

No. XXIX.

BIRDS PROTECTION

An Act to protect certain imported and other Birds. [20th December, 1881.]

Preamble.

WHEREAS it is expedient to encourage the importation and breeding of certain Birds not indigenous to the Colony of New South Wales and also to prevent the destruction of certain Native Birds during the breeding season Be it therefore enacted by the Queen'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 :—

Repeal of 42 Vic.
No. 10.

Commencement and
short title.

Interpretation of
terms.

Colonial Secretary
may add any bird
to Schedules.

Penalty on killing &c.
imported birds
within five years.

Penalty for killing &c.
protected birds
during the close
season.

Penalty for having
dead birds in
possession.

Punt guns not to be
used &c.

1. The Act forty-second Victoria number ten is hereby repealed.
2. This Act shall come into force immediately after the passing thereof and may be cited as the "Birds Protection Act of 1881."

3. The expression "Imported Bird" in this Act means any bird mentioned in or which may be added to the First Schedule hereto "Native Bird"—Any bird mentioned in or which may be added to the Second Schedule hereto "Song Bird"—Any bird mentioned in or which may be added to the Third Schedule hereto "Scheduled Bird"—A bird of any of the kinds or families mentioned in or which shall be added to any Schedule to this Act And "Close Season"—The period of time between every first day of September and twenty-eighth day of February then next succeeding both days inclusive.

4. Any bird not mentioned in the Schedules hereto may by direction of the Colonial Secretary by a notice published in the *Gazette* at any time hereafter be added to the appropriate Schedule to this Act and after the publication of such notice the provisions of this Act shall apply to such bird and the production of the *Gazette* containing such notice shall be conclusive evidence of such addition.

5. Any person who shall within a period of five years from the passing of this Act wilfully kill capture or injure or attempt or use any means whatever to kill capture or injure any imported or song bird shall for each such offence be liable to a penalty not exceeding five pounds in addition to any penalty he may incur by reason of any infringement of the next succeeding section.

6. Any person who shall during the close season wilfully kill capture or injure or attempt or use any means whatever to kill capture or injure any scheduled bird shall for each such offence be liable to a penalty not exceeding five pounds.

7. Any person who shall sell or offer for sale or shall have in his control or possession during the close season any scheduled bird recently killed or taken shall for every such bird be liable to a penalty not exceeding five pounds unless he shall prove that the bird was killed taken bought or received either during the period in which such bird could legally be killed or in or from another Colony.

8. No fire-arms having a greater length of barrel than six feet or with the bore exceeding one inch in diameter shall be used for the purpose of shooting any scheduled bird and no fire-arms of any description intended to be used for such purpose shall be affixed to any boat punt or floating vessel of any kind during any period of the year or be loaded with a charge exceeding four drachms of gunpowder or two ounces of shot and any person offending against the provisions of this section shall be liable to a penalty not exceeding ten pounds.

Birds Protection.

9. If any person shall take out of the nest or destroy in the nest the eggs of any scheduled bird he shall be liable to a penalty not exceeding the sum of ten shillings for each egg so taken or destroyed.

Penalty on taking or destroying eggs.

10. Nothing in this Act shall apply to the taking or killing of any bird in a domesticated state or ordinarily in confinement by the owner thereof or to the taking or destroying of the eggs of any such bird by him or to any eggs taken from or any such bird taken or killed within any mew or breeding place by the owner thereof Provided that the bird so killed or taken shall not have been originally caught or taken during the close season.

Act not to extend to birds domesticated.

11. Whenever any sheet of water island or enclosed land has been or shall be set apart by the Government or any private person for preserving any of the scheduled birds the Colonial Secretary may declare by notice in the *Gazette* such setting apart and the names of the birds intended to be preserved and thereafter any person other than the owner thereof who shall kill capture or injure any such bird within the limits of such water island or land shall be liable to a penalty not exceeding five pounds Provided that the Colonial Secretary may by a like notice cancel any such setting apart.

Birds may be protected in preserves.

12. It shall be lawful for any householder or constable to require any person offending against any of the provisions of this Act to give his name in full and place of abode And in case such person shall after being so required refuse to give his real name or place of abode or shall give a false or fictitious name he may be at once arrested and taken before some Justice of the Peace and shall be liable for every such offence to an additional penalty not exceeding five pounds.

Penalty for refusing to give name place of abode &c.

13. All informations or charges for offences against this Act may be heard and determined in a summary way before one Justice of the Peace in accordance with the provisions of the Act or Acts for the time being in force with reference to summary proceedings before Justices of the Peace subject to the right of appeal to the next Court of Quarter Sessions holden nearest to the place of conviction and in all cases the defendant shall be a competent witness.

Prosecution of offences.

14. All penalties recovered under this Act shall be paid—one-half to the person who in the opinion of the convicting Justice of the Peace shall have given such information as led to the conviction and one-half to the Zoological Society.

Disposal of penalties.

15. This Act shall not apply to any aboriginal native of Australia who may kill or take any bird for his own use nor to any person authorized by the Colonial Secretary to collect specimens of natural history for any scientific institution or museum.

Not to apply to aboriginals.

Birds Protection.

SCHEDULES.

THE FIRST SCHEDULE.

Imported Game.

Pheasant.		Californian Quail.
Partridge.		Chinese Quail.
Grouse.		White Swan.

THE SECOND SCHEDULE.

Native Game.

Wild Duck of any species.		Mallee Hen.
Teal.		Lyre Bird.
Emu.		Quail.
Native Companion.		Land Rail.
Wild Turkey or Bustard.		Tallegalla or Brush Turkey.
Black Swan.		Plover Spur-wing.
Wild Geese.		
Bronze-winged and other Wild Pigeons and Doves.		

THE THIRD SCHEDULE.

Song Birds—Native and Imported.

Robin.		Flycatcher.
Nightingale.		Great Kingfisher—commonly known as the Laughing Jackass.
Skylark.		Swift.
Linnet.		Peewit.
Thrush.		Reed Sparrow.
Starling.		Colonial Lark.
Blackbird.		Indian Minah.
Goldfinch.		American Mocking Bird.
Chaffinch.		Magpie other than the black Magpie.
Blue Wren.		Curlew.
Wagtail.		Regent Bird.
Honeysucker.		Rifle Bird.
Diamond Sparrow		