circumstances, I feel it proper to find for the plaintiff for $160, leaving the defendant, within the time allotted, opportunity to invoke the aid of a Court of competent jurisdiction to give her such relief as it may think her entitled to.

POLICE COURT.

(Reported for the LAW JOURNAL by R. J. Wicksteed, Barrister-at-Law.)

METROPOLITAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS v. ANDERSON.

43 Vict. cap. 38, s. 2—Ill-treating, abusing, or torturing animals.

[OTTAWA, 2nd April, 1883.

In this case the defendant was charged with withholding food and water from two horses locked up in a stable for four days, and the complaint by the Society alleged that by so doing he did "ill-treat, abuse and torture" these animals, contrary to the statute in this case provided (43 Vict. c. 38, s. 2.)

The defendant pleaded guilty, but the Police Magistrate was doubtful whether the case came under this satute, being of opinion that the words "ill-treats, abuses or tortures," refer to acts of commission, and not to acts of omission, neglect, or inattention. The Magistrate required the legal advisers of the Society to furnish authorities in support of their contention to the contrary.

The point reserved was argued in Chambers. The Society showed that the Halifax and New Brunswick sister societies had obtained convictions under same Act for same offence. The Report of the Royal Society for the Prevention of Cruelty to Animals was also filed. It contained reports of many convictions for starving horses, brought under Imperial Act 12-13 Vict. c. 92, s. 2, using the same words as the Canadian Act. For the prosecution was also cited the case of *Everitt* v. *Lewis*, 38 Law Times, 360, where it was held that "the owner of a horse, who, knowing it to be incurably diseased and in pain, merely omits to have it slaughtered, cannot be convicted of cruelly ill-treating, abusing, or torturing such animal, by reason of such omission only. But, if he keeps the animals in such a manner as that it is inevitably put to intense pain in moving about a field in its efforts to graze in order to support its life, he thereby commits an act of cruelty, and an offence under the Act, and is guilty of 'torturing the animal, or causing him to be tortured,' as much as if he had actively tortured it with his own hand."

The case of *The Commonwealth* v. *Lufkin*, 7 Allen's U. S. Rep. 579, was also referred to. The complaint there was that the defendant "unlawfully and cruelly did beat and torture a certain horse," under General Statutes, United States, chap. 65, sec. 41. Judgment was rendered by Hoar, J. He says:—"Although the most common case to which the statute would apply is undoubtedly that in which an animal is cruelly beaten or is tortured for the gratification of a malignant or vindictive temper, yet other cases may be suggested where no such express purpose could be shown to exist, which would be within the intent as well as the letter of the law. Thus cruel beating or torture for the purpose of correcting an intractable animal; pain inflicted in wanton or reckless disregard of the suffering it occasioned, and so excessive in degree as to be cruel; torture inflicted by mere inattention and criminal indifference to the agony resulting from it, as in the case of an animal confined and left to perish from starvation, we can have no doubt would be punishable under the statute, even if it did not appear that the pain inflicted was the direct and principal object."

O'GARA, Q.C., Police Magistrate, held that the case came within the statute. As to the punishment to be inflicted, he said that had it not been for representations made by the complainant on behalf of the defendant, he would have inflicted a very severe penalty, but as the defendant had pleaded guilty, and the Society had succeeded in establishing a valuable precedent, he only inflicted a fine of $3, and $2 costs.

Wicksteed, Bishop & Greene, Legal Advisers to the Society.