

No. XXI.

COMMON CARRIERS. An Act to regulate the rights and liabilities of Common Carriers by land. [20th May, 1878.]

Preamble.

Carriers not to be liable for loss of certain goods above the value of £10 unless delivered as such and increased charge accepted.

WHEREAS it is expedient to regulate certain rights and liabilities of common Carriers by land 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. After the thirtieth day of September next no common carrier for hire by land shall be liable for the loss of or injury to any article or articles or property of the descriptions following (that is to say) gold or silver coin of the Realm or of any Foreign State or any gold or silver in a manufactured or unmanufactured state or any precious stones jewellery watches clocks or time-pieces of any description trinkets gold or silver ores bills notes of any Bank orders notes or securities for the payment of money English Colonial or Foreign stamps maps writings title-deeds paintings engravings pictures gold or silver plate or plated articles glass china silks in a manufactured or unmanufactured state and whether wrought up or not wrought up with other materials furs lace or opium or any of them contained in any parcel or package which shall have been delivered either to be carried for hire or to accompany the person of any passenger in any conveyance by land when

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when the value of such article or articles or property aforesaid contained in such parcel or package shall exceed the sum of ten pounds unless at the time of the delivery thereof at the office warehouse or receiving-house of such common carrier or to his book-keeper or other servant for the purpose of being carried or of accompanying the person of any passenger as aforesaid the value and nature of such article or articles or property shall have been declared by the person sending or delivering the same and such increased charge if any as hereinafter mentioned or an engagement to pay the same be accepted by the person receiving such parcel or package.

2. When any parcel or package containing any of the articles above specified shall be so delivered and its value and contents declared as aforesaid and such value shall exceed the sum of ten pounds it shall be lawful for such common carrier to demand and receive an increased rate of charge to be notified by some notice affixed in legible characters in some public and conspicuous part of the office warehouse or other receiving-house where such parcels or packages are received by him for the purpose of conveyance stating the increased rates of charge required to be paid over and above the ordinary rate of carriage as a compensation for the greater risk and care to be taken for the safe conveyance of such valuable articles and all persons sending or delivering parcels or packages containing such valuable articles as aforesaid at such office warehouse or other receiving-house shall be bound by such notice without further proof of the same having come to their knowledge.

3. When the value shall have been so declared and the increased rate of charge paid or an engagement to pay the same shall have been accepted as hereinbefore mentioned the person receiving such increased rate of charge or accepting such agreement shall if thereto required sign a receipt for the package or parcel acknowledging the same to have been insured and if such receipt shall not be given when required or such notice as aforesaid shall not have been affixed the common carrier as aforesaid shall not have or be entitled to any benefit or advantage under this Act but shall be liable and responsible as at the common law and be liable to refund the increased rate of charge if paid.

4. After the commencement of this Act no public notice or declaration heretofore made or hereafter to be made shall be deemed or construed to limit or in anywise affect the liability at common law of any common carrier by land in respect of any articles or goods to be carried and conveyed by them but all such common carriers shall be liable as at the common law to answer for the loss or any injury to any articles and goods in respect whereof they may not be entitled to the benefit of this Act any public notice or declaration by them made and given contrary thereto or in anywise limiting such liability notwithstanding.

5. For the purposes of this Act every office warehouse or receiving-house which shall be used or appointed by any common carrier as aforesaid for the receiving of parcels to be conveyed as aforesaid shall be deemed and taken to be the receiving-house warehouse or office of such common carrier and any one or more of such common carriers shall be liable to be sued by his her or their name or names only and no action or suit commenced to recover damages for loss or injury to any parcel package or person shall abate for the want of joining any co-proprietor or co-partner in such public conveyance by land for hire as aforesaid.

6. Every such carrier shall be liable for the loss of or for any injury done to any horses cattle or other animals or to any articles goods or things in the receiving forwarding or delivering thereof occasioned by the neglect or default of such carrier or his servants notwithstanding any notice condition or declaration made and given

When any parcel shall be so delivered an increased rate of charge may be demanded.

Notice of the same to be affixed in offices or warehouses.

Carriers to give receipts acknowledging increased rate. In case of neglect to give receipt or affix notice the party not to be entitled to benefit of this Act.

Publication of notices not to limit the liability of proprietors &c. in respect of any other goods conveyed.

Every office used to be deemed a receiving-house and any one carrier shall be liable to be sued.

Carrier to be liable for neglect or default in the carriage of goods notwithstanding notice to the contrary.

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by such carrier contrary thereto or in anywise limiting such liability every such notice condition or declaration being hereby declared to be null and void but the provisions in this section contained shall be subject to the following qualifications and conditions :—

- (1.) Every such carrier may make such conditions with respect to the necessary forwarding and delivering of any of the said animals articles goods or things as shall be adjudged by the Court or Judge before whom any question relating thereto shall be tried to be just and reasonable.
- (2.) No greater damages shall be recovered for the loss of or for any injury done to any of such animals beyond the sums hereinafter mentioned (that is to say)—for any horse fifty pounds—for any neat cattle per head fifteen pounds—for any sheep or pigs per head two pounds—unless the person sending or delivering the same to such carrier shall at the time of such delivery have declared them to be respectively of higher value than as above mentioned in which case it shall be lawful for such carrier to demand and receive by way of compensation for the increased risk and care thereby occasioned a reasonable percentage upon the excess of the value so declared above the respective sums so limited as aforesaid and which shall be paid in addition to the ordinary rate of charge and such per-centaage or increased rate of charge shall be notified in the manner prescribed in the second section of this Act in the manner therein mentioned.
- (3.) No special contract between such carrier and any other parties respecting the receiving forwarding or delivering of any animals articles goods or things as aforesaid shall be binding upon or affect any such party unless the same be signed by him or by the person delivering such animals articles goods or things respectively for carriage.
- (4.) Nothing in this section contained shall affect the rights privileges or liabilities of any such carrier with respect to articles of the description mentioned in the first section of this Act.

Nothing herein to protect felonious acts.

Carriers liable only to such damages as are proved.

Money may be paid into Court in all actions for loss of goods.

Short title and commencement.

7. Nothing in this Act shall be deemed to protect any such carrier for hire from liability to answer for loss of or injury to any animal goods or articles whatsoever arising from the felonious or fraudulent act of any servant in his employ nor to protect any such servant from liability for any loss or injury occasioned by his personal neglect or misconduct.

8. No such carrier shall be concluded as to the value of any animal parcel or package by the value so declared as aforesaid but he shall in all cases be entitled to require from the party suing in respect of any loss or injury proof of the actual value of any animal parcel or package by the ordinary legal evidence and shall be liable to such damage only as shall be so proved as aforesaid not exceeding the declared value.

9. In all actions against any common carrier for the loss of or injury to any goods delivered to be carried whether the value of such goods shall have been declared or not it shall be lawful for the defendant to pay money into Court in the same manner and with the same effect as money may be paid into Court in any other action.

10. This Act may be cited as the "Common Carriers Act of 1878" and shall come into operation on the first day of October next.