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2nd Session, 4th Parliament, 17 & 18 Vict., 1854.

BILL.

An Act to prevent the cruel and improper treatment of Cattle and other Animals, and to amend the Law relating to impounding the same.

Received and Read a first time, Tuesday, 20th
June, 1854.
Second Reading, Tuesday, 27th June, 1854.

QUERBEC:

PRINTED BY JOHN LOVELL, MONTREAL STREET.

Who shall provide the same.

Cost thereof how recoverable, by suit.

Or by Sale of the Animal. &c.

Distribution of proceeds of Sale.

Penalty for not providing such food, &c.

How recoverable.

Pound, or in any inclosed place, (and it shall and may be lawful for any person to confine any Cattle, Poultry, or other animals in any inclosed place when found trespassing, where the common Pound of the City, Town, Township or place wherein the distraining occurs is not secure) shall, and he is hereby required to find, provide and supply such horse or other cattle or animal so impounded or confined, daily, with good and sufficient food, water, shelter, and nourishment, for so long a time as such horse, or other cattle or animal shall remain and continue so impounded or confined as aforesaid; and every such person who shall so find provide and supply any such horse, or other cattle or animal with such daily food, water, shelter, and nourishment as aforesaid, shall and may, and he and they are hereby authorized and empowered, to recover of and from the owner or owners of such cattle or animal not exceeding double the value of the food and nourishment so supplied to such cattle or animal as aforesaid, by proceeding before any one Justice of the Peace within whose jurisdiction such cattle or animal shall have been so impounded and supplied with food as aforesaid, in like manner as any penalty or forfeiture, or any damage or injury may be recovered under and by virtue of any of the powers or authorities in this Act contained, and which value of the food and nourishment so to be supplied as aforesaid, such Justice is hereby fully authorized and empowered to ascertain, determine, and enforce, as aforesaid; and every person who shall have so supplied such food shelter and nourishment as aforesaid, shall be at liberty, if he shall so think fit, instead of proceeding for the value thereof as last aforesaid, after the expiration of not less than four clear days from the time of impounding the same, to sell any such Pig, and after the expiration of not less than eight clear days from the time of impounding the same, to sell any such Horse or other cattle or animal, openly in the place wherein the same shall be so impounded or confined as aforesaid, or openly at any public market, street, or other public place, (after having given three days public written or printed notice thereof, by affixing such notice upon the Door of the School House, or of any Church, Chapel, or other public place in the City, Town, Village, Township or place wherein the distress was made,) for the most money that can be then got for the same, and to apply the produce in discharge of the value of such food and nourishment so supplied as aforesaid, and the expenses of driving or conveying and impounding or confining such horse or other cattle or animal, and of such sale and attending the same, or incidental thereto, as well as of the damage done by such horse or other cattle or animal to the property of the person at whose suit the same was distrained, (such damage not to exceed five pounds in any case, and which the Justice is hereby fully authorized and empowered to ascertain, determine, and enforce, as aforesaid), rendering the overplus, if any, to the owner of such horse, cattle or animal.

III. In case any such person or Pound-keeper who shall so impound or confine, or cause to be impounded or confined, or keep impounded or confined any such horse or other cattle or animal as aforesaid, shall refuse or neglect to find, provide, and supply such daily good and sufficient food, water, shelter and nourishment to such cattle and animal so impounded and confined as aforesaid, he and they shall for every day during which he or they shall so refuse or neglect to find, provide and supply the same as aforesaid, forfeit and pay a sum not less than five shillings nor more than twenty shillings, which last sum and sums of money shall and may be recoverable by proceeding before any one Justice of the Peace, in like manner as hereinbefore provided for the reco-

very of any penalty, forfeiture, damage, or injury, as hereinbefore mentioned.

IV. And for the more easy and effectual apprehension of all offenders against this Act, be it enacted, That when and so often as any of the said offences shall happen, it shall and may be lawful to or for any constable or other peace-officer, or for the owner of any such horse, cattle or animal, upon view thereof, or upon the information of any other person (who shall declare his or their name or names and place or places of abode, to the said constable or other peace-officer), to seize and secure by the authority of this Act, and forthwith and without any other authority or warrant, to convey any such offender before any one Justice of the Peace within whose jurisdiction the offence shall have been committed, to be dealt with according to law; and such Justice shall forthwith proceed to examine upon oath any witness or witnesses who shall appear or be produced to give information touching any such offence, which oath the said Justice is hereby authorized and empowered to administer.

Apprehension
of offenders
facilitated.

V. If any person who shall be apprehended for having committed any offence against this Act shall refuse to discover his name and place of abode to the Justice before whom he shall be brought, such person refusing shall immediately be delivered over to a constable or other peace-officer, and shall by him be conveyed to the common Gaol or House of Correction for the City, Town, District or County within which the offence shall have been committed, or in which the offender shall have been apprehended, there to remain for a space not exceeding one calendar month or until he shall make known his name and place of abode to the said Justice.

Committal of
persons apprehended
and refusing to
give their
names, &c.

VI. The prosecution of every offence punishable under this Act shall be commenced within three calendar months next after the commission of the offence, and not otherwise; and the evidence of the party complaining shall be admitted in proof of the offence.

Limitation of
suits.
Evidence.

VII. In every case of a conviction under this Act where the sum which shall be awarded for the amount of the damage or injury done, or which shall be imposed as a penalty by any such Justice as aforesaid, for any offence contrary to this Act, shall not be paid either immediately upon or after the conviction, or within such period as such Justice shall at the time of the conviction appoint, it shall be lawful for such Justice (unless where otherwise specially directed) to commit the offender to the common Gaol or House of Correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such Justice, for any term not exceeding fourteen days, where the amount of the sum awarded or the penalty imposed, or both (as the case may be) together with the costs, shall not exceed five pounds, and for any term not exceeding two calendar months where the amount with costs shall exceed five pounds; the commitment to be determinable in each of the cases aforesaid upon payment of the sum or sums awarded and costs.

Committal of
offender for
non payment
of penalty
&c.

VIII. It shall be lawful for any one such Justice as aforesaid, in all cases in which no other mode of proceeding is specially provided or directed by this Act, or in any case where any person shall not be conveyed before any Justice by the authority of this Act, upon information or complaint made by any person of any offence against the provisions of this Act, within fourteen days next after the commission of any such

Summons to
offender in certain
cases.

Proceedings
on day appointed
for his appearance.

offence, to summon the party accused to appear before such Justice, or before any other Justice of the Peace, at a time and place to be by him named, and either on the appearance of the party accused or in default thereof, it shall be lawful for such Justice or any other Justice, at the time and place to be appointed for such appearance, to proceed to examine into the matter, and upon due proof made thereof by voluntary confession of the party, or by oath of one or more credible witness or witnesses, to award, order, give judgement, or convict for the damage or injury, penalty or forfeiture, as the case may be. 5

Form of conviction provided.

IX. In every case where there shall be a conviction for any offence contrary to this Act, the same shall be drawn or made out according to the form following or to the effect thereof, or as near thereto as may be:— 10

The Form.

County, (or as the } Be it remembered, that on the day of
case may be) of } in the year of Our Lord, at in
the County (or as the case may be) of A. B. is convicted
before me, J. P. one of His Majesty's Justices of the Peace for the said
County, (or as the case may be), for that he the said A. B. on the
day of in the year at in the said
did (*here specify the offence*), and I, the said J. P. do adjudge
the said A. B. for his said offence, to forfeit and pay the sum of (*here
state the penalty actually imposed, or the penalty and also the amount of
damages for the injury done, or as the case may be*), and also to pay the
sum of
for costs, and in default of immediate payment of the said sums to be
imprisoned in the (*and as the case may be*) to be there kept
to hard labour for the space of unless the said sums shall
be sooner paid: and I direct that the said sum of (*the penalty*) shall be
paid as follows; that is to say, one moiety thereof to the
of the said of to be by applied according
to ; and the other moiety thereof to C. D. of
the prosecutor, (*or as the case may be*); and that the said sum of
(*the sum for the amount of injury done, if any sum is awarded*) shall be
paid to E. F. (*or the said C. D. as the case may be*); and I order that
the said sum of for costs shall be paid to the said C. D.

Given under my hand and seal, the day and year first above mentioned.

J. P. [L. S.]

Service of Summons.

X. Any summons issued by any such Justice, requiring the appearance of any offender against any of the provisions of this Act, shall be deemed and taken to be well and sufficiently served, in case either 15
the summons or copy thereof, be served personally on such person as aforesaid, or be left at his usual or last-known place of abode, in whatever county or place the same may be served or left.

Penalty on Peace officers refusing to serve any summons or execute any warrant.

XI. If any Constable or other Peace Officer shall refuse or neglect to serve or execute any such summons or warrant granted or issued by 20
any such Justice of the Peace, pursuant to any of the provisions of this Act, every such Constable or Peace Officer so offending, and being convicted thereof upon the information of any person before any Justice of the Peace, shall forfeit any sum not exceeding *five pounds* as shall be awarded by such Justice, and in default of payment thereof shall be 25
committed by such Justice to the County Gaol or house of correction of

the City, Town, District or County, in which such Justice has jurisdiction, there to be kept for the space of time not exceeding one calendar month unless such penalty shall be sooner paid.

XII. All pecuniary penalties which shall be recovered before any Justice of the Peace under the provisions of this Act shall respectively be divided, paid, and distributed in the following manner (that is to say) : one moiety thereof to the Application of penalties. in which any of the officers aforesaid shall have been committed, to be by such applied in

10 Of sums awarded for damages., and the other moiety thereof, with full costs, to the person who shall inform and prosecute for the same, or to such other person as to such Justice shall seem fit and proper; and that all and every sum or sums 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 at the discretion of any such Justice.

20 XIII. Upon the hearing of any information or complaint exhibited or made under any of the provisions of this Act, any person giving or making such information or complaint, or other person, shall be deemed and is hereby declared to be a competent witness, notwithstanding he may be entitled to any part of the pecuniary penalty, on the conviction of 25 any offender, upon any such information or complaint as aforesaid. Complainant &c. to be a competent witness.

XIV. All actions and prosecutions which may be brought or commenced against any person for anything done in pursuance or under the authority of this Act, shall be commenced within one calendar month next after the fact committed, and not afterwards, and shall be brought and tried in the County or place where the cause of action shall arise, and not elsewhere; and notice in writing of any such action and specifying the cause thereof shall be given to the defendant fourteen clear days at least before the commencement of any such action; and the defendant in such action may plead the general issue, and give this Act 35 and any other matter or thing in evidence at any trial to be had thereupon; and if the cause of action shall appear to arise from or in respect of any matter or thing done in pursuance and by the authority of this Act, or if any such action shall be brought after the expiration of one calendar month, or shall be brought in any other County or place than 40 as aforesaid, or if notice of such action shall not have been given in manner aforesaid, or if tender of sufficient amends shall have been made before such action commenced, or if a sufficient sum of money shall have been paid into Court after such action commenced, by or on behalf of the defendant, the jury shall find a verdict (or if the case be not tried by 45 Jury, judgment shall be given) for the defendant; and if a verdict shall pass for the defendant, or if the plaintiff shall become non-suit, or shall discontinue any such action, or if on demurrer or otherwise judgment shall be given against him, the defendant shall recover his full costs of suit as between attorney and client, and shall have the like remedy 50 for the same as every defendant may have for costs of suit in other cases at law; and although a verdict be given (or judgment be rendered) for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge or Judges before whom the trial shall be As to suits brought for things done under this Act
Notice.
Pleading this Act &c.
Tenders of Amends.
As to costs in such suits.

had shall certify his approbation of the action and of the verdict (if any) obtained thereon.

Appeal from
convictions
&c. under this
Act.

XV. In case any person shall consider himself aggrieved by adjudication or conviction made by any Justice of the Peace under the authority of this Act, such party shall and may appeal against such adjudication or conviction, on giving fourteen days' notice of such appeal, and of the cause and matter thereof to such Justice, to the next quarter sessions, to be held next after the expiration of the said fourteen days, in or for the town, city, riding, district, county or division within which such adjudication or conviction shall have been made, and such Court of Quarter Sessions shall hear or determine the said appeal in the same manner and form as appeals are usually conducted in the general Quarter Sessions in that part of the Province in which the appeal shall be brought, and shall award to the party appealing against or supporting such adjudication or conviction, such costs as to them the said Justices shall seem reasonable. 5 10 15

Cost.

Interpretation
clause.

XVI. In order to avoid the repetition, and to prevent any misconstruction of the terms and expressions used in this Act, be it enacted, that wherever in this Act, with reference to any person, cattle, animal, matter or thing, any word or words, is or are used, importing the singular number or the masculine or feminine gender only, yet such word or words shall be understood to include several persons or animals, as well as one person or animal, and females as well as males, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction, and that where the word "cattle" is used alone in this Act, the same shall be understood and taken for any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep or lamb, or any other cattle or domestic animal, and the word "Poultry" shall be understood to mean all domestic birds. 20 25 30