

No. IV.

Dog NUISANCE.

An Act for abating the Nuisance occasioned by Dogs in the Streets of certain Towns and on Highways in New South Wales. [25th August, 1835.]

Preamble.

2 Geo. IV. No. 8.

All dogs within the towns specified to be registered.

Proviso as to dogs under six months old.

Mode of registering dogs.

WHEREAS an Act was passed in the eleventh year of the reign of his late Majesty King George the Fourth by the Governor and Council of New South Wales intituled "*An Act for abating the Nuisance occasioned by the great number of Dogs which are loose in the Streets of the Towns of Sydney Parramatta Liverpool and Windsor in the Colony of New South Wales*" which Act expired on the thirty-first day of May one thousand eight hundred and thirty-five and having been found beneficial in abating the nuisance experienced by the inhabitants of the said towns from the great number of dogs which used to roam at large within the same it is expedient to revive and continue the said Act with certain additions and amendments Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That any person who shall after the first day of October one thousand eight hundred and thirty-five keep any dog within the boundaries or reputed boundaries of the towns of Sydney Parramatta Liverpool Campbelltown Windsor Newcastle Maitland and Bathurst for a period of fourteen days without causing a description of every such dog so kept by such person within the same to be registered and such registration to be renewed from year to year in manner hereinafter mentioned shall forfeit and pay for every such dog a penalty or sum of not less than ten shillings nor more than twenty shillings Provided always That nothing herein contained shall be deemed to require the registration of any dog under the age of six months or which shall not have been kept as aforesaid for a period of fourteen days the proof of which shall lie upon the owner or keeper of such dog.

2. And be it enacted That every such registration shall be made by the owner or keeper of any dog intended to be registered or some person on his or her behalf delivering at the Police Office or Office of the Petty Sessions of the town in which it is intended to be kept a description of such dog embracing the several particulars contained in the form in the Schedule to this Act annexed marked with the letter A with a declaration thereunder written to the truth thereof under the hand of such owner or keeper or of some person in that behalf duly authorized and every such registration shall be deemed to be in force from the day upon which the same shall be so made until the thirtieth day of September then next ensuing and no longer and shall by every such owner or keeper or some person

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on his or her behalf be in like manner renewed from year to year so long as any such dog shall continue to be kept within the boundaries or reputed boundaries of any one of the said towns provided however that every such registration which shall be made in the month of September in any year shall be deemed to be in force until the thirtieth day of September of the year then next ensuing.

3. And be it enacted That if any person shall wilfully insert or omit or wilfully cause or permit to be inserted or omitted in any such description any matter or thing whatsoever contrary to or for the purpose of concealing the truth he shall forfeit and pay a penalty or sum of not less than ten nor more than twenty shillings. Penalty for false description.

4. And be it enacted That at the time of making every such registration there shall be paid into the hands of the Clerk of the Police Office or Petty Sessions where the same shall be made by the party making the same the sum or sums mentioned in the Schedule to this Act annexed marked with the letter B in respect of every dog mentioned in such registration and until such amount shall have been so paid no such registration shall be deemed to have been duly made provided that where the registration shall happen to have been made after the month of March and before the month of September one half only of the sum or sums mentioned in the said Schedule shall be payable and every Clerk of the Police Office or Petty Sessions to whom such payment shall be made shall on demand give a copy of such registration certified under his hand and a receipt for the sum paid in the form in the Schedule to this Act annexed marked with the letter C and any such Clerk who shall on being required refuse or neglect to give such copy or receipt shall forfeit and pay the sum of ten shillings. Fees on registration.

5. And be it enacted That in any proceedings under this Act it shall not be necessary for the informant to establish the fact of non-registration but that the proof of due registration shall be on the defendant and for that purpose a certified copy of such registration under the hand of the Clerk of the Police Office or Petty Sessions where the same was made shall be equivalent to the production of the original for which certified copy there shall be paid to such Clerk the fee of sixpence and no more unless such copy shall have been applied for at the time of registration in which case the same shall be delivered without any fee whatever. Proof of registration.

6. And be it enacted That the Clerk of the Police Office or Petty Sessions of every such town shall keep in some convenient part of his office during office hours for public inspection a correct list arranged in alphabetical order of the names of all persons who shall have registered any dog during the current year and shewing the numbers registered by each and any person applying for the particulars of any dog so registered and of the name of the owner or keeper thereof shall be entitled to receive the same on payment of a fee of sixpence. List of persons registering dogs to be exhibited.

7. And be it enacted That it shall and may be lawful for any person at any place within the boundaries or reputed boundaries of any of the said towns to seize and detain any dog not duly registered as aforesaid and upon notice thereof given to any Justice of the Peace such Justice shall summon the owner or reputed owner or keeper to appear and claim such dog and if such owner or keeper or some one on his behalf shall not within twenty-four hours after service of such summons or within such further time as such Justice may deem reasonable attend and claim such dog the same shall be forthwith killed And if any dog whether registered or not shall after the first day of October next be found at large in any part of the said towns without being under the immediate custody protection or control of some Dogs not registered or without collars may be seized and killed. Dogs without collars and bull dogs and mastiffs without muzzles to be killed.

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some competent person or unless such dog shall have a collar round its neck with the name and address of its owner legibly engraven thereon or if a mastiff or bull dog or a mongrel of either of the same unless it shall have in addition to such collar a muzzle securely fixed upon the mouth of every such dog so as to prevent the same from biting or injuring any person or property any such dog so found at large contrary to the provisions of this Act shall be liable to be immediately killed or destroyed and all persons are hereby authorized and all constables especially ordered and required to seize kill and destroy every such dog so found at large accordingly.

Penalty on owners of dogs attacking persons or frightening horses.

8. And be it enacted That if any dog shall in any street of the said towns or upon any highway in any part of the said Colony rush at or attack any person or horse or bullock whereby the life or limbs of any person shall be endangered or property injured the owner or keeper of every such dog shall forfeit and pay a penalty or sum of not less than twenty shillings nor more than five pounds for every such offence over and above the amount of any damage which such dog may have occasioned.

Rewards for seizing and destroying dogs.

9. And be it enacted That for every unregistered dog so seized or any dog which shall be destroyed in conformity to the provisions of this Act there shall be paid to the person so seizing or destroying the same a reward of two shillings and sixpence on proof being adduced to the satisfaction of the Police Magistrate or any Justice of the Petty Sessions for the town in which the same shall have been so seized or destroyed that such dog was seized or actually destroyed by the party applying for such reward within the boundaries or reputed boundaries of one of the said towns and that such dog if destroyed was immediately removed from the streets of such town or buried or otherwise disposed of so as to prevent nuisance or annoyance to any of the inhabitants thereof Provided always that in every case in which a reward shall be claimed for the destruction of any dog the party applying for such reward shall produce to such Police Magistrate or Justice the tail of every such dog which shall be immediately burned or otherwise destroyed in the presence of such Police Magistrate or Justice or of some person duly appointed by him so as to prevent any claim for reward being again made in respect thereof.

As to proof of ownership.

10. And be it enacted That in any prosecution under this Act every dog shall be taken to be kept by the person who shall be in the actual occupation of the house or premises upon which such dog shall be found unless reasonable proof to the contrary shall be adduced by the defendant and the person by whom any such dog shall be ordinarily kept shall be liable to the several provisions of this Act as the keeper of such dog whether kept for his own use or that of another Provided That with respect to any dog kept or used by a servant the same shall be deemed to be kept by his master or employer for the time-being.

Act not to apply to sheep dogs &c.

~~11. And be it enacted That nothing herein contained shall be deemed to apply to any dog actually employed in driving sheep or cattle or to any dog passing through any of the said towns accompanying a cart dray or other carriage if chained or otherwise securely fastened thereto or muzzled unless such dog shall be usually kept in any of the said towns.~~

Penalty on constables failing to report unregistered dogs.

12. And be it enacted That any constable having charge of a division district or ward of any of the towns aforesaid who shall fail or neglect to report to the Police Magistrate or Justices of the Petty Sessions of such town any dog which shall be kept within his district division or ward without being duly registered in manner required by this Act shall forfeit and pay a penalty or sum of not less than ten nor more than twenty shillings for every such dog which he so fails or neglects to report unless he can shew

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shew reasonable cause why the fact of non-registration could not have been known to him.

13. And be it enacted That if any constable shall neglect to destroy or use his best endeavours to destroy every dog which he shall find at large contrary to the provisions of this Act within his district division or ward every such constable shall for every such neglect forfeit and pay a sum of not less than ten nor more than twenty shillings. Penalty on constables not destroying dogs improperly at large.

14. And be it enacted That if any constable or other person shall wilfully or maliciously kill or destroy any dog which shall not be at large contrary to the provisions of this Act such constable or other person shall forfeit and pay to the owner of such dog the full value thereof and also a penalty or sum of not less than twenty shillings nor more than five pounds. Penalty on constables killing dogs not improperly at large.

15. And be it enacted That all fees to be received under the provisions of this Act shall be paid applied and accounted for and returns made thereof in such and the like manner as is directed with respect to fees levied under the Act of the said Governor and Council passed in the fourth year of the reign of His present Majesty intituled "*An Act for appointing Fees to be taken in the several Courts of Police and Petty Sessions and by the Clerks of Justices acting singly in the Colony of New South Wales.*" Appropriation of fees. 4 William IV. No. 5.

16. And be it enacted That in the construction of this Act the word dog shall be understood to include and shall be applied to several dogs as well as to one dog and to female dogs as well as to males. Construction of Act.

~~17. And be it enacted That all offences against this Act shall be heard and determined and all fines and penalties in respect thereof be awarded and imposed in a summary way by and before any Justice of the Peace upon information in that behalf exhibited and that all fines and penalties so awarded and imposed shall go and be distributed and all persons aggrieved by any summary conviction under this Act where the penalty shall exceed the sum of five pounds shall be entitled to appeal therefrom in the manner provided respectively by a certain Act of the said Governor and Council passed in the fifth year of the reign of His present Majesty intituled "*An Act to regulate summary proceedings before Justices of the Peace*" 5 William IV. No. 22. Provided always That no person shall be convicted for any offence under this Act unless complaint be made within one month next after the time the offence shall have been committed and that no conviction under the same shall be removed by writ of *certiorari* or otherwise into the Supreme Court. Jurisdiction of offences. Limiting the time of information. No certiorari.~~

18. And be it enacted That if any action shall be brought against any person for any thing done in pursuance of this Act the defendant may plead the general issue and give the special matter in evidence thereupon and if the verdict shall be for the defendant or the plaintiff be non-suited or discontinue his action or if upon demurrer judgment be given against the plaintiff the defendant shall have treble costs and the like remedy for the same as any defendant hath in any case to recover costs by law. General issue.

19. And be it enacted That it shall be lawful for His Excellency the Governor whenever he shall see fit to extend the provisions of this Act to any town within the said Colony by notice to that effect published in "*The New South Wales Government Gazette.*" Act may be extended to other towns.

20. And be it enacted That this Act shall commence and take effect on the first day of October one thousand eight hundred and thirty-five. Commencement of Act.

