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# EDWARDI VII REGIS.

A.D. 1909.

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## No. 997.

An Act to amend "The Prevention of Cruelty to Animals Act, 1908."

[Assented to, December 11th, 1909.]

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited alone as "The Prevention of Cruelty to Animals Act Amendment Act, 1909"; and the "The Prevention of Cruelty to Animals Act, 1908" (hereafter in this Act called "the principal Act") and this Act may be cited together as "The Prevention of Cruelty to Animals Act, 1908 and 1909."

Short title.

2. This Act is incorporated with the principal Act, and the principal Act and this Act shall be read together as one Act.

Incorporation with the principal Act.

3. (1) Whenever any person (hereinafter called "the defendant") is charged on information under the principal Act with knowingly or wantonly riding, driving, using, conveying, carrying, or packing any animal which was unfit for such use or treatment, or with an offence under section 7 of the principal Act, and the defendant desires to claim that the alleged acts were done or permitted, if at all, in the course of his employment by his master, the defendant may serve, or cause to be served, upon the person who he intends to allege was his master (hereinafter called "the alleged master"), a notice in writing stating the particulars of the charge and the time and place fixed for the hearing of the information.

Master to be liable where offence committed by his servant after notice to master.

(2) When

*The Prevention of Cruelty to Animals Act Amendment Act.—1909.*

(2) When such notice has been served the alleged master shall, for all purposes, be deemed to be charged on the information with the offence alleged therein as well as the defendant, and to have been duly served therewith.

(3) If at the hearing of the information, or any adjournment thereof, the Court finds the offence proved, the Court—

(a) Shall, if it is shown to its satisfaction—

- i. That the defendant was at the time of the commission of the offence the servant of the alleged master, and that the acts constituting the offence were done or permitted by the defendant in the course of his employment as such servant, and
- ii. That the defendant before committing the offence called the attention of the alleged master to the fact that the animal in respect of which it was committed was unfit for the use or treatment constituting the offence, or to the fact that notice under section 7 of the principal Act had been delivered directing that such animal was not to be used, according to the nature of the case,

find the alleged master guilty of the offence and discharge the defendant, but otherwise—

(b) Shall find the defendant guilty of the offence.

(4) If on the hearing of the information it appears—

- i. That the alleged master caused or permitted the act constituting the offence, and
- ii. That the defendant before committing the offence called the alleged master's attention to either of the facts mentioned in subdivision ii. of subsection (3),

the Court may, at the request of the defendant, cause notice to be served on the alleged master, requiring his attendance at an adjourned hearing. Upon such adjournment the Court shall, if satisfied that the matters mentioned in subdivisions i. and ii. of this subsection are proved and that the offence is proved, find the alleged master guilty and discharge the defendant.

(5) In any case in which an alleged master appears before the Court pursuant to notice served under this section, if the alleged master is found guilty the Court may order him to pay the defendant's costs, but otherwise may if of opinion that the notice was served without reasonable ground, order the defendant to pay the alleged master's costs: Provided that the fact that the alleged master is not found guilty shall not of itself be taken to show that the notice was served without reasonable ground: Provided also that the powers given by this subsection are in addition to any other powers of the Court as to costs.

(6) In

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*The Prevention of Cruelty to Animals Act Amendment Act.—1909.*

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(6) In this section "information" includes complaint, and "Court" means the Magistrate or Justices hearing the information.

In the name and on behalf of His Majesty, I hereby assent to  
this Bill.

DAY H. BOSANQUET, Governor.