

Legislative Council.

39^o VICTORIÆ, 1875.

A BILL

To amend the Law respecting Cruelty to Animals.

[SIR ALFRED STEPHEN ;—25 November, 1875.]

WHEREAS the Act passed in the fourteenth year of the reign of Her Majesty for the more effectual prevention of Cruelty to Animals is defective in certain respects and requires amendment as hereinafter provided Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. The word animal in the recited Act of the fourteenth year of Her Majesty's reign number forty and in this present Act shall be construed to include every dumb creature whatsoever And who- soever shall torture overdrive over-ride overload or cruelly use beat or ill-treat any such animal or having the charge thereof shall for an undue period and so as to cause suffering omit to supply it with sufficient food and water shall pay a fine of not less than *ten* shillings nor more than *ten* pounds to be recovered as in the said recited Act is provided or where the case is heard before two Justices shall be liable to imprisonment for a term not less than *two* nor more than *sixty* days.

Preamble.
14 Vict. No. 40.

The word animal defined.

Neglecting to supply water &c.

Involuntary neglects
&c. excused.

2. Provided always That no person shall be liable in respect of any act or neglect which he could not reasonably be expected to have guarded against or avoided or which in fact he could not prevent or avoid nor for any omission to supply food or water in respect of stock travelling on a public road or at a distance from Sydney of more than one hundred miles or in respect of animals sent by railway unless they shall have been in some railway car or truck on the railway or otherwise for a longer period than twenty-four consecutive hours. 5

Power to charge for
sustenance.

3. Where the person in charge of an animal shall have supplied it with necessary food or water not provided by the owner such person shall be entitled to charge such owner a reasonable sum for the service and to recover the same as for work done and goods supplied by virtue of this Act to such owner's use and the amount shall form a lien on the animal until payment. 10 15

Animals sent by rail
or vessel &c.

4. Where an animal is sent by railway or any vessel or other conveyance the person to whom it is consigned shall upon the arrival of such animal at the place of delivery be deemed *prima facie* its owner and be liable in respect of any subsequent neglect or omission punishable by this Act and of any continuing pain inflicted on the animal until he shall have sold and the buyer have accepted the same upon which completed sale such buyer shall become similarly liable. Provided that on the demand of any constable or responsible person being a householder giving his name and address who shall call the consignee's attention to the state of the animal such consignee shall disclose the name and address of the buyer and in default of such disclosure shall for the purposes of this Act continue liable as owner. 20 25

Animals on a wharf
or kept in certain
paddocks.

5. Whenever an animal is found upon a wharf or in or upon any other public place or any paddock used for the custody of animals intended for slaughter apparently suffering serious pain from any neglect or omission punishable by this Act and no person shall appear at the time to be in charge thereof any constable or any such householder as aforesaid accompanied by a constable may take all necessary measures for the relief of such animal from suffering and may for that purpose remove it to some safe place of custody at no greater distance than shall be necessary and there supply it with food and water until restored to the owner or otherwise disposed of as hereinafter mentioned. And the reasonable expense attending such removal and supplying of food and water shall be paid by the owner and form a lien on such animal until paid and if the amount be not paid within one week after such removal of which notice shall as speedily as possible be given to the owner if known and if not known then by advertisement in the *Gazette* the animal may be sold or otherwise disposed of as any Justice on summary oral application to him may direct. 30 35 40 45

Remedy against
owners in certain
cases.

6. If any person being the owner of an animal or the employer of the driver or servant in charge thereof or being in respect of such animal the owner's superintendent manager or overseer shall knowingly or by any grossly negligent act or omission cause such animal to be tortured overdriven overloaded kept for an undue period without sufficient food or water or used for any work for which it is by reason of disease wounds lameness or other cause physically unfit the person so offending shall pay a fine of not less than *twenty* shillings nor more than *ten* pounds to be recovered as aforesaid. And the word "person" in this section and "whosoever" in the first section respectively shall include all partnerships public companies and corporations and service of any summons or notice directed to any such partnership or company or corporation upon any member of the firm not being a public company or upon one of the directors or the manager or 50 55

or

or secretary of any such public company or corporation at the office (or principal office if there be more than one) of the partnership or company or corporation shall be deemed sufficient service on such partnership or company or corporation.

5 7. Whenever it shall by the oath of any credible person be made to appear to the satisfaction of a Justice that an offence against this or the recited Act has been or is about to be committed on or in certain enclosed premises such Justice may by writing under his hand authorize such person or some constable named therein to enter upon
10 or into such premises in the day time and inspect any animal confined or kept there And whosoever after notice of the authority so given and demand of admittance under the same made by the person authorized shall obstruct such person in entering or prevent him from entering the premises or inspecting any animal there confined or kept
15 shall for such offence pay a fine of not less than *two* nor more than *ten* pounds to be recovered as aforesaid.

Justices may allow certain premises to be inspected.

8. Every person in charge for the time being of an animal although he may have been employed temporarily and as a servant only and whether employed alone or jointly with another or
20 others or who is found apparently in such charge shall be deemed in the absence of evidence to the contrary to have the charge of such animal within the meaning of this Act and on the demand of a constable such person shall give the name and address of his employer or the name and address of the owner of the animal and in case
25 of refusal or wilful neglect he shall pay a fine of not less than *twenty* shillings nor more than *ten* pounds to be recovered as aforesaid or where the case is heard before two Justices shall be liable to imprisonment for a term not less than *two* nor more than *sixty* days And where the accused person's defence shall be that he was not in charge
30 of the animal in question or when prosecuted for such refusal or neglect that he was not able to comply with the demand the proof of such defence shall lie on such accused.

Drovers &c. to disclose name of employer.

9. Every information and conviction under this Act may be in the form or to the effect of the form in the Schedule hereto and any
35 number of animals of the same species may be the subject of one information if the charge be confined to one occasion or to matters occurring on one day only Provided that in every such case no greater penalty shall be imposed or punishment inflicted in respect of any number of animals than might have been imposed or inflicted had
40 the charge related to one animal only And all the provisions of the recited Act of the fourteenth year of Her Majesty so far as they are not hereby altered shall be in force equally in respect of all offences created by this Act and in respect of all proceedings in relation thereto.

Form of information &c.

45 10. The carrying of an animal so as to cause unnecessary suffering shall be deemed an offence under this Act whether such carrying be in or upon a vehicle or not and so much of the fourth section of the said Act as restricts the offence to carrying in or upon a vehicle is hereby repealed.

Carrying animals so as to cause needless pain.

50 11. This Act may be cited for all purposes as the "Animals Protection Act of 1875" and shall come into operation on the first day of January next.

Title and commencement of Act.

Other provisions of 14 Vic. No. 40 to apply.

SCHEDULE.

The formal portions of an Information if an Information in writing be laid may be the same as in ordinary cases. The following is the form of Conviction but the statement of the offence will be the same both in the Information and the Conviction.

WHEREAS A.B. of [place] has been duly charged before us C.D. and E.F. two of Her Majesty's Justices of the Peace with having on the [date] at [place] within the meaning of the "Animals Protection Act of 1875" tortured certain animals (to wit) three [mention the species of animals] by [here state the particular mode as in the examples hereinafter given] And whereas it appears to us by the evidence now taken by us [or by the said A.B.'s confession as the case may be] that the said A.B. is guilty of the said offence [or of the said offence as to one of the animals as the case may be] Now we the Justices aforesaid do hereby for the said offence adjudge the said A.B. to pay a fine of [amount] together with the sum of [amount] for costs such fine to be paid and applied as by the Act fourteenth Victoria number forty is directed [or adjudge and order that the said A.B. be forthwith imprisoned in the Common Gaol at [place] for the term of [state time and add "with hard labour" if awarded] Given under our hands at [place and date.]

The following are given as examples of the mode of stating the specific act or omission charged. 1. by overdriving [or overloading or cruelly beating or cruelly abusing and illtreating] the said animals. 2. by wounding the said animals. 3. by driving them while in a state unfit for travelling [or for work as the case may be]. 4. by having for an undue period and so as to cause suffering omitted to supply the said animals with sufficient food and water. 5. by having by gross negligence [or by having knowingly] permitted the said animals to be used for work for which they were physically unfit.

Where the offence relates to one animal only or the case was heard by one Justice only or where the charge is preferred under the seventh or eighth section the form will of course be varied accordingly. It will not in general be necessary to indicate the sex of the animal although in some cases (as for instance whether a calf or a cow or bullock) it may be proper to indicate the age.

1875.

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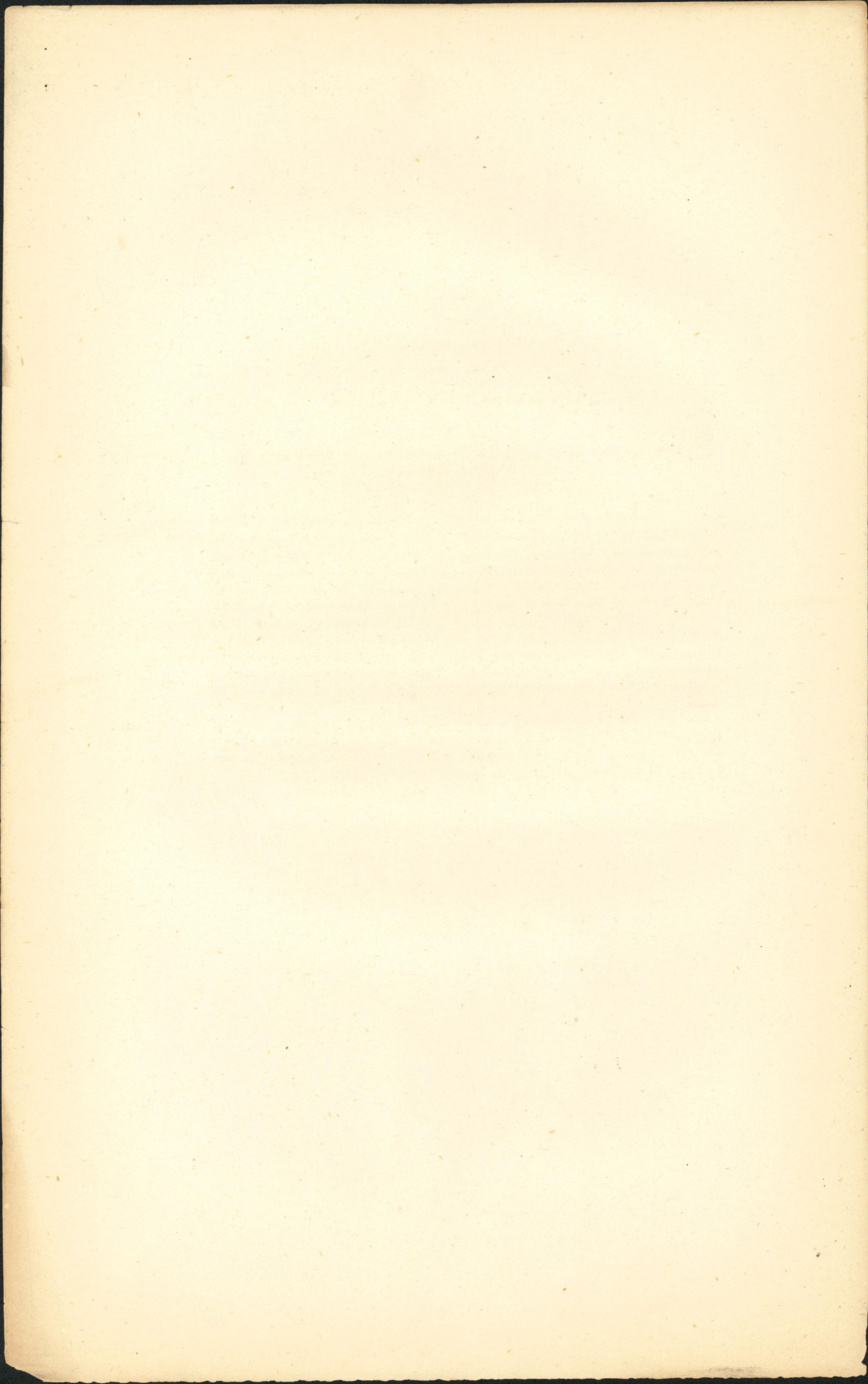
ANIMALS PROTECTION BILL.

(*New Clauses to be proposed in Committee of the Whole by*
SIR ALFRED STEPHEN.)

Every poundkeeper having in his pound any animal shall be deemed to be in charge thereof within the meaning and for the purposes of this Act Poundkeepers and guards of railways. And the guard or other person in charge of any railway train having therein any animal for conveyance thereby on any truck or vehicle shall within the meaning and for the purposes of the third section of this Act be deemed to be in the charge of such animal.

No person shall be taken to have tortured or cruelly used an animal by any infliction or act causing serious pain or death which shall under the circumstances have been justifiable unavoidable or necessary for any purpose and not have been inflicted or caused wantonly or of malice or by unjustifiable negligence or gross want of care. What shall not be deemed cruelty.

In any prosecution under the fourth or eighth section of this Act the defendant shall be a competent witness on his own behalf should he think fit to offer himself for that purpose subject to the liability to cross-examination as in any ordinary case. Prosecutions under ss. 4 and 8.



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The Commissioner for Railways shall make provision on every line of railway for the supply of food and water at such stations as the Governor in Council shall appoint to animals carried by rail on such line. And such food and water shall be supplied to every such animal by the guard in charge of the train or by the station master at the appointed station on the request of the consignor or person in charge of the animal. And the Commissioner shall be entitled to charge the consignor and also the consignee of any animal so supplied a reasonable sum in respect of such supply and to recover the same as for work done and goods supplied to such consignors or consignees use. And the amount shall form a lien on the animal until payment.

If in respect of any animal carried by rail no such request as aforesaid be made so that the animal remains in any truck or vehicle on the line without a supply of *water* for eighteen consecutive hours or upwards the consignor and person in charge shall each be guilty of an offence against this Act and it shall be on the accused to prove the time within which the animal had a supply of water.

32 and 33 Vic. c. 70
s. 64 [1869.]

Food and water to be
supplied on railway
lines.

Where any animal
remains without
water for an undue
period.

