

1923.

Legislative Council.

Birds and Animals Protection (Amendment) Bill, 1923.

EXPLANATORY NOTE.

THE object of the Bill is to remedy certain defects in the Birds and Animals Protection Act, 1918, which have been discovered in the administration of that Act; to prohibit, inter alia, traffic in birds and animals without the written permission of the Minister; and to repeal the Birds and Animals Protection (Amendment) Act, 1922.

Clause 2. Amends section 7 of the Principal Act so that the requirement of a license for the taking for sale purposes during the period of an open season extends to protected birds only. The provisions may, however, be applied to animals by proclamation.

Clause 3. Amends section 8 of the Principal Act to provide for the case of birds received in this State from other places, in addition to any State or territory of the Commonwealth of Australia or the Dominion of New Zealand; to provide for licenses being issued for the importation of any bird or animal; and to empower the Governor to exempt by proclamation, under certain conditions, any bird or animal from the provisions of section 8; and to provide for the disposal of confiscated skins, &c.

Clause 4. Repeals section 9 of the Principal Act and substitutes a new section providing—

- (1) that the land described in the Third Schedule should be a district;
- (2) that all land within a radius of one mile from any public school should be a district;
- (3) that the Governor may declare by proclamation any other land as a district;
- (4) that the Governor may 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 for penalties.

Clause 5. Amends section 10 of the Principal Act by enlarging the power to prosecute persons "found" within a district.

Clause 6. Repeals section 11 of the Principal Act, and substitutes a new section providing that in addition to the police, public school teachers, district foresters, assistant foresters, forest guards, stock inspectors, fruit inspectors, and rangers under the Metropolitan Water and Sewerage Act of 1880, shall, by virtue of their office, be rangers, and for the appointment of honorary rangers.

Clause 7. Amends section 12 of the Principal Act to provide for greater power of search by rangers where a breach of the law has been committed.

Clause 8. Amends section 15 of the Principal Act, to prevent any technicality being raised concerning skins, as apart from complete birds or animals.

Clause 9. Repeals section 17 of the Principal Act, as inserted by section 2 of the Birds and Animals Protection (Amendment) Act, 1922, and inserts new section to provide that all protected birds and animals until taken in accordance with the provisions of the Principal Act shall be the property of the Crown; to prohibit the traffic in birds or animals without permission in writing by the Minister; and to repeal the Birds and Animals Protection (Amendment) Act, 1922.

Clause 10. Provides for the forfeiture of firearms, &c., of any person convicted of an offence against any of the provisions of the Act.

Clause 11. 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 and 24 of the Principal Act.

Clause 12. Corrects certain errors in the description of a district (Sanctuary).

Legislative Council.

No. , 1923.

A BILL

To amend the Birds and Animals Protection Act, 1918; to repeal the Birds and Animals Protection (Amendment) Act, 1922; and for purposes connected therewith.

[HON. E. H. FARRAR;— *October, 1923.*]

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
5 the same, as follows:—

1. This Act may be cited as the "Birds and Animals Protection (Amendment) Act, 1923," and shall be construed with the Birds and Animals Protection Act, 1918, hereinafter referred to as the Principal Act. Short title.

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 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, or elsewhere:
 “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”;
 - (b) by omitting from subsection two of the same section the words “or in or from any country 30 other than any such State territory or Dominion as aforesaid”; and
 - (c) by adding the following new subsection:—
 (3) Any such bird or animal, or any part of such bird or animal shall, upon the conviction 35 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.

Amendment of
s. 9 of Principal
Act.

Birds and
animals within
districts.

- 4.** Section nine of the Principal Act is repealed, and 40 the following new section is substituted therefor:—
- 9.** (1) The land described in the Third Schedule is hereby constituted a district. (2)

5 (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.

10 (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.

15 (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.

20 5. Section ten of the Principal Act is amended— Amendment of s. 10 of Principal Act.

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

25 (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, Amendment of s. 11 of Principa. Act. and the following new section is substituted therefor:—

30 11. (1) Members of the police force, public school teachers, district foresters, assistant foresters, forest guards, stock inspectors, fruit inspectors, and rangers appointed under the Metropolitan Water and Sewerage Act of 1880 shall, by virtue of their office, be rangers.

35 (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 twelve of the Principal Act is amended by inserting the words "or any part thereof" after the word "animal" wherever occurring. Amendment of s. 12. Ibid.

40 8. Section fifteen of the Principal Act is amended by inserting after the word "animal" the words "or part thereof in respect of which an offence has been committed or any" Amendment of s. 15. Ibid.

9.

46

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

9. (1) Section seventeen of the Principal Act as inserted by section two of the Birds and Animals Protection (Amendment) Act, 1922, is omitted, and the following section is inserted in lieu thereof:—

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

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. 5

(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. 10

(3) No person shall traffic in birds or animals without the permission in writing of the Minister. Such permission may stipulate the maximum number of live birds or animals of any class or species, whether protected or scheduled, that may be in the possession of the applicant at any one time. The permission may be revoked or varied by the Minister at any time. 15 20

(4) A different maximum number may be prescribed for different classes or species of birds or animals. 25

(5) Any person who traffics in birds or animals without the permission in writing of the Minister or who fails to observe any stipulation contained in such permission 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. 30

(6) For the purposes of this section any person who is in possession of any number of live birds or animals of any class or species, and whether protected or scheduled, in excess of the maximum number prescribed by regulations for such class or species shall be deemed to traffic in such birds or animals, and to keep the same for the purpose of traffic. 35 40 (2)

(2) The Birds and Animals Protection (Amendment) Act, 1922, is hereby repealed.

10. The Principal Act is further amended by New sec. 22A. inserting after section twenty-two the following new **5** section:—

10 22A. If any person is convicted of an offence Forfeiture of firearms, nets, &c. 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.

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

15 24A. Where any person has been convicted of an Forfeiture of protected bird or animal in possession of person convicted under s. 21 or 24. 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, **20** and shall be disposed of in such manner as the court may direct.

12. The Third Schedule of the Principal Act is Amendment of Third Schedule. amended by omitting the words “by the eastern boundary of the parish of St. Luke” and substituting **25** therefor the words “by the western boundary of the parish of St. Luke.”

