

Legislative Council.

38<sup>o</sup> VICTORIA, 1875.

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## A BILL

To amend the Law respecting Cruelty to Animals.

[SIR ALFRED STEPHEN ;—17 June, 1875.]

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**W**HEREAS 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 extension and 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 living dumb creature whatsoever And whosoever shall torture overdrive overload or cruelly beat abuse or ill-treat any such creature or being the owner or having the charge or custody thereof shall for an undue period and so as to cause suffering omit to supply it with sufficient food or water shall for every such offence 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 And for the purposes of this Act the word torture shall be taken to include every act neglect or omission whereby unjustifiable and serious physical pain or suffering is caused to or knowingly permitted to be inflicted on any animal.

Preamble.  
14 Vict. No. 40.

Torturing animals  
defined and penalty  
provided.

Involuntary neglects  
&c. excused.

2. Provided always That no person although in the actual charge of any animal shall be liable in respect of any act neglect or omission which he could not reasonably be expected to have guarded against or by due care to have avoided or which in fact he could not prevent or avoid but the proof of any such excuse or matter shall lie 5  
on him And where the person in charge of any 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 10 shall form a lien on the animal until payment.

Animals sent by rail  
or vessel &c.

3. Where any animal is sent by railway or any vessel or other conveyance the person to whom it is consigned or directed to be delivered hereinafter called the consignee shall upon the arrival of such animal at the place of delivery be deemed its owner and be liable in 15 respect of any such neglect or omission as aforesaid thereafter arising 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 20 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 such buyer and in default of such disclosure shall for the purposes of this Act continue liable as owner of the animal.

Animals on a wharf  
or kept in certain  
paddocks.

4. Whenever any animal is found upon any wharf or in or upon 25 any other public place or in any paddock ordinarily used for the custody of animals intended for slaughter apparently suffering serious physical pain from any act or neglect amounting to an offence under this Act and no person shall appear at the time to be in charge thereof any constable or any such householder accompanied by a constable may 30 take all necessary measures for the immediate relief of such animal from suffering and may for that purpose remove it to some safe place of custody and there supply it with necessary food and water until restored to the owner or otherwise disposed of as hereinafter mentioned And the reasonable expense of and attending such removal and the 35 supplying of such 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 40 disposed of as any Justice on application to him may orally or by writing direct.

Penalty on owners  
in certain cases.

5. 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 superintendent manager or overseer of or 45 for such owner shall knowingly or by any grossly negligent act or omission cause or permit such animal to be tortured overdriven over-loaded kept for an undue period without sufficient food or water or used for any work for which it is by reason of disease or wounds or lameness or other cause physically unfit the person so offending shall 50 pay a fine of not less than *twenty* shillings nor more than *ten* pounds to be recovered as aforesaid And the words "person" and "whosoever" in this and 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 55 corporation upon any member of the firm not being a public company or upon one of the directors or the manager or secretary of any such public company or corporation at the office (or principal office if there be

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more than one) of the partnership or company or corporation shall be deemed sufficient service on such partnership or company or corporation.

6. Whenever it shall by the oath of any credible person be made  
5 to appear to the satisfaction of any 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 shall by writing under his hand  
authorize such person or some constable named therein to enter upon  
or into such premises in the day time and inspect any animal confined  
10 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  
shall for such offence pay a fine of not less than *two* nor more than *ten*  
15 pounds to be recovered as aforesaid.

Justices may allow certain premises to be inspected.

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

Drovers &c. to disclose name of employer.

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

Form of information &c.

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

45 9. 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 August in this year.

Title and commencement of Act.

## 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 sixth or seventh 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.*

Legislative Council.

39<sup>o</sup> VICTORIÆ, 1875.

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## A BILL

*(As amended in Committee of the Whole Council.)*

To amend the Law respecting Cruelty to Animals.

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**W**HEREAS 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 extension and 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 whosoever shall torture overdrive over-ride overload or cruelly beat abuse or ill-treat any such creature or being the owner or having the charge or custody thereof shall for an undue period and so as to cause suffering omit to supply it with sufficient food and water shall for every such offence 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 And for the purposes of this Act the word torture shall be taken to include every act neglect or omission whereby unjustifiable and serious pain or suffering is caused to or knowingly permitted to be inflicted on any animal.

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defined and penalty  
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Power to charge for  
sustenance.

Animals sent by rail  
or vessel &c.

3. Where any animal is sent by railway or any vessel or other conveyance the person to whom it is consigned or directed to be delivered hereinafter called the consignee shall upon the arrival of such animal at the place of delivery be deemed its owner and be liable in respect of any subsequent neglect or omission as aforesaid 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 such buyer and in default of such disclosure shall for the purposes of this Act continue liable as owner of the animal. 15 20

Animals on a wharf  
or kept in certain  
paddocks.

4. Whenever any animal is found upon any wharf or in or upon any other public place or in any paddock ordinarily used for the custody of animals intended for slaughter apparently suffering serious pain from any act or neglect amounting to an offence under 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 immediate relief of such animal from suffering and may for that purpose remove it to some safe place of custody and there supply it with necessary food and water until restored to the owner or otherwise disposed of as hereinafter mentioned. And the reasonable expense of and attending such removal and the supplying of such 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 application to him may orally or by writing direct. 25 30 35 40

Penalty on owners  
in certain cases.

5. 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 superintendent manager or overseer of or for such owner shall knowingly or by any grossly negligent act or omission cause or permit 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 or wounds or 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 words "person" and "whosoever" in this and 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 secretary of any such public company or corporation at the office (or principal office if there be 45 50 55

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more than one) of the partnership or company or corporation shall be deemed sufficient service on such partnership or company or corporation.

6. Whenever it shall by the oath of any credible person be made  
5 to appear to the satisfaction of any 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 shall by writing under his hand  
authorize such person or some constable named therein to enter upon  
or into such premises in the day time and inspect any animal confined  
10 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  
shall for such offence pay a fine of not less than *two* nor more than *ten*  
15 pounds to be recovered as aforesaid.

Justices may allow  
certain premises to be  
inspected.

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

8. Every information or 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 such  
information or conviction 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 inflicted in respect of any  
number of animals than might have been imposed or inflicted had the  
40 charge related to one animal only Provided also that all the provisions  
of the recited Act of the fourteenth year of Her Majesty so far as the  
same are not hereby altered shall be in force and apply equally in  
respect of all offences and matters created by or mentioned in this  
Act and in respect of all proceedings in relation thereto so far as such  
45 provisions can be applied.

Form of information  
&c.

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

9. The carrying of any 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  
50 a vehicle is hereby repealed.

Carrying animals so  
as to cause needless  
pain.

10. 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 September in this year.

Title and commence-  
ment of Act.

## 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.*

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