

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

W. L. S. COOPER,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 9th August, 1922.*

New South Wales.



ANNO TERTIO DECIMO

GEORGII V REGIS.

Act No. , 1922.

An Act to amend the Birds and Animals Protection Act, 1918, in certain respects.

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:—

1. This Act may be cited as the "Birds and Animals Short title. Protection (Amendment) Act, 1922," and shall be construed with the Birds and Animals Protection Act, 1918 (hereinafter called the Principal Act).

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2.

Birds and Animals Protection (Amendment).

2. Section seven of the Principal Act is amended— Amendment of s. 7 of Principal Act.

(a) by omitting the words "or animals" in subsection one;

5 (b) by omitting the words "or animal" wherever occurring in subsection two; and

(c) by adding the following new subsection:—

10 (3) The Governor may, by proclamation, direct that the provisions of this section shall apply to protected animals, and upon the publication of such proclamation such provisions shall apply accordingly.

3. Section eight of the Principal Act is amended— Amendment of s. 8 of Principal Act.

(a) by omitting the second paragraph of subsection one and substituting therefor the following:—

15 The provisions of this section shall apply, whether such bird or animal was killed, taken, or bought in or received from any State or territory of the Commonwealth, or the Dominion of New Zealand, or elsewhere:

20 Provided that the Minister may by license, under conditions therein specified, permit the importation of any such bird or animal, or any part of such bird or animal:

25 Provided, also, that the Governor may by proclamation exempt, under conditions specified in such proclamation, any bird or animal, or any part of such bird or animal, from such provisions; and

(b) by adding the following new subsection:—

30 (3) Any such bird or animal, or any part of such bird or animal shall, upon the conviction of any person under this section for an offence in relation thereto, be liable to forfeiture, and shall be disposed of in such manner as the court may direct.

35 4. Section nine of the Principal Act is repealed, and the following new section is substituted therefor:— Amendment of s. 9 of Principal Act.

9. (1) The land described in the Third Schedule Birds and animals within districts. is hereby constituted a district.

40 (2) The land within a radius of one mile from any school which is a public school within the meaning

Birds and Animals Protection (Amendment).

meaning of the Public Instruction Act of 1880, or any Act amending the same, is hereby constituted a district.

5 (3) The Governor may, by proclamation, declare any other land to be a district.

(4) The Governor may, by proclamation, declare what birds or animals may be taken or killed within a district, and either generally or within certain specified periods.

10 (5) Any person who in any district takes or kills, or attempts to take or kill, any bird or animal which he is not expressly authorised to take or kill by virtue of a proclamation made under the last preceding subsection or under the terms of a license issued under sections eighteen or nineteen shall be liable to a penalty not exceeding twenty pounds.

15 **5.** Section ten of the Principal Act is amended—

(a) by omitting the words "enters any district" and substituting therefor the words "is found in any district"; and

20 (b) by omitting the words "when so trespassing" and substituting therefor the words "when so found."

6. Section eleven of the Principal Act is repealed, and the following new section is substituted therefor:—

25 11. (1) Members of the police force, public school teachers, district foresters, assistant foresters, forest guards, stock inspectors, and fruit inspectors shall, by virtue of their office, be rangers.

30 (2) The Minister may, by notice in the Gazette, appoint honorary rangers, who shall have the powers and perform the duties of rangers.

7. Section seventeen of the Principal Act is repealed, and the following new section is substituted therefor:—

35 17. (1) All protected birds and animals until taken or killed in accordance with the provisions of this Act shall be deemed to be the property of the Crown.

40 (2) Nothing in this Act shall prevent any person from keeping in confinement or in a domesticated state, otherwise than for the purpose of traffic,

Amendment of s. 10 of Principal Act.

Amendment of s. 11 of Principal Act.

Rangers.

New sec. substituted for s. 17 of Principal Act. Protected birds and animals until taken to be the property of the Crown.

Birds and Animals Protection (Amendment).

traffic, any protected bird or animal which has been taken in accordance with the provisions of this Act.

5 (3) No person shall traffic in birds or animals without the permission in writing of the Minister.

(4) For the purpose of this section, to traffic in birds or animals means to be in possession of any number of live birds or animals of any class or species, in excess of the maximum number pre-
10 scribed for such class or species.

(5) A different maximum number may be prescribed for different classes or species of birds or animals.

15 (6) Any person who traffics in birds or animals without the permission in writing of the Minister shall be guilty of an offence and shall be liable to a penalty not exceeding five pounds for every bird or animal in respect of which there is a contravention of the provisions of this section.

20 (7) This section shall come into operation upon a date to be notified by the Governor in the Gazette.

8. The Principal Act is further amended by inserting New sec. 22A. after section twenty-two the following new section:—

25 22A. If any person is convicted of an offence against any of the provisions of this Act, any firearms, nets, traps, or other instruments, or any dogs which are found in the possession of such person when such offence was committed shall be liable to
30 forfeiture.

9. The Principal Act is further amended by inserting New sec. added after s. 24. after section twenty-four the following new section:—

35 24A. Where any person has been convicted of an offence under section twenty-one or twenty-four, any protected bird or animal, or any part of such bird or animal, found in the possession or under the control of such person, shall be liable to forfeiture, and shall be disposed of in such manner as the court may direct. Forfeiture of protected bird or animal in possession of person convicted under s. 21 or 24.

40 10. The Third Schedule of the Principal Act is amended by omitting the words "by the eastern boundary of the parish of St. Luke" and substituting therefor the words "by the western boundary of the parish of St. Luke." Amendment of Third Schedule.

1922.

Legislative Council.

BIRDS AND ANIMALS PROTECTION (AMENDMENT) BILL.

(*Amendments to be moved by SIR JOSEPH CARRUTHERS on
recommittal of the Bill*).

Clause 3, line 19. *After* "New Zealand" *insert* "or elsewhere"

In clause 7 of the Bill *omit* all the words after the figures "17" and *insert* the following:—

- (1) All protected birds and animals until taken or killed in accordance with the provisions of this Act shall be deemed to be the property of the Crown.
- (2) Nothing in this Act shall prevent any person from keeping in confinement or in a domesticated state, otherwise than for the purpose of traffic, any protected bird or animal which has been taken in accordance with the provisions of this Act.
- (3) No person shall traffic in birds or animals without the permission in writing of the Minister.
- (4) For the purpose of this section, to traffic in birds or animals means to be in possession of any number of live birds or animals of any class or species, in excess of the maximum number prescribed for such class or species.
- (5) A different maximum number may be prescribed for different classes or species of birds or animals.
- (6) Any person who traffics in birds or animals without the permission in writing of the Minister shall be guilty of an offence and shall be liable to a penalty not exceeding five pounds for every bird or animal, in respect of which there is a contravention of the provisions of this section.
- (7) This section shall come into operation upon a date to be notified by the Governor in the *Gazette*.

THE [illegible] ACT

Enacted by the [illegible] of the [illegible]

in the [illegible] year of the [illegible]

That [illegible]

That [illegible]

That [illegible]

That [illegible]

That [illegible]

That [illegible]

That [illegible]

That [illegible]

1922.

Legislative Council.

Explanatory Notes on the Birds and Animals Protection (Amendment) Bill.

BILL TO AMEND CERTAIN PROVISIONS OF THE BIRDS AND ANIMALS PROTECTION ACT, 1918.

THIS Bill is proposed to meet a flaw in the Birds and Animals Protection Act, 1918, by which under recent decisions of the Courts any person who captures a wild bird or animal becomes its legal owner whether it be caught in the open season or not.

The main feature contained in the Bill is that for the purposes of the Principal Act all protected birds and animals until taken or killed in accordance with the provisions of the Act shall be deemed to be the property of the Crown. To meet the wishes of Parliament as expressed when the Principal Act was passed, a clause has been included making it clear that any person may hold any bird or animal in captivity providing it has been legally obtained. In this respect the Bill provides for any protected bird or animal being kept as a pet, provided the necessary permission has been obtained in writing to do so from any member of the police force or honorary ranger under the Act, *i.e.*, if it has not been taken during the period of an open season.

The provisions of the measure comprise ten clauses to the following effect, *viz.* :—

1. Short title.
2. Amends section 7 of the Principal Act by requiring licenses for the taking for sale purposes of protected birds only during the period of an open season. The provisions may, however, be applied to animals by proclamation.
(Protection is only removed from animals in cases in which they have increased or have become a pest, and it has not been found practicable to enforce the law as regards the holding of license. As fixed open seasons have been declared in respect of certain birds the provision is more easily enforced.)
3. Amends section 8 of the Principal Act so as to provide for licenses being issued by the Minister to allow the importation of any bird or animal; for the Governor to exempt by proclamation, under certain conditions, any bird or animal from the provisions of section 8; and for the disposal of confiscated skins or birds, &c., in such manner as the Court may decide.
4. Repeals section 9 of the Principal Act and substitutes a new section providing—
 - (1) for the land described in the Third Schedule to be a district;
 - (2) for all land within a radius of one mile from any public school to be a district;
 - (3) for the Governor to declare by proclamation any other land to be a district;
 - (4) for the Governor to declare by proclamation what birds or animals may be taken or killed within a district, and either generally or within certain specified periods;
 - (5) conditions under which birds and animals may be taken within a district, and provision for penalty.
5. Amends section 10 of the Principal Act by enlarging the power to prosecute persons "found" within a district; the present law operates only on proof of a person "entering" a district.

6. Repeals section 11 of the Principal Act and substitutes a new section providing, in addition to the police, that public school teachers, district foresters, assistant foresters, forest guards, stock inspectors, and fruit inspectors shall, by virtue of their office, be rangers. The Minister may also appoint honorary rangers.
7. Repeals section 17 of the Principal Act and substitutes a new section providing that all protected birds and animals, until taken or killed in accordance with the provisions of the Act, shall be deemed to be the property of the Crown; also prescribes that nothing in the Act shall prevent any person keeping in confinement or as a domestic pet any protected bird or animal, provided it has been procured as therein specified.
(It was held by the English Courts that there was no property in wild birds or animals until they were under control, *e.g.*, in a cage or enclosure. This decision being followed by the Courts here, has had the effect mentioned of nullifying the Act.)
8. This new section provides for the forfeiture of firearms, nets, &c., of any person convicted of an offence against any of the provisions of the Act. There is nothing in the Act to allow of this course at present. The Principal Act is amended by inserting this new section after section 22.
9. Provides for the disposal of any protected bird or animal or part thereof as the Court may direct in the case of a conviction under sections 21 or 24 of the Principal Act.
10. Correction of technical error in description of a district (Sanctuary).

While the decisions of the Courts stand, the Act is practically a "dead letter" as regards the capture of wild birds and animals in a live state.

It is absolutely essential, if wild birds and animals are to be adequately protected, that the amending Bill should be passed into law at the earliest opportunity.

Large consignments of protected birds and animals have recently been exported from the State, it being represented that one case was that of a German acting for German agents.

At the present time magpies and other protected birds can be seen openly displayed for sale to the public.

SHORT TITLE OF AMENDING ACT.

Legislative Council.

No. , 1922.

A BILL

To amend the Birds and Animals Protection Act, 1918,
in certain respects.

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:—

1. This Act may be cited as the "Birds and Animals Short title.
Protection (Amendment) Act, 1922," and shall be construed with the Birds and Animals Protection Act, 1918 (hereinafter called the Principal Act).

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Reasons for Amendments.

Principal Act.

Licenses to take or kill for purposes of sale.

7. (1) The Minister may, in the prescribed form and subject to any limitations as to locality and to any other conditions he may think proper, issue licenses authorising the holders thereof to take or kill the protected birds ~~or animals~~ specified therein during an open season, for the purpose of selling the same.

(2) Any person who except in pursuance of such a license takes or kills any protected bird ~~or animal~~ for purposes of sale shall be liable to a penalty not exceeding five pounds for each bird ~~or animal~~ in respect of which such offence has been committed.

Proposed Amendment.

Amendment of s. 7 of Principal Act.

2. Section seven of the Principal Act is amended—

- (a) by omitting the words "or animals" in subsection one;
- (b) by omitting the words "or animal" wherever occurring in subsection two; and
- (c) by adding the following new subsection:—

(3) The Governor may, by proclamation, direct that the provisions of this section shall apply to protected animals, and upon the publication of such proclamation such provisions shall apply accordingly.

The Bill as originally introduced in Parliament did not provide for a license to take or kill protected animals during the period of an open season for sale purposes. The words "or animals" after the word "birds" were added during the consideration of the Bill in Committee in the Legislative Council.

The reason the Department did not include animals in this section was that protection was removed from protected animals only in districts where they have become a pest, and the difficulty of issuing licenses to trappers when protection is removed was seen.

Protected birds are in a different category to protected animals, as the former have fixed open seasons and the provision in this respect is more easily enforced.

The difficulty in enforcing the section as regards the issuing of licenses to take protected animals during the period of an open season for sale purposes, is that protection is often removed for short periods in various districts as these animals become a pest. By the time station hands and others who desire to take any of these animals had received their licenses perhaps the open season might be half over, *e.g.*, open seasons have often been declared for periods of one month and in some instances for shorter terms.

It has not been practicable to administer the section as it now stands. While therefore not making it obligatory to obtain a license to procure skins of protected animals, the provisions of the section can be applied in that respect if deemed expedient.

Principal Act.

8. (1) Any person who knowingly buys, sells, offers, or consigns for sale, or has in his possession, house, or control, any protected bird or animal or the skin of such bird or animal or any part of such bird or animal at any time shall be liable to a penalty not exceeding five pounds for each bird or animal, or skin, or part of a bird or animal in respect of which such offence has been committed.

Penalty for having protected birds or animals in possession.

The provisions of this subsection shall apply, whether such bird or animal was killed, taken, or bought in or received from any State or territory of the Commonwealth of Australia or the Dominion of New Zealand: Provided that the Governor may by proclamation exempt any bird or animal from such provisions.

(2) A person shall not be convicted of an offence against this section if he proves—

- (a) that such bird or animal, or the bird or animal from which such skin or part was taken, was killed, taken, bought, or received either during an open season, and not for purposes of sale, or in pursuance of a license or in or from any country other than any such State, territory, or Dominion as aforesaid; or
- (b) that he had such bird or animal, or skin or part thereof in his possession legally before the commencement of this Act, or that he purchased the same legally within six months after such commencement from some person who possessed the same before such commencement.

Proposed Amendment.

3. Section eight of the Principal Act is amended—

Amendment of s. 8 of Principal Act.

- (a) by omitting the second paragraph of subsection one and substituting therefor the following:—

The provisions of this section shall apply, whether such bird or animal was killed, taken, or bought in or received from any State or territory of the Commonwealth, or the Dominion of New Zealand:

Provided that the Minister may by license, under conditions therein specified, permit the importation of any such bird or animal, or any part of such bird or animal:

Provided, also, that the Governor may by proclamation exempt, under conditions specified in such proclamation, any bird or animal, or any part of such bird or animal, from such provisions; and

(b) by adding the following new subsection :—

(3) Any such bird or animal, or any part of such bird or animal shall, upon the conviction of any person under this section for an offence in relation thereto, be liable to forfeiture, and shall be disposed of in such manner as the court may direct.

(a) The provision that the Minister may by license permit the importation of any protected bird or animal is desired in order to make the section more elastic. Special consignments are often received by the Taronga Zoological Park Trust of specimens of birds and animals from the other States and New Guinea, &c. At present no action is taken by the Department in such cases.

The Crown Solicitor has advised that no conditions can be imposed by the proclamation exempting birds, &c, from this section, such as provided they were in cold storage, or that they were obtained during the period of an open season, &c.

(b) The Act makes no provision for the disposal of the bird or animal upon the conviction of the offender. The Courts have not been able to make any order under the Act.

Principal Act.

Districts.

District to be absolutely protected.

9. The land mentioned in the Third Schedule hereto is hereby constituted a district for the purposes of this Act.

The Governor may, by proclamation, declare any other land in New South Wales to be a district or districts.

The Governor may, by proclamation, declare what birds and animals may be taken or killed within a district,

Any person who, in any district, except in pursuance of a license, takes or kills, or attempts to take or kill any bird or animal not so proclaimed, whether protected or scheduled, shall be liable to a penalty not exceeding twenty pounds.

Proposed Amendment.

Amendment of s. 9 of Principal Act.

4. Section nine of the Principal Act is repealed, and the following new section is substituted therefor :—

Birds and animals within districts.

9. (1) The land described in the Third Schedule is hereby constituted a district.

(2) The land within a radius of one mile from any school which is a public school within the meaning of the Public Instruction Act of 1880, or any Act amending the same, is hereby constituted a district.

(3) The Governor may, by proclamation, declare any other land to be a district.

(4) The Governor may, by proclamation, declare what birds or animals may be taken or killed within a district, and either generally or within certain specified periods.

(5) Any person who in any district takes or kills, or attempts to take or kill, any bird or animal which he is not expressly authorised to take or kill by virtue of a proclamation made under the last preceding subsection or under the terms of a license issued under sections eighteen or nineteen shall be liable to a penalty not exceeding *twenty* pounds.

2. At the instance of the late Minister for Education, who was approached in the matter by the Australasian Society of Patriots, Dalley Branch, Newcastle, Ministerial approval was given to insert in the Bill the provision declaring all land within a mile radius of public schools as a sanctuary under the Act.

4. This section of the Act has been made more elastic by allowing certain birds to be taken or killed in a district within certain specified periods.

5. The provisions of the section have been expressed in more definite terms.

Principal Act.

10. If any person, not acting in pursuance of a license, ~~enters~~ ^{Penalty for trespass.} ~~any district~~ in search or pursuit of or for the purpose of taking or killing any animal or bird not proclaimed under the provisions of the last preceding section he shall, on conviction, be liable to a penalty not exceeding twenty pounds; and having in his possession ~~when so trespassing~~ any implements or means for taking or killing birds or animals, or being accompanied by dogs, shall be prima facie evidence of such purpose.

Proposed Amendment.

5. Section ten of the Principal Act is amended—

- (a) by omitting the words "enters any district" and substituting therefor the words "is found in any district"; and
- (b) by omitting the words "when so trespassing" and substituting therefor the words "when so found."

Amendment of s. 10
of Principal Act.

The proposed amendment enlarges the power to prosecute persons "found" within a district (sanctuary); the present law operates only on proof of a person "entering" a district.

Principal Act.*Rangers.*

Rangers.

11. Every member of the police force shall by virtue of his office be a ranger, and the Minister may from time to time appoint honorary rangers who shall have the same powers and duties as rangers under this Act.

Proposed Amendment.

Amendment of s. 11 of Principal Act.

6. Section eleven of the Principal Act is repealed, and the following new section is substituted therefor:—

Rangers.

11. (1) Members of the police force, public school teachers, district foresters, assistant foresters, forest guards, stock inspectors, and fruit inspectors shall, by virtue of their office, be rangers.

(2) The Minister may, by notice in the Gazette, appoint honorary rangers, who shall have the powers and perform the duties of rangers.

(1) At the instance of the late Minister of Education, who was approached in the matter by the Australasian Society of Patriots, Dalley Branch, Newcastle, Ministerial approval was given to provide in the Bill for every public school teacher to be a ranger.

Ministerial approval was also given to provide for district foresters, assistant foresters, forest guards, stock inspectors, and fruit inspectors to be rangers under the Act. The Department of Agriculture and Forestry Commission have signified their approval to the proposal so far as their officers are concerned. These officers are at present appointed as honorary rangers, and a warrant is issued to each officer in addition to the matter being gazetted. The list also is revised from time to time. Their appointment as rangers under the Act is therefore desirable.

Principal Act.*Exemptions.*

Exemption of owner.

17. Nothing in this Act shall extend or be construed to extend to prevent any person who is the owner of any bird or animal, from keeping the same in confinement or in a domesticated state, or from offering for sale or selling, or taking or killing the same.

Proposed Amendment.

New sec. substituted for s. 17 of Principal Act.

7. Section seventeen of the Principal Act is repealed, and the following new section is substituted therefor:—

Protected birds and animals until taken to be the property of the Crown.

17. All protected birds and animals, until taken or killed in accordance with the provisions of this Act, shall be deemed to be the property of the Crown:

Provided that nothing in this Act shall prevent any protected bird or animal from being kept in confinement, or as a domestic pet, by any person who has obtained permission in writing to do so from any member of the police force or honorary

ranger. If any person fails to obtain such permission he may apply to the Minister, who may then determine the matter. Any person who has obtained such permission shall become the owner of such bird or animal, and may dispose of it as he thinks fit:

Provided also that no such permission shall be necessary in the case of any protected bird or animal which has been taken during an open season or in pursuance of a license.

The present Act when introduced in Parliament provided that nothing should prevent any person who "at the commencement of this Act" is the owner of any bird or animal from keeping the same, &c. The words "at the commencement of this Act" were struck out during the second reading of the Bill. It was evidently the intention of Parliament to allow any person to keep any native bird or animal as a pet. The section as now proposed to be amended would allow of this condition, but with the provision of certain safeguards. Should any person, who for instance has taken a young laughing jackass from the nest, fail to obtain the permission of the local police or any honorary ranger to domesticate the bird, he would have the right to appeal to the Minister. This final course, however, would hardly arise except where there would be good reason to doubt the bona fides of the person interested. It would undoubtedly prevent the taking of any number of a species by one person and would allow of withholding the necessary permission in rare specimens of native birds or animals. It is somewhat doubtful whether it would be wise to open the door too far in this respect by allowing the necessary permission to be also given by the undermentioned rangers under the Act, viz.:—public school teachers, district foresters, assistant foresters, forest guards, stock inspectors, and fruit inspectors.

The repeal of this section has become necessary in view of the decisions of the law courts that section 17 of the Act rendered section 8 null and void after ownership had been proven. The effect of these decisions is that unless a man is actually caught trapping a protected bird or animal he is not liable to prosecution.

It was never the intention of the Act to prevent any person from keeping in captivity any bird or animal legally procured in terms of section 8. The present amendment makes this clear.

Principal Act.

22. If any person contravenes or fails or neglects to observe ^{Unspecified} any of the provisions of this Act, he shall, for every such offence, if ^{penalties.} no other penalty is provided therefor, be liable to a penalty not exceeding twenty pounds.

Proposed Amendment.

8. The Principal Act is further amended by inserting after ^{New sec. 22A.} section twenty-two the following new section:—

22A. If any person is convicted of an offence against any ^{Forfeiture of fire-} of the provisions of this Act, any firearms, nets, traps, or other ^{arms, nets, &c.} instruments, or any dogs which are found in the possession of such person when such offence was committed, shall be liable to forfeiture.

The proposed amendment provides for the forfeiture of firearms, nets, &c., of any person convicted of an offence against any of the provisions of the Act. There is nothing in the Act to allow of this course at present.

Principal Act.*General.*

Restriction on
methods of shooting
birds and animals.

21. (1) Any person who uses or carries for other than naval or military purposes a firearm having a greater length of barrel than thirty-six inches, or having a bore exceeding ten gauge, or having more than two barrels, or being of a weight exceeding sixteen pounds avoirdupois, shall be liable to a penalty not exceeding twenty pounds.

(2) Any person who, for the purpose of shooting any protected bird or animal,—

- (a) affixes to any boat, punt, or floating vessel of any kind a firearm of any description; or
- (b) loads with a charge exceeding four drachms of black gunpowder, or its equivalent in smokeless powder, or two ounces of shot a firearm of any description; or
- (c) uses any gun or fowling-piece of a kind other than the kind which are habitually raised at arms' length and fired from the shoulder without other support,

shall be liable to a penalty not exceeding twenty pounds.

Forfeiture of
firearms.

(3) Any firearm used in contravention of this section shall, on the conviction of the person so using it, be liable to be forfeited by the court, and to be disposed of as such court may direct.

Use of poison
prohibited.

24. Any person who uses cyanide of potassium or any other poison for the destruction or attempted destruction of any protected bird or animal, shall for every such offence be liable to a penalty not exceeding fifty pounds.

Any poison found in the possession of the person so offending, shall on his conviction be liable to be forfeited by the court, and to be disposed of as the court may direct.

Proposed Amendment.

New sec. added
after s. 24.

9. The Principal Act is further amended by inserting after section twenty-four the following new section :—

Forfeiture of
protected bird or
animal in possession
of person convicted
under s. 21 or 24.

24A. Where any person has been convicted of an offence under section twenty-one or twenty-four, any protected bird or animal, or any part of such bird or animal, found in the possession or under the control of such person, shall be liable to forfeiture, and shall be disposed of in such manner as the court may direct.

No provision was made in sections 21 and 24 for the confiscation of any protected bird or animal, or part thereof, in the event of a conviction. The Courts have been unable to make any orders as to the disposal of such birds, &c. In one case after the accused had paid his fine of £5, the police had to return to him 165 opossum skins taken from animals which had been poisoned. The Crown Solicitor, in advising on the matter, stated it was a glaring anomaly in the Act.

Principal Act.**THIRD SCHEDULE.**

Embracing part of the county of Cumberland:—Commencing on the South Pacific Ocean at the eastern extremity of Barranjoey Head; and thence bounded by the shores of that Head, a line westerly to West Head; by the waters of the Hawkesbury River and lines westerly from Flint and Steel Point to Juno Head, and from that Head to Green Point, and by a line northerly to Flat Rock Point; again by the waters of the aforesaid river to the right bank of Berowra Creek, by that creek and Tunk's Creek upwards and the boundary of the parish of South Colah generally westerly and southerly to the northern boundary of the parish of Castle Hill; by that boundary generally westerly and southerly to the Old Windsor Road; by that road south-easterly, the northern boundary of the parish of Prospect westerly, Eastern Creek upwards, by part of the southern boundary of the last-mentioned parish easterly, ~~by the eastern boundary of the parish of St. Luke,~~ the Old Cowpasture Road and the Western boundary of the municipality of Campbelltown generally southerly; by the southern boundary of that municipality generally easterly to Woronora River; by that river downwards to the southern boundary of the Sutherland Shire; by that boundary partly forming the southern boundary of National Park generally easterly to the South Pacific Ocean; and by the South Pacific Ocean generally northerly to the point of commencement.

Proposed Amendment.

10. The Third Schedule of the Principal Act is amended by ^{Amendmen of} omitting the words "by the eastern boundary of the parish of St. Luke" and substituting therefor the words "by the western boundary of the parish of St. Luke." ^{Third Schedule.}

A technical error was originally made in describing the boundary.

Principal Act.

THIRD SCHEDULE.

Indubious part of the county of ...

Proposed Amendment.

10. The Third Schedule of the Principal Act is amended by inserting the words "by the eastern boundary of the parish of St. ..."

A further amendment is hereby made in describing the boundary.

...

Legislative Council.

No. , 1922.

A BILL

To amend the Birds and Animals Protection Act, 1918, in certain respects.

[SIR JOSEPH CARRUTHERS;—20 July, 1922.]

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:—

1. This Act may be cited as the "Birds and Animals Protection (Amendment) Act, 1922," and shall be construed with the Birds and Animals Protection Act, 1918 (hereinafter called the Principal Act).

Short title.

Amendment
of s. 7 of Prin-
cipal Act.

- 2.** Section seven of the Principal Act is amended—
- (a) by omitting the words “or animals” in subsection one;
 - (b) by omitting the words “or animal” wherever occurring in subsection two; and 5
 - (c) by adding the following new subsection:—
(3) The Governor may, by proclamation, direct that the provisions of this section shall apply to protected animals, and upon the publication of such proclamation such provisions 10 shall apply accordingly.

Amendment
of s. 8 of
Principal
Act.

- 3.** Section eight of the Principal Act is amended—
- (a) by omitting the second paragraph of subsection one and substituting therefor the following:—
The provisions of this section shall apply, 15 whether such bird or animal was killed, taken, or bought in or received from any State or territory of the Commonwealth, or the Dominion of New Zealand:

Provided that the Minister may by license, 20 under conditions therein specified, permit the importation of any such bird or animal, or any part of such bird or animal:

Provided, also, that the Governor may by proclamation exempt, under conditions 25 specified in such proclamation, any bird or animal, or any part of such bird or animal, from such provisions; and

- (b) by adding the following new subsection:—
(3) Any such bird or animal, or any part of 30 such bird or animal shall, upon the conviction of any person under this section for an offence in relation thereto, be liable to forfeiture, and shall be disposed of in such manner as the court may direct. 35

Amendment of
s. 9 of Principal
Act.

Bfrds and
animals
within
districts.

- 4.** Section nine of the Principal Act is repealed, and the following new section is substituted therefor:—

9. (1) The land described in the Third Schedule is hereby constituted a district.

(2) The land within a radius of one mile from 40 any school which is a public school within the meaning

meaning of the Public Instruction Act of 1880, or any Act amending the same, is hereby constituted a district.

5 (3) The Governor may, by proclamation, declare any other land to be a district.

(4) The Governor may, by proclamation, declare what birds or animals may be taken or killed within a district, and either generally or within certain specified periods.

10 (5) Any person who in any district takes or kills, or attempts to take or kill, any bird or animal which he is not expressly authorised to take or kill by virtue of a proclamation made under the last preceding subsection or under the terms of a license
15 issued under sections eighteen or nineteen shall be liable to a penalty not exceeding *twenty* pounds.

5. Section ten of the Principal Act is amended—

(a) by omitting the words "enters any district" and substituting therefor the words "is found
20 in any district"; and

(b) by omitting the words "when so trespassing" and substituting therefor the words "when so found."

6. Section eleven of the Principal Act is repealed,
25 and the following new section is substituted therefor:—

11. (1) Members of the police force, public
school teachers, district foresters, assistant foresters, forest guards, stock inspectors, and fruit inspectors shall, by virtue of their office, be rangers.

30 (2) The Minister may, by notice in the Gazette, appoint honorary rangers, who shall have the powers and perform the duties of rangers.

7. Section seventeen of the Principal Act is repealed,
and the following new section is substituted therefor:—

35 17. All protected birds and animals, until taken or killed in accordance with the provisions of this Act, shall be deemed to be the property of the Crown:

40 Provided that nothing in this Act shall prevent any protected bird or animal from being kept in confinement, or as a domestic pet, by any person who

Amendment of s. 10 of Principal Act.

Amendment of s. 11 of Principal Act.

Rangers.

New sec. substituted for s. 17 of Principal Act.

Protected birds and animals until taken to be the property of the Crown.

who has obtained permission in writing to do so from any member of the police force or honorary ranger. If any person fails to obtain such permission he may apply to the Minister, who may then determine the matter. Any person who has obtained such permission shall become the owner of such bird or animal, and may dispose of it as he thinks fit: 5

Provided also that no such permission shall be necessary in the case of any protected bird or animal which has been taken during an open season or in pursuance of a license. 10

New sec. 22A. **8.** The Principal Act is further amended by inserting after section twenty-two the following new section:—

Forfeiture of firearms, nets, &c.

22A. If any person is convicted of an offence against any of the provisions of this Act, any firearms, nets, traps, or other instruments, or any dogs which are found in the possession of such person when such offence was committed shall be liable to forfeiture. 15

New sec. added after s. 24.

9. The Principal Act is further amended by inserting after section twenty-four the following new section:— 20

Forfeiture of protected bird or animal in possession of person convicted under s. 21 or 24.

24A. Where any person has been convicted of an offence under section twenty-one or twenty-four, any protected bird or animal, or any part of such bird or animal, found in the possession or under the control of such person, shall be liable to forfeiture, and shall be disposed of in such manner as the court may direct. 25

Amendment of Third Schedule.

10. The Third Schedule of the Principal Act is amended by omitting the words "by the eastern boundary of the parish of St. Luke" and substituting therefor the words "by the western boundary of the parish of St. Luke." 30