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No. 29.

4th Session, 3rd Parliament, 14 Victoria, 1851.

BILL.

**An Act for the prevention of Cruelty to
Animals.**

Received and read a first time, Tuesday, 27th May,
1851.

Second reading, Monday, 9th June, 1851.

Mr. RICHARDS.

TORONTO: PRINTED BY LOVELE AND GIBSON.

BILL.

An Act for the prevention of Cruelty to Animals.

WHEREAS it is right to make provision to prevent Preamble.
cruelty to animals, and for punishing persons guilty
thereof:—Be it therefore enacted, &c.

That if any person shall from and after the passing of this Penalty for
cruelty to
Animals.
5 Act cruelly beat, ill-treat, over-drive, abuse or torture, or
cause or procure to be cruelly beaten, ill-treated, over-
driven, abused or tortured, any animal, every such of-
fender shall for every such offence forfeit and pay a
penalty not exceeding *five* pounds.

10 II. And be it enacted, That if any person shall by As to damage
done by per-
sons guilty of
cruelty to
Animals.
cruelly beating, ill-treating, over-driving, abusing or
torturing any animal, do any damage or injury to such
animal, or shall thereby cause any damage or injury to
be done to any person or to any property, every such
15 offender shall on conviction of such offence pay to the
owner of such animal (if the offender shall not be the
owner thereof), or to the person who shall sustain da-
mage or injury as aforesaid, such sum of money by way of
compensation, not exceeding the sum of *ten* pounds, as
20 shall be ascertained and determined by the Justice of the
Peace by whom such person shall have been convicted:
Provided always, that the payment of such compensation,
or any imprisonment for the non-payment thereof, shall
not prevent or in any manner affect the punishment to
25 which such person or the owner of such animal may be
liable for or in respect of the beating, ill-treating or abus-
ing of the said animal: Provided also, that nothing herein
contained shall prevent any proceeding by action against
such offender, or the employer of such offender, where
30 the amount of damage or injury is not sought to be re-
covered under this Act.

III. And be it enacted, That if any person shall con- Penalty for
conveying
Animals in a
cruel manner.
vey or carry or cause to be conveyed or carried in or
upon any vehicle any animal in such a manner or position
35 as to subject such animals to unnecessary pain or suffer-
ing, every such person shall forfeit and pay a penalty not
exceeding *three* pounds for the first offence, and a penalty
of *five* pounds for the second and every subsequent
offence.

40 IV. And be it enacted, That when and so often as any Apprehension
of offenders.
of the offences against the provisions of this Act shall

happen, it shall and may be lawful for any Constable, Policeman or Peace Officer, upon his own view thereof, or upon the complaint and information of any other person who shall declare his or her name and place of abode to the said Policeman, Constable or Peace Officer, to seize and secure by the authority of this Act any such offender, and forthwith without any other authority or warrant to convey such offender before a Justice of the Peace, to be dealt with by such Justice for such offence according to Law. 10

Complaints under this Act how and when to be heard and determined.

V. And be it enacted, That every complaint under the provisions of this Act shall be made within one calendar month after the cause of such complaint shall arise, and every offence committed against this Act may be heard and determined by any Justice of the Peace within whose jurisdiction such offence shall be committed, in a summary way, upon the complaint of any person and without any information in writing; and it shall be lawful for any such Justice in all cases where any person complained of shall not be in custody, to summon such person to appear before such Justice, or before any other Justice of the Peace, at a time and place to be named in such summons; and on the appearance of the party accused, or in default of such appearance, upon proof of the service of such summons, the said Justice or any other Justice who shall be present at the time and place appointed for such appearance, shall proceed to examine into the matter; and if upon the confession of the party accused, or on the oath of one or more credible witness or witnesses, the party accused shall be convicted of having committed the offence charged or complained of, the party so convicted shall pay such penalty, damage or compensation as the said Justice shall, according to the provisions of this Act, adjudge, order or award, together with the costs of conviction, to be settled by such Justice, or be otherwise dealt with according to the provisions of this Act. 15 20 25 30 35

Offender summoned.

Hearing and by whom.

Conviction and award of punishment, &c.

How summons may be served, &c.

VI. And be it enacted, That any summons issued by any such Justice, requiring the appearance of any party charged as an offender against any of the provisions of this Act, shall be deemed and taken to be well and sufficiently served in case either the summons or a copy thereof shall be served personally on such person as aforesaid, or shall be left at his usual or last known place of abode, in whatever county or place such summons may be served or left. 40 45

Warrant may issue without summons in certain cases.

VII. And be it enacted, That any Justice of the Peace may, without issuing any such summons as aforesaid, forthwith issue his warrant for the apprehension of any person charged with any offence against the provisions of this Act, whenever good grounds for so doing shall be stated on oath before such Justice. 50

VIII. And be it enacted, That any Justice of the Peace may summon any witness to appear and give evidence before him upon the matter of any offence against the provisions of this Act; and if any such witness shall wilfully neglect or refuse to attend at the time and place stated in such summons, then upon proof on oath being first given of the personal service of the summons upon such witness, such Justice may issue his warrant for the apprehension of such witness, and such Justice may commit any witness appearing or being brought before him who shall refuse to give evidence, to the House of Correction or Common Gaol within the jurisdiction of such Justice, there to remain without bail or mainprize for any time not exceeding *twenty-one days*, or until such witness shall sooner submit himself to be examined and to give evidence; and in case of such submission, the order of such Justice shall be a sufficient warrant for the immediate discharge of such witness from custody.

Justice may
summon
Witnesses.

Penalty for
non atten-
dance, &c.

Warrant for
apprehending
Witness, &c.

IX. And be it enacted, That in every case of a conviction under this Act, where the sum imposed as a penalty, or the amount awarded for compensation or damage, together with costs (if any) by any Justice of the Peace, for or in respect of any offence against the provisions of this Act, shall not be paid immediately upon the conviction, or within such time as the convicting Justice shall, in the exercise of his discretion, appoint and limit in that behalf, it shall be lawful for such Justice, and he is hereby required, to commit the offender to the House of Correction or Common Gaol, there to be imprisoned, with or without hard labour, for any time not exceeding *two* calendar months, unless payment be sooner made: Provided always, that if such conviction shall take place before two Justices or before a Police Magistrate, in any City or incorporated Town, it shall be lawful for such Justices or such Police Magistrate, if they or he shall think fit, instead of imposing a pecuniary penalty, forthwith to commit any such offender to the House of Correction or Common Gaol of the locality, there to be imprisoned, with or without hard labour, for any time not exceeding *two* calendar months.

Offenders con-
victed may be
committed if
the penalty be
not forthwith
paid.

Proviso: if
conviction was
before two
Justices, &c.

X. And be it enacted, That in case any person shall at any time or in any manner unlawfully obstruct, hinder, molest or assault any Policeman, Constable or Peace Officer while in the exercise of any power or authority under or by virtue of this Act, every such person shall forfeit and pay a penalty not exceeding *five* pounds for every such offence.

Penalty on
persons
obstructing
Constables,
&c.

XI. And be it enacted, That all pecuniary penalties which shall be recovered before any Justice of the Peace, under the provisions of this Act, shall be respectively divided, paid and distributed in the following manner,

Distribution
of pecuniary
penalties.

that is to say : one moiety thereof to the municipality in which the offence shall have been committed, to be applied for the purposes of such municipality, and the other moiety thereof to the person who shall complain and prosecute for the same, or to such other person as to such Justice shall seem fit and proper; and that every sum of money which shall or may be ascertained, determined, adjudged and ordered by any Justice of the Peace under the authority of this Act to be paid as the amount of any damage or injury occasioned by the commission of any of the offences hereinbefore mentioned, shall be paid to the person who shall or may have sustained such damage or injury, according to the order or determination and discretion of such Justice.

As to money awarded as damages.

Form of conviction given.

XII. And be it enacted, That every conviction for any offence against this Act may be drawn and made according to the following Form or to the effect thereof, or as near thereto as the case shall permit :—

The form.

“ BE IT REMEMBERED, That on the
 “ TOWIT : } day of _____ in the year of our Lord
 “ A. B. is brought before me (or us) C. D.,
 “ &c., a Justice (or Justices), of the Peace for the (here
 “ insert the District, County, City, Town, or other jurisdiction
 “ of the Justice or Justices), and is charged before
 “ me (or us) with having (here describe the offence), con-
 “ trary to the provisions of a certain Act (here insert the
 “ title of this Act), and it appearing unto me (or us) upon
 “ the Confession of the said A. B. (or upon the Oath of a
 “ credible Witness or Witnesses, as the case may be,) that
 “ the said A. B. is guilty of the said offence, I do there-
 “ fore adjudge the said A. B. (here insert the Adjudication,
 “ and, in the case of a second or subsequent offence, add
 “ these words, the same being the second (or any subse-
 “ quent) offence against the provisions of the said Act).
 “ Given under my (or our) hand (or hands) at (here in-
 “ sert the Place where the Justice or Justices may be), the
 “ day and year first above written.”

Convictions to be transmitted to General or Quarter Sessions.

XIII. And be it enacted, That every Justice of the Peace before whom any person shall be convicted of any offence against this Act shall transmit the conviction to the next General or Quarter Sessions which shall be holden for the District, County, or other jurisdiction wherein the offence shall have been committed, there to be kept by the proper officer among the Records of the said Court; and upon any complaint or proceeding against any person for a subsequent offence, a copy of such conviction certified by the proper officer of the said Court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence, and the conviction shall be presumed to have been unappealed against until the contrary be shown.

XIV. And be it enacted, That in all cases where the sum adjudged to be paid on any conviction shall exceed *two* pounds, and in all cases where imprisonment shall be adjudged, any person who shall think himself aggrieved by any such conviction may appeal to the next Court of General or Quarter Sessions, which shall be holden not less than fourteen days after the day of such conviction for the District, County, or other jurisdiction wherein the cause of appeal shall have arisen; Provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such Sessions, and shall also either remain in custody until the Sessions, or enter into a recognizance, with two sufficient sureties, before a Justice of the Peace, conditioned personally to appear at the said Sessions, and to try such appeal, and to abide the judgment of the Court thereon, and to pay such costs as shall be by the Court awarded; and upon such notice being given, and such recognizance being entered into, the Justice before whom the same shall be entered into shall liberate such person, if in custody, and the Court at such Sessions shall hear and determine the matter of the appeal, and shall make such order therein as to the Court shall seem meet, and in case of the dismissal or non-prosecution of the appeal or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be thereby awarded, and also the costs of such appeal, or incident thereto, or occasioned thereby, and shall, if necessary, issue process for enforcing such judgment: Provided always, that it shall be lawful for the said Court to adjourn the hearing of any such appeal to any succeeding Sessions, if such Court shall think fit; and such Court, in the event of such postponement, may make any order for the payment of costs by either party to the other as to such Court shall seem reasonable.

Appeal given: and upon what conditions.

Court of Q. S. to hear and determine the matter appealed.

Proviso.

XV. And be it enacted, That no conviction made under the authority of this Act, nor any order, judgment or proceeding relative thereto, shall be quashed for want of form, or be removed by *certiorari* or otherwise into any of Her Majesty's Superior Courts of Record; and no Warrant of Commitment under the provisions of this Act, shall be held void by reason of any defect therein, provided it be therein alleged that the party committed has been convicted, and there be a good and valid conviction to sustain the same.

No conviction to be removed by *Certiorari*, &c.

XVI. And be it enacted, That for the purposes of this Act, the following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as said meanings are not excluded by the context or the nature of the subject matter, (that is to say:) The

Interpretation clause.

word "animal" shall be taken to mean any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, lamb, hog, pig, sow, goat, dog, cat or any other domestic animal; the word "over-drive" shall also signify over-ride.

5

This Act not to be in force in Municipalities where By-laws preventing cruelty, &c., may be hereafter made.

XVII. And be it enacted, That whenever any Municipal Corporation, having power by law so to do, shall make any By-law preventing cruelty to animals, this Act shall not be in force in or apply within the limits of such Municipal Corporation.

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