

LEGISLATIVE COUNCIL.

PROTECTION OF ANIMALS BILL.

EXPLANATORY PAPER.

INTRODUCTORY.

In accordance with the Government's undertaking in the closing stages of the last Session the Protection of Animals Bill 1965 has been reprinted in the terms to which the Government proposed to amend it having regard to the views expressed by the Statute Law Revision Committee in its Report of the 8th November, 1965.

The principal objects of the Bill are—

- (1) To bring the provisions of the *Police Offences Act* 1958 relating to the protection of animals into the one Statute as recommended by the Statute Law Revision Committee in paragraph 5 of its report on the Police Offences Bill 1963.

Statement of offences in uniform style and the expression of penalties as suggested by the Statute Law Revision Committee has led to the re-arrangement of most of the clauses now in the Act without changing their substantive effect.

- (2) To make the provisions of the law relating to the baiting or blooding of animals applicable to the use of live hares and rabbits at plumpton coursing matches.
- (3) To enable Justices to issue search warrants to members of the Police Force to enter upon private property suspected of being used in contravention of the provisions relating to the baiting and blooding of animals and trap-shooting.
- (4) To extend the provisions of section 546 of the *Crimes Act* 1958 relating to the payment of compensation, to include the cost of treating an injured animal or the cost of replacing an animal which is no longer fit for the purpose for which it was kept.

NOTES ON CLAUSES.

Clause 1.

This is the usual citation and commencement provision.

Clause 2.

This Clause repeals the Division of the *Police Offences Act* 1958 relating to the protection of animals and makes the usual saving provision.

Clause 3.

This is a re-enactment of the definitions of "animal" and "cruelty" at present in sections 3 and 59 of the *Police Offences Act* 1958.

Clause 4.

This is a re-enactment in substance of section 60 of the *Police Offences Act* 1958 with considerable changes in form.

Clause 5.

Section 62 of the *Police Offences Act* 1958 enumerates various acts which are deemed to involve cruelty. The section is re-enacted in this clause but paragraphs (e) and (f) are not reproduced as they appear to duplicate other provisions.

Clause 6.

Sub-section (1) of section 61 of the *Police Offences Act* 1958 prohibits any person from keeping any place for the purpose of causing to fight, baiting or otherwise maltreating any animal.

Sub-section (2) of that section prohibits any person from releasing any animal in circumstances where it is likely to be pursued, injured or killed by a dog.

These sub-sections are re-enacted in clause 6 of the Bill, but expressed in more modern terms.

The proviso to sub-section (2) of section 61 of the current Act exempts from the operation of that section the use of a rabbit or hare as quarry at any coursing match conducted by a coursing club registered by the National Coursing Association of Victoria. The section as re-enacted in this Clause does not provide that exemption.

Clause 7.

This clause re-enacts the provisions of sub-section (3) of section 61 of the *Police Offences Act* 1958 which prohibits any person from engaging in or keeping any place or premises for trap-shooting.

Clause 8.

This is a new provision. It empowers a Justice to grant a warrant to a member of the Police Force to enter and search premises which are suspected of being used for baiting or blooding of animals or for trap-shooting.

The clause also enables a member of the Police Force to arrest any person found offending on the premises and to bring him before a Justice.

Clauses 9 and 10.

Sections 61A and 63 (3) of the *Police Offences Act* 1958 as inserted by the *Police Offences (Animals) Act* 1964, relate to the control of private zoos and to the power of the Court to disqualify any person previously convicted of cruelty to an animal from having the custody of an animal. These sections are of recent origin and have been re-enacted in this Bill in their present form.

Clause 11.

Section 65 of the *Police Offences Act* 1958 makes the provisions of that Act relating to the protection of animals inapplicable to certain cases of killing such as the extermination of foxes, rabbits, wild dogs, vermin, &c., the hunting and trapping of undomesticated animals and scientific experiments on animals by registered legally qualified medical and veterinary practitioners.

The Governor in Council is also empowered by that section to make regulations for the registration of those practitioners.

It should be noted that the exceptions do not apply where cruelty is involved.

This clause re-enacts those provisions in modern form and extends the power of the Governor in Council to make regulations relating to the payment of fees for registration of a practitioner and to the making of returns in relation to the experiments carried out by practitioners. The clause as reprinted includes reference to "diagnostic procedures" as suggested by the Statute Law Revision Committee.

Clause 12.

This is a re-enactment of section 66 of the *Police Offences Act* 1958.

Clause 13.

Section 4 of the *Police Offences (Animals) Act 1964* re-enacts section 67 of the *Police Offences Act 1958*. This section relates to the destruction of dangerous or suffering animals and has been included in this Bill without alteration.

Clause 14.

Section 202 of the *Police Offences Act 1958* contains various provisions relating to the apprehension of offenders. These provisions are applicable to the Division of that Act relating to the protection of animals and have been continued in this Bill.

Clause 15.

This clause re-enacts, in modern form, the provisions of section 68 of the *Police Offences Act 1958* relating to the power of a member of the Force to retain an animal or vehicle as security for any penalty for which the owner may become liable under the Act.

Clause 16.

Section 546 of the Crimes Act empowers any Court which has convicted a person of any felony, misdemeanour or summary offence to award by way of satisfaction or compensation for loss or damage suffered, an amount not exceeding the value of the property lost, stolen, injured or destroyed. This clause provides that for the purposes of section 546 the cost of treating an injured animal or the cost of replacing an animal no longer fit for the purpose for which it was kept shall be deemed to be loss or damage suffered in relation to an offence.

Clause 17.

This is a re-enactment of section 64 of the *Police Offences Act 1958*. As suggested by the Statute Law Revision Committee paragraph (d) of the clause in the 1965 Bill has been omitted.

Clause 18.

This clause makes a body corporate guilty of an offence liable to the penalties of the Act. It also provides that directors, managers and officers of the body corporate who knowingly direct, authorize or suffer the commission of an offence by the body corporate will be severally guilty of an offence and liable to the penalties of the Act.

Clause 19.

The provisions of section 14 of the *Police Offences Act 1958* make a master liable for the offences of a servant under Part I. of the Act, if that servant has acted upon the orders of the master. This clause extends those provisions to the protection of animals.

Clause 20.

This clause re-enacts so far as they are applicable the provisions of section 190 of the *Police Offences Act 1958* relating to commencing proceedings.

Clause 21.

This clause is procedural and simply re-enacts section 191 of the *Police Offences Act 1958*.

Clause 22.

This clause follows the provisions of section 204 of the *Police Offences Act 1958* and enjoins courts not to deal summarily with offences they think too serious to be so dealt with.

Clause 23.

Section 197 of the *Police Offences Act 1958* appropriates fines, penalties and forfeitures under the various provisions of that Act, including Part II., which includes protection of animals.

This clause makes similar appropriations but diverts the half of the penalties at present payable to the Police Superannuation Fund to Consolidated Revenue.

There is already sufficient money in the Police Superannuation Fund to meet its estimated commitments.

Clause 24.

This clause was not in the 1965 Bill but is now added for the protection it affords to police in particular against vindictive actions which could arise out of the destruction of animals under this Bill.