

No. , 1921.

A BILL

To make further provision for the prevention of cruelty to animals; to provide for the registration and inspection of certain animals; to amend the Prevention of Cruelty to Animals Act, 1901, and certain other Acts; and for purposes consequent thereon or incidental thereto.

[LIEUT.-COLONEL SHILLINGTON;—27 *September*, 1921.]

BE it enacted by the King'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:—

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Short title.

1. This Act may be cited as the "Prevention of Cruelty to Animals (Amendment) Act, 1921," and shall be read and construed with the Prevention of Cruelty to Animals Act, 1901, hereinafter called the Principal Act.

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Interpretation.

2. In this Act, unless the context otherwise requires, the expression—

"Court" means any court of petty sessions.

"Officer" means a member of the police force of any rank or any person duly appointed by the council of the Society for the Prevention of Cruelty to Animals and holding the written authority of that society.

Amendment of s. 3 of Act No. 64, 1901.
cf. 1 & 2 Geo. V, ch. 27, s. 1.

3. Section three of the Principal Act is amended by the omission of the word "and" between the words "abuse" and "torture," and the insertion between the words "torture" and "also" of the words "wound," "mutilate," "infuriate" and "terrify."

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Amendment of s. 4 of Act No. 64, 1901.

4. (1) Section four of the Principal Act is amended—

(a) in subsection one by inserting after the word "procures" in paragraph (a) and "causes" in paragraph (e) the words "or being the owner permits," and by omitting the words "five pounds" and inserting "ten pounds" in lieu thereof; and

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(b) in subsection two by omitting the words "five pounds" and inserting "ten pounds" in lieu thereof, and by the addition after paragraph (e) of the said subsection of the following paragraphs:—

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W.A., No. 21 of 1920, s. 4.

(f) fails to supply any domestic animal or captive animal other than those running at large with proper and sufficient food or water or sufficient protection against inclement weather; or

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(g)

- (g) needlessly slaughters or causes to be slaughtered, or needlessly mutilates any animal or subjects such animal to unnecessary pain or suffering; or W.A., No. 21 of 1920, s. 4.
- 5 (h) neglects as the owner or person in charge, to reasonably exercise or cause to be exercised, for one hour at least once a day, any dog habitually chained up; or Ibid.
- 10 (i) shoots any birds released from traps; or Ibid.
- (j) wilfully abandons any dog, cat, or other animal.

(2) For the purposes of this section, an owner shall be deemed to have permitted any act or omission hereby made punishable if he shall have failed to exercise reasonable care and supervision in respect to the protection of the animal therefrom, or failed to take reasonable steps to prevent the unnecessary suffering of the animal. 1 & 2 Geo. V, s. 1 (2).

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20 **5.** Except as hereinafter provided, nothing in this Act shall render unlawful— Exemptions.

- (a) the slaughtering of any animal in any manner which may be necessary to comply with the requirements of the Jewish or other religion; or
- 25 (b) the dehorning of cattle, or the castration, spaying, ear-marking, or branding of any animal, or the tailing of any lamb, where the operation is skilfully performed and is attended with as little suffering as is practicable to the animal operated upon; or
- 30 (c) the destruction of stray dogs or cats in lethal chambers, or by other methods with a minimum of suffering;
- 35 (d) the extermination or destruction of any animal under the authority of any Act, regulation, or by-law in force for the time being; or
- (e) the hunting, snaring, trapping, shooting, or capturing of any animal not in a domestic state; or
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(f)

1 & 2 Geo. V,
s. 1 (3).

(f) the commission or omission of any act in the course of the destruction, or the preparation for destruction of any animal as food for mankind, provided that such destruction or such preparation is carried out in a skilful manner, and without the infliction of unnecessary suffering; or

(g) any surgical operation or any operation of the nature of an inoculation or of a feeding experiment.

Officer may inspect sale-yards, &c.
Ibid. s. 8.

6. Any officer may enter at any time into any place where animals are usually sold or kept, and may inspect any animal found therein, and the accommodation for such animals. Any person hindering such officer from so doing shall be guilty of an offence against this Act, and shall be liable to the penalties prescribed in section four of the Principal Act.

Officer under certain conditions may destroy injured animals.
cf. 1 and 2, Geo. V, c. 27, s. 11.

7. (1) If an officer finds any animal so diseased or so injured or in such a physical condition that, in his opinion, having regard to the means available for removing the animal, there is no possibility of removing it without cruelty, or is of opinion that any animal is so weak, disabled, or diseased that its recovery is hopeless, he shall, if the owner is absent or refuses to consent to the destruction of the animal, at once summon a duly qualified or registered veterinary surgeon, and if it appears by the certificate of such veterinary surgeon that the animal is mortally injured or so severely injured, or so diseased, or in such a physical condition that it is cruel to keep it alive, or when there is no veterinary surgeon residing within a reasonable distance or readily available the officer may in either case, without the consent of the owner, slaughter the animal or cause it to be slaughtered with such instruments or appliances, with such precautions, and in such manner as to inflict as little suffering as practicable, and if the slaughter takes place on any public highway may remove the carcase or cause it to be removed therefrom.

(2) If any veterinary surgeon summoned under this section is of opinion that the injured animal can without cruelty be removed, or when a veterinary surgeon as provided in the preceding subsection is not available,

available, an officer is of such opinion, it shall be the duty of the person in charge of the animal to cause it forthwith to be removed with as little suffering as possible, and if such person fails to do so, the officer may, without the consent of that person, cause the animal forthwith to be so removed.

(3) Any expense which may be reasonably incurred by an officer in carrying out the provisions of this section (including the expense of any veterinary surgeon summoned), and whether the animal is slaughtered under this section or not, may be recovered from the owner summarily as a civil debt.

(4) No compensation shall be recoverable against any officer in respect of the killing of an animal under this section.

8. (1) Where proceedings are instituted under this Act, it shall be lawful for the court to issue a summons directed to the owner of the animal requiring him to produce either at, or at any time before, the hearing of the case, as may be stated in the summons, the animal for the inspection of the court, if such production is possible without cruelty.

Owner to produce animal if so required. W.A., 21 of 1920, s. 20.

(2) When a summons is issued under the foregoing subsection of this section, and the owner or employer, as the case may be, fails to comply therewith without satisfactory excuse, he shall be liable upon summary conviction to a fine not exceeding *five* pounds for the first occasion, and not exceeding *ten* pounds for the second or any subsequent occasion, on which he so fails, and he may be required to pay the costs of any adjournment rendered necessary by his failure.

9. (1) If the owner of any animal shall be convicted of any offence in relation to such animal, the court, upon his conviction thereof may, if it thinks fit, in addition to any other punishment, deprive such person of the ownership of the animal, and make such order as to the disposal of the animal as it thinks fit under the circumstances.

Power for court to deprive person convicted of cruelty of ownership of animal. 1 & 2 Geo. V, c. 27, s. 3.

(2) Provided that no order shall be made under this section unless it is shown by evidence as to a previous

previous conviction, or as to the character of the owner or otherwise, that the animal, if left to the owner, is likely to be exposed to further cruelty.

Employee charged with offence may be acquitted and employer charged.

W.A., 21 of 1920, s. 18.

10. Whenever any person, who is an employer or servant, charged with any offence under this Act, proves to the satisfaction of the court that the acts constituting the offence were done or permitted by him in the course of his employment as such employee or servant, and that prior to the commission of the offence he called his employer's attention to the unfitness of the animal for the use or treatment constituting the offence, the court may discharge the defendant or adjourn the hearing and issue a summons against the employer for a like offence. In the event of the employer being found guilty, the court may order him to pay costs incurred in prosecuting both himself and his employee or servant.

Power to provide food for animals in confinement.

cf. 12 and 13 Vic., c. 92, s. 6; Vict. Police Offences Act, 1915, s. 66; and W.A., 21 of 1920, s. 19.

11. In case any animal is at any time confined on any premises, or in any place of any kind, or in any pen, cage, hutch, or in any receptacle of the like nature, and continues to be so confined without proper and sufficient food and water for more than thirty-six consecutive hours, it shall be lawful for any person whomsoever to enter, at all reasonable times, into and upon any such premises or place as aforesaid, or other receptacle of the like nature in which any such animal is so confined, and to supply such animal with proper and sufficient food and water during so long a time as such animal remains and continues confined as aforesaid, and the reasonable cost of such food and water shall be paid by the owner of such animal to the person who has supplied the same, and the said person may recover the same as a civil debt:

Provided that the provisions of this section shall not apply to stock carried by rail.

Destruction of animals in certain cases. 1 & 2 Geo. V, s. 2.

12. Where the owner of any animal is convicted of an offence made punishable by this Act, it shall be lawful for the court, if the court is satisfied that it would be cruel to keep the animal alive, to direct that the animal be destroyed, and to assign the animal to any suitable person for that purpose; and the person to whom such animal is so assigned shall, as soon as possible,

possible, destroy such animal, or cause or procure such animal to be destroyed in his presence without unnecessary suffering. Any reasonable expenses incurred in destroying such animal may be ordered by the court to
5 be paid by the owner, and thereupon such expenses shall be recoverable summarily as a civil debt.

13. (1) From the _____ day of _____, Registration and inspection of animals employed at mines,
one thousand nine hundred and twenty-one, the manager of every mine in New South Wales shall keep or cause
10 to be kept at the mine a register of all animals of draught or burden which are at such date or may at any time thereafter be kept or worked at or in such mine.

(2) Such register shall contain the following particulars in respect of each such animal :—

- 15 (a) Kind of animal.
(b) Age at date of registration.
(c) Sex.
(d) Colour and distinctive markings.
(e) Brands.
20 (f) Date when brought on to mine premises.
(g) Date of removal from such premises.

(3) Such registration in respect of particulars under the above sub-paragraphs (a) to (f) inclusive shall be made within twenty-four hours of said

25 day of _____, or of the day on which the animal concerned comes on to the mine premises, whichever shall last happen, and in respect of particulars under paragraph (g) within twenty-four hours of the day on which the animal is so removed.

30 (4) Any officer may at all reasonable times inspect all such animals kept or worked at or in such mine, and at any such inspection such manager shall produce such register or cause the same to be produced for inspection by such officer, and shall give all
35 reasonable assistance to such officer for that purpose.

(5) Any person who by any act or default contravenes the provisions of this section shall on conviction before any court be liable to a penalty not exceeding *ten* pounds, and in the case of a continuing
40 offence to a penalty of *five* pounds for each day during which such offence continues.

Prevention of Cruelty to Animals (Amendment)

Inspection of traps.
cf. 1 and 2
Geo. V, s. 10;
W.A., 21 of
1920, s. 24;
Ibid. s. 10.

14. Any person who sets, or causes or procures to be set, any spring trap for the purpose of catching any marsupial, dingo, or wild dog, foxes, or noxious animal, or which is so placed as to be likely to catch any such animal, shall inspect, or cause some competent person to inspect, the trap at reasonable intervals of time, and, if the person shall fail to comply with the provisions of this section, he shall be guilty of an offence under this Act, and shall be liable to the penalties prescribed in section four of the Principal Act.

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[7d.]