

It is not compulsory to brand, earmark or ear-tag cattle at birth or soon after. However, at any time of sale or slaughter, each head of cattle must be identifiable with a tail tag indicating the property identification code. Livestock for sale or slaughter are generally accompanied by a vendor declaration that identifies the health status of the beasts concerned but this is not compulsory.

³³ Frank Walker, 'Cattle thieves hit NSW farms', *Sydney Morning Herald*, 1 October 2000. <<http://www.smh.com.au/news/0010/01/national/national6.html>> Downloaded 30 October 2001.

The New South Wales police service is working toward the establishment of a centralised branding register similar to the one operating in Queensland.³⁴

Since 1990, Transport Stock Statements have been required under the *Rural Lands Protection Act 1989* to record the movement of all cattle, horses, sheep and goats into, within and out of New South Wales. Police have authority to stop and search stock transports to inspect Transport Stock Statements and this power has been valuable in the pursuit of stolen stock

Police statistics reveal that stock theft is most prevalent in areas adjacent to the Queensland border with the stock often being disposed of at abattoirs, saleyards and feedlots in southern Queensland.³⁵ The level of stock reported as stolen is high. In 2000-2001 there were 732 reported cases of stock theft.³⁶ The estimated value of these offences was \$2.22 million.

The Police Service operates a Rural Crime Unit headed by the State Rural Crime Coordinator but this small unit basically exists for the purpose of recording the incidence of reported rural crime, as the specialist Stock Squad was disbanded in 1987 in favour of a general investigation approach on the part of all rural police.

The Police Service has responded to an increase in reported rural crime by the appointment of 32 rural crime investigators in non-metropolitan areas but the initiative did not result in an increase in the number of available personnel. Rural police officers are required to attend a special 5 day training course specifically targeting the investigation of rural offences.³⁷

In May 2001 the Police Service, a Rural Lands Protection Board and the New South Wales Farmers' Association cooperated to trial a new initiative known as the Stock Transport Team. The aim of the team is to raise the profile of the policing of stock movements which is partly achieved by wearing a distinctive uniform.³⁸

³⁴ Barclay, p 33.

³⁵ Barclay, p 35.

³⁶ Barclay, p 35.

³⁷ Barclay, p 36.

³⁸ New South Wales Farmers' Association, 'Rural Crime and Stock Joint Venture', *NSWFA Magazine*, 8 (7) August 2001 <<http://www.nswfarmers.org.au/magazine/august.asp>> Downloaded 20 February 2002.

10.3 VICTORIA

10.3.1 Legislative provisions

Victoria does not have a specific provision covering the stealing of stock. It is covered by the more general provision of stealing under s 74 *Victorian Crimes Act 1958* which provides for a maximum penalty of 10 years imprisonment. The courts have been invested with discretion in applying penalties under the *Sentencing Act 1991*. **Section 49(1)** of that Act provides that the courts have the discretion to impose a fine in addition to, or instead of, any other prescribed penalty. **Section 49(2)** provides that the maximum level of a fine that may be imposed where no fine has been provided for is linked to the level of imprisonment that was provided for in the offence that was committed. In the case of stealing, the maximum term of imprisonment is 10 years which is a level five punishment under the *Sentencing Act 1991*, and this can attract a maximum fine of \$120,000.

Under **Section 36** *Sentencing Act 1991* the courts may issue a community based order either alone or in addition to a term of imprisonment that does not exceed 3 months. Any such community based order must be for no longer than 2 years. Under s 19 the courts may impose a term of imprisonment that does not exceed 1 year which may be served by way of an intensive community correction order. **Section 27** provides the courts with the discretion to order that a sentence of imprisonment that does not exceed 2 years be suspended.

As with all other jurisdictions, the courts may order offenders to pay restitution or compensation to the rightful owners of livestock as the circumstances of the case require.

10.3.2 Other livestock issues

When the National Livestock Identification Scheme was introduced in 1999, over 1 million electronic identification ear tags were distributed by the State government to producers free of charge for the purpose of encouraging the take up of the scheme. In 2001 the State government distributed a further 100,000 tags at a subsidised price of \$2.50 per tag.³⁹ Although the use of electronic ear tags is being encouraged by the State government, they are not the only ear tags that are

³⁹ Victoria. Department of Natural Resources and Environment: Farming and Agriculture Web pages. 'National Livestock Identification Scheme [NLIS]: Introduction in Victoria': <<http://www.nre.vic.gov.au>> Downloaded 26 March 2002

approved for the identification of stock, and tail tags are also acceptable in this regard.

All cattle consigned to saleyards, abattoirs etc are required to be identifiable with either an approved tail or ear tag that contains the consigner's Property Identification Code. The same identification principle applies to sheep but the methods differ slightly in that approved methods are tattooing, tagging, notching or hole punching.

Victoria does not operate a system of waybills or consignment to record the movement of stock throughout the State.

Separate statistics concerning the level of stock theft are not kept by Victorian police and the former Racing and Livestock Squad was disbanded in 1996. Livestock theft has since 1996 been policed generally by general duty police (uniform) and criminal investigation personnel.⁴⁰

10.4 SOUTH AUSTRALIA

Sections 136 and 137 *Criminal Law Consolidation Act 1935* provides for the offences of cattle theft and the killing of livestock with the intent of stealing. Under **s 136** the maximum penalty for cattle theft is 8 years imprisonment whilst, for the killing of livestock with the intent of stealing, under **s 137** the maximum penalty is also 8 years imprisonment.

Section 18 of the *Criminal Law (Sentencing) Act 1988* gives discretion to the courts to substitute alternative penalties for statutory sentences of imprisonment such as those provided for the offences of cattle stealing and killing livestock with the intent to steal under the *Criminal Law*. Under **s 18(a)** the courts, at their discretion, may impose a fine, or a community service order, or both, instead of a term of imprisonment. However, this is a discretion that the courts may, on the circumstances of the case, determine not to exercise and may in the event impose a term of imprisonment but no greater than the maximum of 8 years.

Section 34 *Criminal Law (Sentencing) Act 1988* provides a maximum level of monetary penalties that may be imposed for offences for which only a term of imprisonment had been provided. This is the case for the offences of cattle stealing and the killing of livestock with the intent of stealing. In these cases, the maximum fine that the Supreme Court can impose is \$75,000 whilst the maximum fine that a District Court can impose is \$35,000; a Magistrates Court may impose a fine no greater than \$10,000.

⁴⁰ Barclay, p 32.

Section 62 of the *Livestock Act 1997* provides for the offence of branding livestock with a brand that is not registered in the name of the owner of the livestock, and the defacing of brands; both offences carry a maximum penalty of a \$10,000 fine.

Section 73 of the *Brands Act 1933* provides for the offence of wilfully branding livestock without being the owner of the livestock which carries a maximum penalty of 3 years imprisonment.

As is the case with current provisions under the *Criminal Code Act 1899* (Qld) relating to the imposition of a penalty for each animal the subject of a prosecution, **s 74** of the *Brands Act 1933* (SA) provides that a penalty may be imposed for each animal that is the subject of an offence against any provision of the *Brands Act 1933*.

As with the provisions of the *Criminal Law (Consolidation) Act 1935*, the courts have a discretion in the type of penalty that they impose for offences under the *Brands Act 1933*. For instance, instead of a term of imprisonment prescribed for the offence of wilfully branding livestock, the courts are at liberty to impose a fine or a community service order or both under **s 18** *Criminal Law (Sentencing) Act 1988*.

10.4.1 Other livestock issues

In South Australia, pig producers are the only livestock producers who are required to brand their animals. Branding of other livestock is not compulsory but if this is done then the brands used must be registered.⁴¹ However, cattle that are to be sold are to be identifiable with an approved device before they leave the property. Each property grazing cattle must have a property identification code that is registered to the property.

Computer readable identification devices are approved devices in South Australia under the National Livestock Identification Scheme but, if such devices are not used, then animals must be identified by a transaction tag either in the form of a tail tag or an ear tag. For sheep producers, brands and earmarks that are used must be registered. For an earmark to be registered, the producer must also be the registered owner of a brand.

⁴¹ Primary Industries and Resources South Australia (PIRSA), *Livestock and Animal Health*, 2001, cited in Barclay, p 27.

Waybills are not required for stock movements within South Australia; however, cattle being transported outside the State must be identifiable with a permanent identification device or a transaction tag.⁴²

10.5 WESTERN AUSTRALIA

10.5.1 Legislative provisions

Section 378 *Criminal Code* states that, unless otherwise provided, the maximum penalty for stealing anything capable of being stolen is 7 years imprisonment. The stealing of livestock falls within the ambit of this provision. **Section 382** provides for the offence of killing livestock with the intention to steal. The penalty for this offence is the same as for stealing the animal (ie 7 years). A maximum penalty of 3 years imprisonment is provided for the offence of using brands with criminal intent under s 384.

These are maximum penalties that the courts may hand down for the above offences. **Section 39** *Sentencing Act 1995* provides that, at the discretion of the courts, a fine or a community based order or an intensive supervision order or a term of suspended imprisonment may be substituted for the statutory penalty of imprisonment or alternatively, any one of the orders plus a fine.

If the court dealing with the offence is a superior court, any amount of fine may lawfully be imposed. However, if under s 40(6)(a), the court happens to be a Magistrates court, then the maximum amount of fine that may be imposed must be no greater than the maximum number of months that the section allows, multiplied by 1,000. This means that, in cases of stealing livestock, and killing with intent to steal, offenders may be fined a maximum of \$84,000 and in cases of using brands with criminal intent the maximum fine could be \$36,000.

10.5.2 Other livestock issues

In addition to the *Criminal Code* provisions, the *Stock Identification and Movement Act 1970* also operates to deter stock theft and assist in the recovery of stolen livestock. Brands must be registered and such registration remains valid for 5 years.

⁴² Primary Industries and Resources South Australia (PIRSA), *Livestock and Animal Health*, 2001, cited in Barclay, p 28.

Transport waybills must accompany stock that are being moved indicating ownership, number and type of stock, description of earmarks and brands, tail tag numbers, date of transport and the destination. This information must be kept for 3 years. Police and stock inspectors are authorised to inspect stock being transported to ensure that waybills have been obtained and are accurate.

The cattle industry body in Western Australia is supportive of a combined vendor declaration form and a waybill form that would eliminate the need for separate forms to be completed.

As is the case in Queensland, the geographical vastness of Western Australia is conducive to livestock theft where it is estimated that about half a million dollars worth of stock are reported stolen each year.⁴³

The police service maintains a State wide stock squad for the specific purpose of investigating agricultural crime. In 2000, an organised muster over a number of pastoral properties resulted in the recovery of 880 cattle and sheep valued at \$150,000.

10.6 NORTHERN TERRITORY

10.6.1 Legislative provisions

Section 210(1) of the *Criminal Code* of the Northern Territory provides (unless otherwise provided) a maximum penalty of 7 years imprisonment for the offence of stealing whilst **s 210(2)** provides a maximum sentence of 14 years imprisonment in cases where the value of the object/s stolen exceeds \$100,000. The use of registered brands with criminal intent is provided for in **s 225** which carries a maximum sentence of 3 years imprisonment.

Section 35 of the *Brands Act* provides for a maximum monetary penalty of \$10,000 for the possession of a livestock brand for which the possessor is not the registered owner. **Sections 38, 39 and 40** provide for a maximum fine of \$10,000 for the offences of illegally branding stock and defacing or altering brands, whilst possessing stock carrying defaced brands carries a maximum fine of \$5,000 under **s 41**.

Section 7 of the *Sentencing Act* (unless there is a specific provision to the contrary in relation to a specific offence) provides the courts with a discretion to impose a

⁴³ 'More attention needed when counting sheep', *Farm Weekly*, Western Australia, Rural Press, 12 April 2001, cited in Barclay, p 26.

fine, make a community work order, order a suspended prison sentence, issue a home detention order or order a term of imprisonment or a combination of these. Any community work order made must not exceed 480 hours (s 34), any suspended prison sentence is not to exceed 5 years (s 40), and any home detention order is not to cover a period longer than 1 year (s 44).

10.6.2 Other livestock issues

In the Northern Territory, all cattle over the age of 8 months that are being moved from a property must be branded. Identifier codes are assigned to each property and the codes are to be displayed by way of either a permanent device or a transaction tag. The National Livestock Identification Scheme is in the process of being adopted in the Territory.

As in Queensland, the use of a system of waybills for the transport of stock acts as a deterrent to stock theft. However, the waybills system is only used for cattle and buffalos; horses, sheep and pigs are not subject to it.

There are no specific provisions relating to stock theft in the Northern Territory and reports of its incidence are low. Due to the vastness of properties, livestock is generally only mustered once a year with the result that missing stock are often written off because it is too difficult to be sure that theft has taken place as the properties have little or no fencing.

The Territory, like most of the other jurisdictions, no longer maintains a dedicated stock squad as it was disbanded in 1995. The investigation of stock offences is now treated as part of the general duties of police.

11 THE EXTENT OF RURAL CRIME

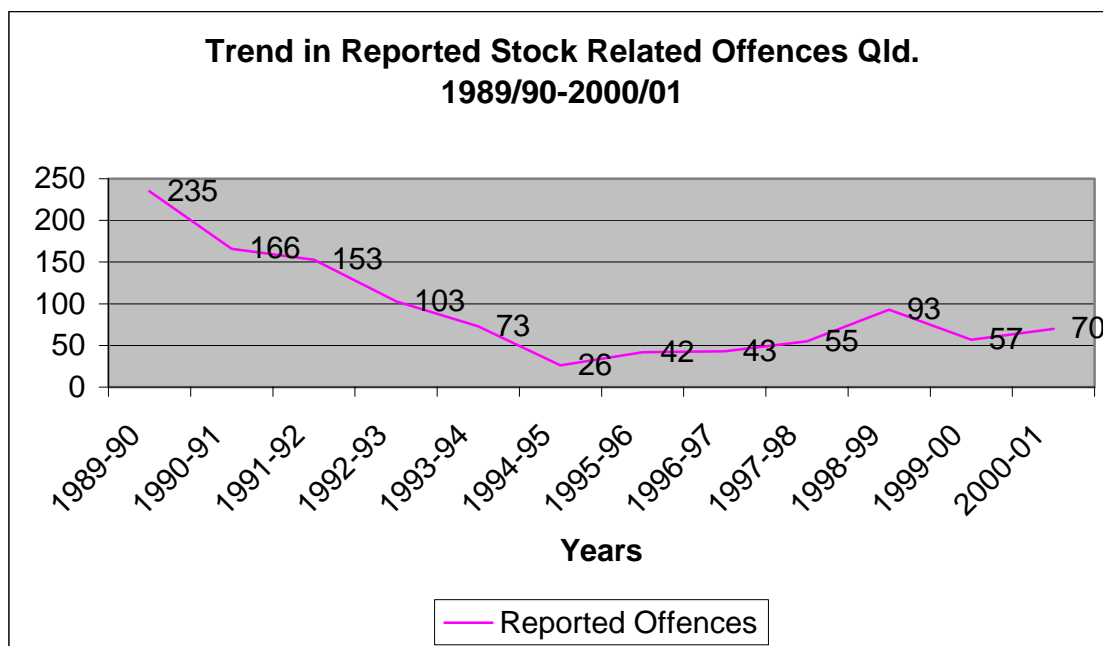
11.1 LIVESTOCK OFFENCES

It has been said that Queensland is the hub of cattle stealing.⁴⁴ Be that as it may, all States suffer increases in stock theft when farm gate prices being paid to producers

⁴⁴ Elly Abru, 'Kidnappers on the Hoof', *Police News online June 2001*, <http://www.pansw.asn.au/Mag/pastissues2.htm#January_2001>. Downloaded 11 February 2002.

are on the rise.⁴⁵ As stock become more valuable to producers, they also become more attractive to would-be thieves. Queensland and Western Australia are the only States to maintain a dedicated stock squad for the investigation of stock theft which is said to result in those States enjoying the best clear-up rates in Australia for stock offences. The trend in the number of stock offences reported to Queensland police between 1989/1990 and 2000/2001, as reported in the Annual Statistical Review, is shown in Graph 1.

Graph 1



Further available statistics relating to stock offences from 1986-1987 to 1988-1989 are available in Table 1 in the Appendix. They indicate that over the 15-year period 1980-1981 to 2000-2001 the level of reported stock offences fell by approximately 86%. The statistics that are available from police annual reports and/or statistical reviews show that the percentage level of the reported offences that were successfully investigated by police also fell over the 15-year period.

Also, available statistics from the State Statistician tend not to support the common perception that the incidence of stock theft rises commensurate with herd values. The figures in Table 1 in the Appendix to this paper show that, whilst the level of

⁴⁵ Elaine Barclay, Patrick Jobes, Joseph Donnermeyer and Herb Weinand, *A Qualitative and Quantitative Analysis of the Relationship between Community Cohesiveness and Rural Crime*, Part 1, The Institute of Rural Futures, University of New England, 2000, p 68. <http://www.ruralfutures.une.edu.au/publications/downloads/irffilesford1/crimrep1.pdf>
Downloaded 13 February 2002.

reported offences declined over the 15 year period, the average wholesale value of steers, bulls and bullocks increased.

11.2 THE QUEENSLAND STOCK SQUAD

There are currently 32 officers serving in the Stock Squad. This staff level includes a Squad Coordinator located in Brisbane and two area coordinators located in Rockhampton and Toowoomba.⁴⁶ The 10 squads staffed by the 32 officers are spread over 5 police regions. By June 2001, the government had responded to the concerns expressed by AgForce in March 2001 that the squad was understaffed by ensuring that vacancies within the squad were filled, thus ensuring the squad was up to its full complement of officers.⁴⁷

Squad personnel have access to modern four wheel drive vehicles, motor cycles, radios, mobile phones, cameras and lap top computers. The Registrar of Brands has made brands and earmarks data available to stock squad police via the use of lap top computers.

In other States the lack of dedicated teams of personnel formed to specifically investigate livestock offences has drawn criticism from producers who have suffered stock losses due to theft. For instance, a wool producer in Victoria who lost 80 merino ewes valued at \$5,000 to thieves in 2001 remarked:

*I think it is about time they brought livestock squads back in as the problem of livestock theft is getting out of control.*⁴⁸

The New South Wales police service has virtually acknowledged that amongst serving police stock expertise is hard to come by and that, wherever possible, stock complaints should be handled by officers who do possess such expertise.⁴⁹ In an era where the effectiveness of areas of specialisation in law enforcement is acknowledged, the soundness of allowing livestock expertise to 'fade' is questionable.

⁴⁶ Queensland. Department of Police, *Annual Report 2000-2001*, p 35.

⁴⁷ Mark Phelps, 'Rebuild Stock Squad: AgForce', *Queensland Country Life*, March 29, 2001, p 1; 'Effective Stock Squad Essential', *Queensland Country Life*, March 29, 2001, p 12; 'Stock squad action commended', *Queensland Country Life*, June 7, 2001, p 23.

⁴⁸ Sally Brown, 'Stock theft proves costly to farmers', *Southern Farmer*, August 2001, p1. <<http://www.nenews.com.au/southernfarmer/aug01/010802.htm>> Downloaded 22 February 2002.

⁴⁹ 'Recording Reports of Large Stock Thefts', *New South Wales Police Service Weekly*, 11(20), 24 May 1999, p 3.

The Victorian government has announced that it will act on the recommendations of a Livestock Theft Working Party that reported to the government in 2001. One of the recommendations that is being implemented in 2002 is that selected detectives serving in regional Victoria will be put through a special training course on investigatory techniques for livestock offences.⁵⁰

12 CONCLUSION

The \$50,000 maximum level of fines proposed in the Criminal Law Amendment Bill 2002 (Qld) for some stock offences represents a doubling of the current levels that now apply. Both South Australia and Western Australia specifically apply higher monetary penalties for livestock theft and killing with intent to steal than those now proposed for Queensland whilst the maximum fines applicable in the Northern Territory are lower. Similarly to Queensland, Victoria and the Northern Territory rely on the offence of stealing generally to cover the theft of stock.

Generally, the livestock industry is hopeful that producer acceptance of the National Livestock Identification Scheme will be a positive step toward lowering the incidence of livestock theft and assist in recovering animals that are stolen. However, there are those who do not share this view and believe that the gains in stock security will be outweighed by the additional cost that producers will have to bear.

⁵⁰ ABC News Online, 'New plan to fight livestock threat', <<http://www.abc.net.au/news/regionals/gippsland/monthly/reggip-29oct2001-2.htm>>
Downloaded 22 February 2002.

**APPENDIX A - REPORTED STOCK RELATED OFFENCES
SATISFACTORILY INVESTIGATED BY POLICE AND THE
AVERAGE PRICE OF CATTLE 1986-1987 TO 2000-2001**

Table 1

Reported Stock Related Offences Satisfactorily Investigated by Police and the Average Price of Cattle 1986-1987 to 2000-2001⁵¹

YEAR	NUMBER OF REPORTED OFFENCES	NUMBER OF OFFENCES CLEARED	% CLEARED	AVERAGE WHOLESALE PRICE OF STEERS, BULLS AND BULLOCKS
1986-87	315	132	42	\$449
1987-88	265	78	29	\$456
1988-89	250	71	28	\$524
1989-90	261	70	27	\$525
1990-91	166	Not available	Not available	\$518
1991-92	153	Not available	Not available	\$664
1992-93	103	Not available	Not available	\$698
1993-94	73	Not available	Not available	\$800
1994-95	26	Not available	Not available	\$729
1995-96	42	8	18	\$635
1996-97	43	7	17	Not available
1997-98	55	10	19	Not available
1998-99	93	Not available	Not available	Not available
1999-2000	57	Not available	Not available	Not available
2000-2001	70	Not available	Not available	Not available

⁵¹ Statistics obtained from various Annual Reports and Statistical Reviews of the Queensland Police Service 1980 to 2001 with cattle prices obtained from 1998 *Queensland Year Book*, p 321.

APPENDIX B – NEWSPAPER ARTICLES

Title	Win for farmers as legislators tan the hides of cattle duffers but let car thieves roam free
Author	Tony Koch
Source	Courier-Mail
Date Issue	6 October 2001
Page	25

STATE Cabinet this month responded to pressure from rural producer groups and increased tenfold the fines for people who steal or falsify the brands of cattle.

That, according to Police Minister Tony McGrady and Primary Industries Minister Henry Palaszczuk, is guaranteed to deter cattle duffers, and lifts the penalty for such offences to five years in prison and a maximum fine of \$50,000. Where the value of livestock stolen or killed exceeds \$5000, the penalty is a maximum of 10 years in prison.

A meatworks bullock is worth about \$1500 at today's rates. So, a truck of 10 head would be worth about \$15,000. A Queensland Police Service statistical review claims there were 57 incidents of stock theft in 1999-2000, compared with 93 the previous year.

One must ask why the Government thinks it is so important to impose such hefty penalties for livestock theft when much worse cases of theft occur daily in Queensland and attract nowhere near such excitement among lawmakers.

The glaring example is car theft. The police statistical review for 1999-2000 also reveals 20,008 cars were reported stolen in Queensland in that year. Of these, only 20 per cent were "cleared", with offenders charged.

The Criminal Code sets the maximum penalty for anybody guilty of unlawfully using a motor vehicle at seven years. But anyone charged with that offence is unlikely to receive any jail term until he or she has three or four similar convictions.

When comparisons are made, it seems gross overkill for the Government to expect courts to impose fines up to \$25,000 and/or a 10-year jail term for a person who steals a truck load of cattle when another equally criminal person, who takes one or several motor vehicles with a value of \$30,000 or more each, faces a much more lenient sentence.

Most would sympathise with a primary producer who battles to eke out a living on the land, and nobody would wish his livestock to be stolen.

But is it really a crime worthy of such a penalty?

And what about the more common crime of breaking and entering a person's home or business premises?

This affects thousands of people each year.

In 1999-2000, there were 75,988 cases reported in Queensland.

Yet, a person charged with that offence will, unless he or she is a serious repeat offender, invariably receive a good behaviour bond when appearing before a court. Is it more hurtful to have a bullock stolen than to have your motor vehicle taken or your home burgled?.

One very good reason for the Government to get serious about policing the incidence

of stolen vehicles and personal burglaries is the enormous cost to taxpayers being passed on by insurance companies.

There seems to be an attitude that it does not really matter to pay out claims on stolen cars because the payment is built into premiums.

In the same way house and car owners are expected to take their own protection measures to ensure they do not become victims of thieves or burglars, so should graziers take greater care with their livestock.

Just because somebody is an absentee owner or does not employ a station hand to check the back paddocks, does not mean Queensland Police Stock Squad should have to pick up the pieces.

There is an enormous inequity in the way our legislators are handling these crimes of theft. The greatest contribution legislators could make is to make it grossly unattractive for thieves to commit crime. That means more police, a better clear-up rate and the likelihood of the courts applying appropriate penalties.

But don't hang by the toes waiting for a court to apply a \$50,000 fine or a 10-year jail term to a cattle duffer.

kocht@qnp.newsltd.com.au.

Title **Law puts 10 year brand on rustlers**
Author **Matt Robbins**
Source **Courier-Mail**
Date Issue **26 September 2001**
Page **6**

CATTLE rustling became a lot less romantic in Queensland this week. Maximum fines have increased tenfold to \$50,000, and jail terms to 10 years, as part of a crackdown on cattle theft estimated to be costing up to \$3 million a year.

The Beattie Government also approved the confiscation of vehicles, weapons and other items used in connection with stock theft.

Stock squad head Detective Inspector Keith Miller welcomed the new penalties, but warned the courts would have to deal severely with rustling. Detective-Inspector Miller said the District Court at Longreach last week fined a cattle thief only \$3,000 for stealing five bulls worth about \$25,000, "and didn't even record a conviction".

"People are taking off with 20 head of cattle that are worth about \$1,500 a head, or \$30,000 all up, and the courts aren't even covering our costs with the fines," he said.

Police Minister Tony McGrady said there had been an element of "romanticism" about cattle stealing in the past, but it was time to crack down. Mr McGrady said the new regime included an increase in penalties to five years' jail and a maximum fine of \$50,000 for unlawfully using cattle, illegal branding, suspicion of stealing and defacing brands.

For aggravated stealing under the criminal code, where the value of the stock exceeded \$5,000, the maximum jail term would be increased to 10 years, while maximum fines for killing animals with intent would be increased to \$50,000.

"These tough new penalties should serve as both a deterrent and warning to cattle duffers, who are no different to any other common criminal," Mr McGrady said.

Agforce cattle vice-president John Stewart said high beef prices and a shortage of stock squad officers had led to an upsurge in cattle- stealing. Mr Stewart said there had been 10 vacancies in the stock squad, but it was now virtually at full strength.

Title **Cattle theft penalties rise**
Author **Chris Jones**
Source **Courier-Mail**
Date Issue **26 September 2001**
Page **12**

PENALTIES for cattle duffing will increase tenfold in a State Government move to arrest the growing wave of theft triggered by record high livestock prices.

Police Minister Tony McGrady said Cabinet had agreed to increase fines for stealing cattle from \$5,000 to \$50,000 and to boost jail terms from one year to 10 years. People found unlawfully using cattle, illegally branding, or on suspicion of stealing and defacing branding face five years' jail and a maximum fine of \$50,000.

The maximum jail term for aggravated stealing, where the value of the stock exceeds \$5,000, will be increased to 10 years. The maximum fine for killing animals with intent will increase to \$50,000 and Cabinet has approved other changes to allow the confiscation of vehicles used in connection with stock theft.

The Courier-Mail revealed in March that organised gangs were stealing record numbers of cattle, motivated by record prices. The situation has not been helped by undermanned police stock squads.

Mr McGrady said staff shortages in the Queensland Police Service Stock Squad had been almost filled and a stock investigation course would be offered to other police officers in November.

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