

Legislative Council.

39^o VICTORIÆ, 1876.

A BILL

(As amended in Committee of the Whole.)

To amend the Law respecting Cruelty to Animals.

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 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 5 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.

Power to charge for
sustenance.

3. Where the person in charge of an animal shall have 10 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. 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 in charge thereof and be liable for any subsequent neglect or omission punishable by this Act in respect of such animal until he 20 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 25 name and address of the buyer and in default of such disclosure shall for the purposes of this Act continue liable as aforesaid.

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 act 30 neglect or omission punishable by this Act and no person shall appear at the time to be in charge thereof the master of the vessel by which such animal was conveyed or an official of the railway or any 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 35 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 the person sup- 40 plying such food and water shall be entitled to recover the value thereof as for work done and goods supplied by virtue of this Act to the owner's use.

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 45 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 50 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 55 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

(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.

7. Whenever it shall by the oath of any credible person be made Justices may allow certain premises to be inspected.
 5 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 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.

8. Every person in charge for the time being of an animal Drovers &c. to disclose name of employer.
 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 be deemed
 20 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 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 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 of the animal in question or when prosecuted for such refusal or
 30 neglect that he was not able to comply with the demand the proof of such defence shall lie on such accused.

9. Every information and conviction under this Act may be in Form of information &c.
 the form or to the effect of the form in the Schedule hereto and any number of animals of the same species may be the subject of one
 35 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 the charge related to one animal only And all the provisions of the
 40 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. Other provisions of 14 Vic. No. 40 to apply.

10. The carrying of an animal so as to cause unnecessary Carrying animals so as to cause needless pain.
 45 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.

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

12. The Commissioner for Railways shall make provision on 32 and 33 Vic. c. 70 s. 64 [1869.]
 55 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 Food and water to be supplied on railway lines.

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. 5

Where any animal remains without water for an undue period.

13. 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 reasonable supply of water for eighteen consecutive hours or upwards the person in charge shall be guilty of an offence against this Act and it shall lie on the accused to prove the time within which the animal had a supply of water. 10

Prosecutions under ss. 4 and 8.

14. 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. 15

Title and commencement of Act.

15. This Act may be cited for all purposes as the "Animals Protection Act of 1876" and shall come into operation on the first day of May next.

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. 20

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 1876" cruelly used and illtreated 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.] 30

The following are given as examples of the mode of stating the act or omission charged. 35
 1. by overdriving [or overloading or beating or wounding the said animals.] 2. by driving them while in a state unfit for travelling [or for work as the case may be].
 3. by having for an undue period and so as to cause suffering omitted to supply the said animals with sufficient food and water he being at the time in charge thereof. 40

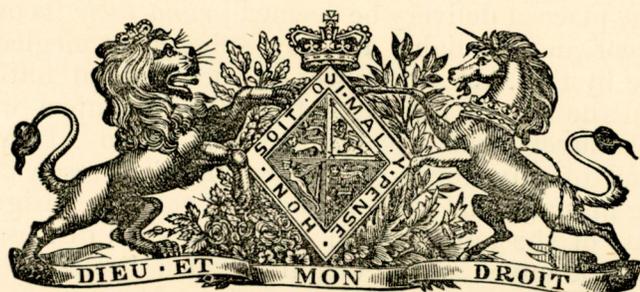
Where the offence relates to one animal only or the case was heard by one Justice only or where the charge is preferred under the sixth seventh or eighth section the form will be varied accordingly. It will not in general be necessary to indicate the sex of the animal although in some cases (as for instance whether a calf or a cow or bullock) it may be proper to indicate the age. 45

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council Chamber, }
Sydney, 16th February, 1876. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO TRICESIMO NONO

VICTORIÆ REGINÆ.

No. .

An Act to amend the Law respecting Cruelty to Animals.

WHEREAS the Act passed in the fourteenth year of the reign of Preamble.
Her Majesty for the more effectual prevention of Cruelty to 14 Vict. No. 40.
Animals is defective in certain respects and requires amendment as
hereinafter provided Be it therefore enacted by the Queen's Most
5 Excellent Majesty by and with the advice and consent of the Legis-
lative 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 The word animal
of Her Majesty's reign number forty and in this present Act shall defined.
10 be construed to include every dumb creature whatsoever And who-
soever shall 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 Neglecting to supply
less than ten shillings nor more than ten pounds to be recovered as in water &c.
15 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.

Animals Protection.

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
5 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.
- 10 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
15 shall form a lien on the animal until payment. Power to charge for sustenance.
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 in charge thereof and be liable for any subsequent neglect or
20 omission punishable by this Act in respect of such 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
25 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 aforesaid. Animals sent by rail or vessel &c.
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
30 intended for slaughter apparently suffering serious pain from any act neglect or omission punishable by this Act and no person shall appear at the time to be in charge thereof the master of the vessel by which such animal was conveyed or an official of the railway or any constable may take all necessary measures for the relief of such animal from
35 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
40 owner and form a lien on such animal until paid and the person supplying such food and water shall be entitled to recover the value thereof as for work done and goods supplied by virtue of this Act to the owner's use. Animals on a wharf or kept in certain paddocks.
6. If any person being the owner of an animal or the
45 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
50 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 cor-
55 porations 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

Animals Protection.

(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.

7. Whenever it shall by the oath of any credible person be made
5 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
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.

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
others or who is found apparently in such charge shall be deemed
20 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
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 shall be liable to imprison-
ment 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
of the animal in question or when prosecuted for such refusal or
30 neglect that he was not able to comply with the demand the proof of
such defence shall lie on such accused.

Drivers &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
number of animals of the same species may be the subject of one
35 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
the charge related to one animal only And all the provisions of the
40 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.

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

10. The carrying of an animal so as to cause unnecessary
45 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.

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

What shall not be deemed cruelty.

12. The Commissioner for Railways shall make provision on
55 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

Food and water to be supplied on railway lines.

Animals Protection.

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
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13. 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 reasonable supply of water for eighteen consecutive hours or upwards the person in charge shall be guilty of
 10 an offence against this Act and it shall lie on the accused to prove the time within which the animal had a supply of water.

Where any animal remains without water for an undue period.

14. 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
 15 liability to cross-examination as in any ordinary case.

Prosecutions under ss. 4 and 8.

15. This Act may be cited for all purposes as the "Animals Protection Act of 1876" and shall come into operation on the first day
 of May next.

Title and commencement of Act.

SCHEDULE.

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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
 25 of the "Animals Protection Act of 1876" cruelly used and illtreated 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
 30 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
 35 [place and date.]

The following are given as examples of the mode of stating the act or omission charged.

1. by overdriving [or overloading or beating or wounding the said animals.] 2. by driving them while in a state unfit for travelling [or for work as the case may be].
 3. by having for an undue period and so as to cause suffering omitted to supply the said
 40 animals with sufficient food and water he being at the time in charge thereof.

*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 seventh or eighth section the form will 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
 45 proper to indicate the age.*