

LEGISLATIVE COUNCIL.

Draft Bill.

No. S. 130.—The following bill, which it is proposed to introduce into the Legislative Council shortly, is published for general information :—

[No. 4 :—10.5.24.—4.]

C.S.O. 7602/1909.

A BILL

INTITLED

An Ordinance to make provision for the prevention of cruelty to animals.

BE it enacted by the Governor of Hongkong, with the advice and consent of the Legislative Council thereof, as follows :—

- Short title. 1. This Ordinance may be cited as the Prevention of Cruelty to Animals Ordinance, 1924.
- Interpretation. 2. In this Ordinance,
- (a) Save as provided in section 7 (4), “animal” includes bird and every other creature and the use of the description of any particular animal includes the female or young of such animal.
 - (b) “Birdshop” means any shop, other than a market stall, or shop holding a market licence, wherein birds or animals are sold which are not generally sold in a market.
 - (c) “Captive animal” means any animal of whatsoever kind or species, which is in captivity or confinement, or which is maimed, pinioned, or subjected to any hindrance or contrivance for the purpose of assisting or preventing its escape from captivity or confinement.
 - (d) “Cattle” includes bulls, oxen, and buffaloes.
 - (e) “Fowl” includes any cock, capon, turkey, gander, drake, quail, guinea-fowl, peacock, swan, dove or pigeon and also any bird sold in a market or shop as food for man.
 - (f) “Inspector of the Society” includes every inspector and assistant inspector appointed by the Society.
 - (g) “Railway truck” includes any truck, carriage, trolley, van or other means of conveyance in use on a railway.
 - (h) “Ship” includes every description of vessel used in navigation or for the carriage or storage of goods.
 - (i) “The Society” means the Hongkong Society for the Prevention of Cruelty to Animals.
- Offences. 3. Every person shall be guilty of cruelty within the meaning of this Ordinance, and shall be deemed to commit an offence against this Ordinance, who—
- (1) cruelly beats, kicks, ill-treats, over-rides, over-drives, over-loads, tortures, infuriates or terrifies any animal or causes or procures any of the above acts to be done, or, being the owner of any animal, permits any of the above acts to be done to such animal ;
 - (2) by any act or omission causes unnecessary pain or suffering to any animal, or, being the owner of any animal, permits any unnecessary pain or suffering to be so caused to such animal ;

- (3) conveys or carries any animal, or causes any animal to be conveyed or carried, in any ship or railway truck importing such animal into or exporting such animal from the Colony, contrary to any regulations made under this Ordinance, or in such manner or position or place or receptacle, or with such a lack of food or water, as to subject such animal to unnecessary pain or suffering; [s. 3 contd.]
- (4) conveys or carries, or causes to be conveyed or carried, more than one cat or dog in the same crate or basket or receptacle;
- (5) conveys or carries any pig, or causes any pig to be conveyed or carried, in any ship or railway truck importing such pig into or exporting such pig from the Colony, or in any manner within the Colony, in any crate or basket other than a crate or basket of a type approved by the Colonial Veterinary Surgeon and strong enough and closely woven enough to prevent the legs of the pig from getting through;
- (6) loads any animal into or discharges any animal from any ship or railway truck, whether into any ship or railway truck, or on to a wharf or the shore or any platform, in such a way as to subject such animal to unnecessary pain or suffering;

Without prejudice to the generality of the above paragraph (6), the following *inter alia* shall be deemed to be offences under the said paragraph:—

- (a) the loading or discharge of cattle, horses, mules, sheep or goats into or from any ship by rope-slings or by any other slings than canvas slings, kept open at the ends by wooden stretchers affixed thereto and of sufficient length to encircle completely the body of the animal for which they are intended, and capable of supporting the whole of the body and the weight of such animal;
- (b) the loading or discharge of any animal (other than an animal which is carried) into or from a ship by means of a gangway which is not provided with footholds so as to prevent the animal from slipping.
- (7) imports into or exports from the Colony, drives, carries, transports, removes, or causes to be driven, carried, transported or removed, or keeps under his control or on his premises, any animal in any way which subjects such animal to unnecessary pain or suffering;

Without prejudice to the generality of the above paragraph (7), the following *inter alia* shall be deemed to be offences under the said paragraph:—

- (a) the conveyance of fowls, dogs or cats in any basket or crate the bottom of which is not lined with matting or bamboo netting strong enough and closely woven enough in such a way as to prevent the legs from protruding through the interstices of the baskets or crates;

[s. 3 contd.]

- (b) the carrying of fowls either by the wings or legs or head downwards, or the tying together of the wings of fowls ;
 - (c) the carrying of pigeons, doves, or quail otherwise than in a basket or cage ;
 - (d) the overcrowding of fowls into a basket or crate or cage so as to cause avoidable suffering to any of such fowls ;
 - (e) the use for the carriage of fowls of
 - (i) any triangular crate, or
 - (ii) any crate which is not strong enough to bear the weight of two loaded crates above the same ;
 - (f) the loading of crates, containing fowls, more than three deep on any truck, lorry or van, except in lorries where extra planking is provided to take the weight of the three upper layers of crates, in which case not more than four layers shall be allowed one only of which shall be placed in the body of such lorry ;
 - (g) the sitting upon any crate containing fowls ;
 - (h) the carrying or keeping of any animal in any cage, crate or basket of such material as tends to maim or lacerate such animal or to cause it avoidable injury or suffering ; and
 - (i) the failure by the keeper of a birdshop to supply perches to each cage, sufficient for all the birds in such cage to find room to roost ;
- (8) having any captive animal on any vessel or on his premises, or under his control, or in his possession, mutilates or injures or neglects to attend to such animal or fails to supply such animal with a sufficient quantity of food and a constant supply of clean fresh water, or causes unnecessary or avoidable suffering to such animal in any way whatever ;
- (9) keeps any captive animal on any premises which are insufficiently lighted or ventilated ;
- (10) wilfully and without reasonable excuse, administers, or causes or procures or permits, the administration of any poisonous or injurious drug or substance to any animal, or wilfully and without reasonable excuse causes any such drug or substance to be administered to or taken by any animal ;
- (11) subjects any animal or causes or procures, or, being the owner, permits any animal to be subjected to any operation which is performed without due care and humanity ; or
- (12) by any act or omission, during the killing of any animal or during the preparation of any animal for human food, inflicts avoidable or unnecessary suffering, or neglects to carry out such preparation in such a manner as to cause the least suffering possible.

4.—(1) Where the owner of any animal is convicted of an offence against this Ordinance, it shall be lawful for the magistrate, if he is satisfied that it would be cruel to keep the animal in question 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 assigned shall, as soon as possible, destroy such animal, or cause or procure such animal to be destroyed in his presence, without unnecessary suffering.

Power to order destruction of animal.

(2) Any reasonable expenses incurred in destroying the animal may be ordered by the magistrate to be paid by the owner, and, if not so paid, shall be recoverable as a civil debt from such owner, at the suit of the Treasurer, in the summary jurisdiction of the Supreme Court.

Provided that, unless the owner consents, no order shall be made under this section except upon the certificate of a duly qualified veterinary surgeon.

5. Where the owner of any animal is convicted of cruelty to such animal within the meaning of this Ordinance, the magistrate may, in addition to any other punishment inflicted, deprive such person of the ownership of the animal, and may make such order as to the disposal of the animal, as he thinks fit in the circumstances: Provided that no order shall be made under this section unless the magistrate is satisfied that the animal, if left with the owner, is likely to be exposed to further cruelty.

Power to deprive owner of animal.

6. Every person who, by cruelty to any animal within the meaning of this section, does or causes to be done any damage to the animal, or to any property, or to any person, shall upon conviction for cruelty under this Ordinance be liable, on the application of the person aggrieved, to be ordered by the magistrate to pay as compensation to the owner of the animal or the property, or to the person damaged, as the case may be, such sum not exceeding one hundred dollars as the magistrate may consider reasonable and, in default of payment of such compensation, to be imprisoned for any period not exceeding three months: Provided that this section shall not—

Power to order compensation to owner.

- (1) prevent the taking of any other legal proceedings in respect of any such damage, provided that a person be not twice proceeded against in respect of the same claim; nor
- (2) affect the liability of any person to be proceeded against and punished under this or any other Ordinance for any offence of cruelty.

7.—(1) If any officer of police or any inspector of the Society finds that any animal is so severely injured or in such a physical condition that, in his opinion, having regard to the means available for the removal of the animal, there is no possibility of removing it without cruelty, he shall, if the owner is absent or refuses to consent to the destruction of the animal, at once summon a veterinary surgeon (if possible), and if it appears, by the certificate of such veterinary surgeon, that the animal is mortally injured, or so diseased or in such a physical condition that it is cruel to keep it alive, it shall be lawful for the said officer of police or inspector, without the consent of the owner, to slaughter the animal, or cause or procure it to be slaughtered, with such instruments or appliances, and with such precautions, and in such a manner as to inflict as little suffering as practicable, and, if the slaughter takes place on any public highway to remove the carcase or cause or procure it to be removed therefrom:

Destruction of animal on certificate of veterinary surgeon.

Provided that, where it is not possible to summon a veterinary surgeon for the purposes of this sub-section, and, in the opinion of the officer of police or inspector

of the Society finding the animal, it is also urgently necessary, in order to avoid cruelty to the said animal, that it should be slaughtered, the said officer of police or inspector may proceed in all respects as if a veterinary surgeon had been summoned and had certified in the manner indicated by this sub-section.

(2) If any veterinary surgeon summoned under this section certifies that the animal can be removed without cruelty, 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 refuses or fails to do so, the officer of police or inspector of the Society finding the animal, may, without the consent of such person, cause the animal forthwith to be so removed.

(3) Any expenses which may be reasonably incurred by any officer of police or inspector of the Society in carrying out the provisions of this section (including the expenses of any veterinary surgeon summoned by such officer of police or inspector), and whether the animal is slaughtered under this section or not, shall be recoverable as a civil debt from the owner, at the suit of the Treasurer, in the summary jurisdiction of the Supreme Court.

(4) For the purposes of this section, "animal" does not include a fish, bird or reptile.

Powers of arrest, entry and search.

8.—(1) It shall be lawful for any inspector of the Society to arrest any person who has committed within his view any offence against any of the provisions of this Ordinance or of any regulation made thereunder, or, if such offence has not been committed within view of such inspector, then upon the complaint of any person who has been witness to the commission of such offence.

(2) In the absence of any such inspector it shall be lawful for any person who has seen such offence committed to seize and detain the offender until he can be given into the custody of an officer of police or an inspector of the Society or until he can be taken before a magistrate.

(3) It shall be lawful for any inspector of the Society to enter any place and to board any ship in or on board which such inspector may have reason to suspect that any offence against any of the provisions of this Ordinance or of any regulation made thereunder is being or has been committed, and to search such place or ship, and to arrest any person whom he may find therein or thereon committing any offence against any of the provisions of this Ordinance or of any regulation made thereunder or to arrest any person therein or thereon upon the complaint of any person who has been witness to the commission of any such offence.

Power to take charge of vehicle or animal.

9. Where a person having charge of a vehicle or animal is apprehended by an officer of police or an inspector of the Society for an offence under this Ordinance, it shall be lawful for that or any other officer of police or such inspector to take charge of such vehicle or animal, and, provided it is necessary that such vehicle or animal or both be produced as evidence, to deposit the same in some place of safe custody until the termination of the proceedings or until the magistrate shall direct such vehicle or animal to be delivered to the person charged or to the owner; and the reasonable costs of such detention, including the reasonable costs of veterinary treatment where such treatment is required, shall, in the event of a conviction in respect of the said animal, be recoverable as a civil debt from the owner, at the suit of the Treasurer, in the summary jurisdiction of the Supreme Court.

10.—(1) Where proceedings are instituted under this Ordinance against the driver or conductor of any vehicle, it shall be lawful for the magistrate to issue a summons directed to the employer of the driver or conductor, as the case may be, requiring him to produce the driver or conductor at the hearing of the case. Order on employer to produce driver or conductor; and on owner to produce animal.

(2) Where proceedings are instituted under this Ordinance, it shall be lawful for the magistrate 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 magistrate, if such production is possible without cruelty.

(3) Where a summons is issued under sub-sections (1) or (2), and the employer or owner, as the case may be, fails without reasonable excuse to comply therewith, he shall upon summary conviction be liable to a fine not exceeding fifty dollars for the first occasion, and not exceeding one hundred dollars for the second or any subsequent occasion on which he fails to comply with the summons, and may be ordered by the magistrate to pay the costs of any adjournment rendered necessary by such failure, and in default of payment of such costs, to be imprisoned for any period not exceeding three months.

11. Where there is an appeal by the owner of any animal from any conviction or order by a magistrate under this Ordinance in respect of the said animal, the owner shall not sell or part with the animal until the appeal is determined or abandoned, and shall produce it on the hearing of the appeal if such production is possible without cruelty. Appeal.

12. Every person who contravenes or attempts to contravene, or aids or abets the contravention of, or fails to comply with or commits an offence against any of the provisions of this Ordinance or of any regulation made thereunder shall upon summary conviction be liable to a fine not exceeding two hundred and fifty dollars, and to imprisonment for any term not exceeding six months. Penalties.

13.—(1) It shall be lawful for the Governor in Council to make regulations for the better carrying out of any of the provisions of this Ordinance, or in any way for the prevention of cruelty to animals. Regulations.

(2) All regulations made under this Ordinance shall be laid on the table of the Legislative Council at the first meeting thereof held after the publication in the Gazette of the making of such regulations, and, if a resolution be passed at the first meeting of the Legislative Council held after such regulations have been laid on the table of the said Council resolving that any such regulation shall be rescinded or amended in any manner whatever, the said regulation shall, without prejudice to anything done thereunder, be deemed to be rescinded or amended as the case may be, as from the date of publication in the Gazette of the passing of such resolution.

(3) The regulations in the Schedule shall be deemed to have been made under this Ordinance, and shall be in force until rescinded or amended by regulations made under this Ordinance. Schedule.

14. This Ordinance shall come into operation on the day of _____, 1924. Commencement.

15. The following enactments are repealed:— Repeals.

- (1) section 6 (8) of the Summary Offences Ordinance, 1845, as amended by section 5 (b) of the Summary Offences (Amendment) Ordinance, 1918;

- (2) section 53 of the Public Health and Buildings Ordinance, 1903 ;
- (3) the Live Stock Import and Export Regulations published on pages 307 to 309 of the Regulations of Hongkong, 1914.

SCHEDULE.

[s. 3 (3).]

Import and export of cattle.

1. The master, owner, or agent of every ship importing into or exporting from the Colony more than ten head of cattle at any one time shall provide suitable food and fresh water for all cattle carried in the said ship sufficient for the intended voyage, and in addition shall provide—

- (a) for voyages of less than three days average duration, one day's extra ration for each head of cattle ; or
- (b) for voyages of more than three days average duration, two days extra rations for each head of cattle.

He shall also cause all the cattle carried in the said ship to be provided with a sufficient quantity of food and water in every twenty-four hours from the time of embarkation till the time of final disembarkation, and shall carry such number of men as shall be requisite to attend to the cattle on board. Such men shall not be employed on any other duties during the voyage.

2. Every such ship shall, if exporting cattle from the Colony, be inspected by the Colonial Veterinary Surgeon, who shall, if the requirements of these regulations have been observed, give a certificate to that effect to the master, which shall be produced by such master to the Harbour Master before such ship is cleared.

3. The Colonial Veterinary Surgeon and any officer of police and any inspector of the Society may board any ship or railway truck within the Colony at any time in order to ascertain whether the provisions of any regulations made under the Prevention of Cruelty to Animals Ordinance, 1924, have been or are being complied with.

4. The Harbour Master may, and, if requested so to do by the Colonial Veterinary Surgeon, shall refuse to grant a port clearance for any ship on board of which the provisions of any regulations made under the Prevention of Cruelty to Animals Ordinance, 1924, have not been or are not being complied with.

5. No cattle carried on any ship or train for import or export shall be secured by the nose, but all such cattle shall be tied by a halter of a length sufficient to permit the animal to lie down, and of a strength sufficient to bear the weight of the animal.

6. Every ship carrying more than ten head of cattle, for import or export, shall be provided with secure footholds for the use of the cattle on board, and shall be fitted with weather boards or other protection for such cattle from sun and rain and sea, and with a sufficient number of pens. No pen shall be constructed of bamboo and no pen shall accommodate more than four head of cattle (two calves under six months being counted as one). The pens shall be arranged so that the cattle stand athwartships and shall be substantially constructed and securely fastened so as to stand rough weather. The pens shall be cleansed at least once a day.

7. No ship shall carry more than two hundred cattle either into or out of the Colony at any one time.

8. All cattle conveyed in any ship shall, except as hereinafter in this regulation provided, have each of them not less than fourteen square feet of deck space allotted, and shall be provided with footholds to prevent them from slipping; and shall stand athwartships: Provided that, in the case of cattle under two years of age, the deck space allotted shall be fourteen square feet for every two such cattle.

Import and export of sheep and goats.

9. Sheep and goats shall not be carried on any ship except in substantially built pens, containing not more than forty in each pen; and three square feet of deck space shall be allowed per head.

Import and export of pigs.

10. Pigs carried on any ship or railway truck shall be kept in a pen containing not more than forty pigs, and three square feet of superficial area shall be allowed for each pig. For the purpose of this regulation, two pigs under eighty lbs. live weight shall count as one, and three pigs under fifty lbs. live weight shall count as one.

11. When carried in crates, on board a ship or railway truck, a separate crate shall be assigned to each pig, and crates shall be stacked two deep only. Where pigs are carried on any ship, an alleyway eighteen inches wide shall be left in order to allow food and water to be given; and the pigs' heads shall face the alleyway on either side.

Objects and Reasons.

1. The main object of this bill is to include within one measure the provisions which will give as clear notice as possible to the inhabitants of this Colony of acts which will be deemed to be acts of cruelty against "animals" which term includes (except as regards section 7, birds and every other creature.

2. Clause 2 contains an interpretation clause.

3. Clause 3, the provisions of which it is proposed to publish broadcast in the Chinese language, is the most important clause of the bill, as it explains in detail the various branches of cruelty which the bill prohibits, such as—

- (1) beating or ill-treating or overloading an animal;
- (2) by any act or omission causing or permitting any unnecessary pain or suffering to any animal;
- (3) importing or exporting any animal either by vessel or railway contrary to the regulations or in such a cramped space or crate or with such a lack of food or water as to subject such animal to unnecessary pain or suffering;
- (4) the conveyance or carrying of more than one cat or dog in one crate;
- (5) the conveyance of pigs which are either being imported or exported or else carried within the Colony in any crate or basket which is not of an improved type and closely woven enough to prevent the legs of the pigs from getting through.

- (6) the loading or discharge of any animal in such a way as to subject such animal to unnecessary pain or suffering, and by way of further explanation of (6) certain provisions are laid down for loading and discharge by means of slings and gangways.
- (7) importing or exporting, or driving, or transporting, or keeping under control in any premises, any animal in any way which subjects such animal to unnecessary pain or suffering, and the following instances are given of acts of cruelty under this sub-section, namely—
 - (a) the conveyance of fowls, dogs or cats in a crate which allows of the legs protruding ;
 - (b) the carrying of fowls either by the wings or legs or head downwards, and the tying together of the wings of fowls ;
 - (c) the carrying of pigeons, doves, or quail otherwise than in a basket or cage ;
 - (d) the overcrowding of fowls in a basket, crate or cage so as to cause them avoidable suffering ;
 - (e) the use of triangular crates or crates of insufficient strength for the carriage of fowls ;
 - (f) the loading of crates of fowls on lorries etc., more than three deep except where extra planking is provided.
 - (g) the sitting upon any crate containing fowls ;
 - (h) the carrying or keeping an animal in any cage or crate of such material as tends to lacerate such animal ;
 - (i) the failure by the keeper of a bird-shop to supply sufficient perches for all the birds in every cage ;
- (8) the mutilation or injury of captive animals or neglect or failure to supply them with sufficient food or water or causing them any unnecessary suffering ;
- (9) the keeping of any captive animal in premises insufficiently lighted or ventilated ;
- (10) the administration of any poisonous substance to any animal ;
- (11) the performance of any operation on any animal without due care and humanity ;
- (12) acts or omissions during the killing of any animal or its preparation for human food which inflicts avoidable or unnecessary suffering.

4. Clause 4 gives the magistrate power to order the destruction of an animal the owner of which has been convicted under the Ordinance, if satisfied that it would be cruel to keep the animal alive and also enacts that the owner may be ordered to pay any reasonable expense incurred in destroying the animal, with a safeguard calling in a duly qualified veterinary surgeon to certify that the animal ought to be destroyed, if the owner does not consent.

5. Clause 5 gives the magistrate power to deprive an owner of any animal which is treated cruelly, in addition to any other punishment.

6. Clause 6 gives power to order compensation to be paid by an owner for any damage to an animal or to any person or to any property.

7. Clause 7 gives power to have an animal destroyed on the certificate of a veterinary surgeon.

8. Clause 8 gives certain powers of arrest, entry and search, to the inspectors of the Society.

9. Clause 9 gives power to the police or an inspector of the S.P.C.A. to take charge of a vehicle or animal for the purpose of their being produced as evidence, in cases where the person in charge has been arrested under the Ordinance.

10. Clause 10 empowers the magistrate to order the employer to produce the driver of an animal or the owner to produce the animal itself.

11. Clause 11 prohibits the owner from parting with an animal pending an appeal, and provides for the production of such animal on appeal.

12. Clause 12 imposes a penalty for the breach of the Ordinance or any regulation of a fine not exceeding \$250 and imprisonment for any term not exceeding six months; and also enacts that the master of any vessel upon which various offences are committed shall, in addition to the actual offender, be deemed guilty of any such offence which occurs while he is on board such vessel.

13. Clause 13 contains the usual power for the Governor in Council to make regulations.

14. Clause 14 provides a date for the commencement of the Ordinance.

15. Clause 15 contains the necessary repeals.

16. The Schedule is taken almost verbatim from the Regulations made under the Live Stock Import and Export Ordinance, 1903, printed on pages 307 to 309 of Hodgson's Regulations of Hongkong, 1914, which are repealed by Clause 15.

J. H. KEMP,
Attorney General.

30th April, 1924.