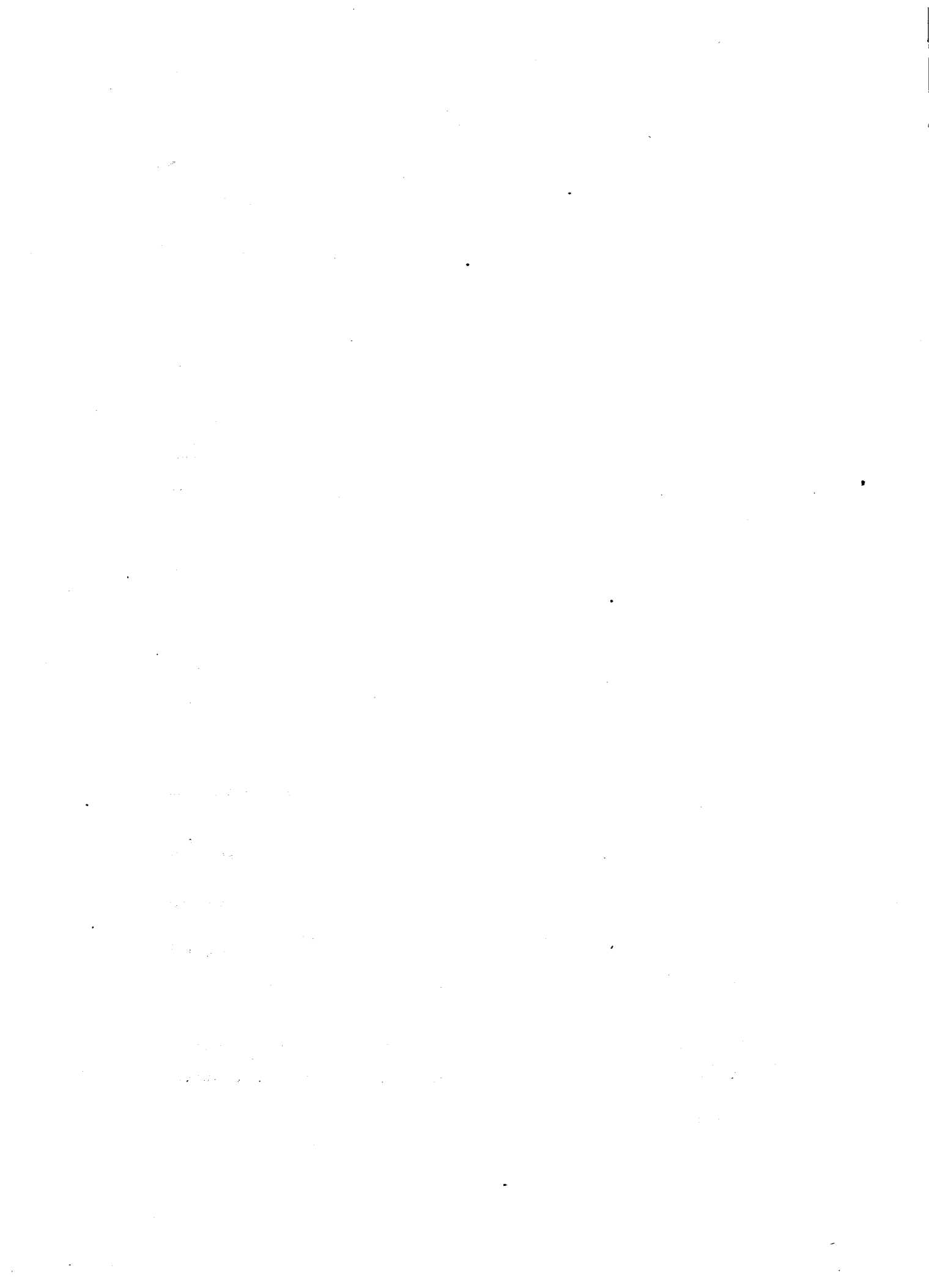


TASMANIA.

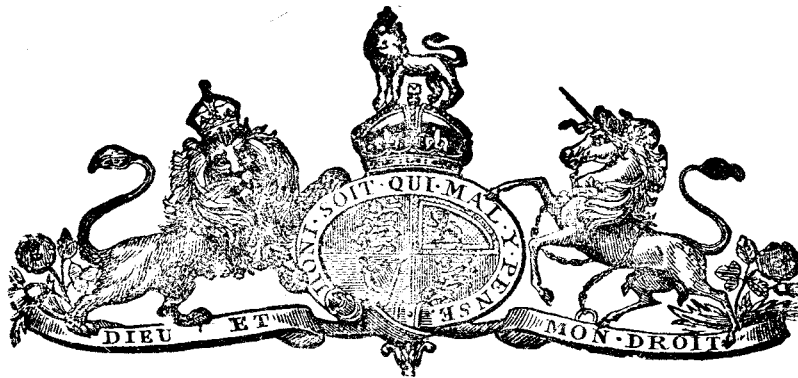
THE ANIMALS AND BIRDS PROTECTION ACT, 1928.

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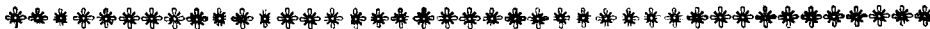


1928.

ANNO NONO DECIMO

GEORGII V. REGIS.

No. 51.



AN ACT to provide for the Protection and Conservation of the Wild Animals and Birds of the State, and for other purposes.

A.D.
1928

[15 January, 1929.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as "The Animals and Birds Protection Act, 1928," and shall come into operation on a day to be fixed by proclamation.

Short title and commencement.

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Repeal.

Proviso.

10 Geo. V. No.56.

2 The Acts mentioned in Schedule (1) are hereby repealed: Provided, however, that where any proclamation has been made under Paragraphs IV. or V. of Section Nine of the Animals and Birds Protection Act, 1919, such proclamation shall remain in force until revoked or superseded under this Act, and shall in the meantime be deemed to have been made under this Act.

Interpretation.

Interpretation.

3 In this Act, unless the context otherwise indicates or requires—

“Animal” means any wild animal of any kind, whether indigenous or exotic, other than a bird:

“Approved society” means any society the constitution and the rules of which have been approved by the Governor under this Act:

“Board” means the Animals and Birds Protection Board constituted under this Act:

“Boat” means any ship, vessel, or boat of any description whatsoever:

“Carcase,” when used with reference to any animal or bird, includes any part of the carcase:

“Chairman” means the Chairman of the Board:

“Close season,” where used with reference to any partly protected animal or partly protected bird, means the period of time during which the taking of such animal or bird is prohibited by law:

“Commissioner” means the Commissioner of Police or the person for the time being acting in the place of the Commissioner:

“Crown land” means any land which is vested in the Crown, and which is not granted or lawfully contracted to be granted in fee simple; and includes all land which is held for mining, pastoral, or other purposes under any lease, licence, or other authority by or from the Crown, or any person on behalf of the Crown:

“Crown reserve” means any Crown land reserved or set aside for any of the purposes of this Act:

“District” means any part of the State declared to be a district for the purposes of this Act:

“Engine” includes every snare, net, gun, rifle, trap, boat, vehicle, lamp, implement, apparatus, appliance, instrument, or thing intended or capable of being used for taking or facilitating the taking of animals or birds:

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- “Kangaroo” includes every member of the family *Macropodidæ* except the Tasmanian Great or Forester Kangaroo (*Macropus giganteus*); but does not include the Kangaroo Rat: A.D. 1928.
- “Member” means member of the Board:
- “Minister” means the Attorney-General for the time being of the State:
- “Mutton-bird” means the Short-tailed Petrel (*Puffinus tenuirostris*):
- “Officer” means any officer appointed by the Board for the purposes of this Act:
- “Opossum” means and includes every animal of the family *Phalangeridæ*; the term includes the Black Brush Opossum, the Grey Brush Opossum, and the Ringtail Opossum; but does not include the Flying Squirrel or Opossum Mouse:
- “Sanctuary” means any land declared under the provisions of this Act to be a sanctuary:
- “Schedule” means schedule to this Act:
- “Skin,” when used with reference to any animal, includes any part of the skin of such animal; but does not include a skin which has been tanned or dressed:
- “To buy” includes to receive or accept under an agreement to sell, and to offer to receive or accept, or cause or suffer to be received or accepted under an agreement to sell; and every derivative of the verb “to buy” shall be similarly construed:
- “To sell” includes—
- I. To barter or exchange;
 - II. To agree to sell, barter, or exchange;
 - III. To offer, expose, store, have in possession, send, consign, or deliver for or on sale;
 - IV. To receive for sale;
 - V. To cause or suffer to be sold, bartered, or exchanged, or to agree to be sold, bartered, or exchanged;
 - VI. To cause or suffer to be offered, exposed, stored, had in possession, sent, consigned, or delivered, for or on sale; and
 - VII. To attempt or assist to do or in doing any of such acts and things as aforesaid—

and every derivative of the verb “to sell” shall be similarly construed:

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“To take” includes to hunt, pursue, catch, shoot, net, snare, destroy, kill, pluck, or injure, or to attempt or assist to do or in doing any of such acts and things aforesaid; and any derivative of the verb “to take” shall be similarly construed.

Application of Act.

Application of Act

4 This Act shall not apply to whales or seals.

Protection of Animals and Birds.

Animals wholly protected.

5—(1) The animals and birds for the time being included in Schedule (2) are wholly protected animals and birds.

Partly protected.

(2) The animals and birds for the time being included in Schedule (3) are partly protected animals and birds.

Unprotected.

(3) The animals and birds for the time being included in Schedule (4) are unprotected animals and birds.

Powers of Governor.

Powers of the Governor.

6 The Governor may, on the recommendation of the Board, by proclamation—

- I. Reserve any Crown lands—
 - (a) To be hunting grounds for mutton-birds; or
 - (b) To be set aside for any purposes in connection with the general or any special objects of this Act:
- II. Declare any Crown land and, with the consent of the owner thereof, any other land, to be a sanctuary with respect to animals and birds generally, or to any particular kind of animal or bird:
- III. Declare any part of the State to be a district for the purposes of this Act, and abolish any district:
- IV. Approve of the constitution and rules of any society formed for the furtherance of the objects of this Act:
- V. Subject to any conditions or limitations as he shall think fit, place any sanctuary or Crown reserve under the immediate permanent or temporary control of an approved society:

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- VI. Transfer the name of any animal or bird from either of the Schedules (2), (3), or (4) to another of the said schedules, or add the name of any animal or bird to any schedule; or amend any schedule: A.D. 1928.
- VII. Revoke, vary, or supersede any proclamation under this Act.

The Animals and Birds Protection Board, Constitution, Procedure, &c.

7—(1) For the purposes of this Act there shall be constituted a Board of nine members to be called "The Animals and Birds Protection Board," which shall, under that name, be a body corporate, with perpetual succession and a common seal, and may hold land, and may sue and be sued in its corporate name. Constitution of Board.

(2) The Commissioner of Police shall, *ex officio*, be a member of the Board and the Chairman thereof. Commissioner of Police to be, *ex officio*, Chairman.

(3) The eight other members of the Board shall be appointed by the Governor, of whom one shall be so appointed to represent each of the following bodies of persons or associations, namely:— Eight members to be appointed by the Governor.

- I. The trappers and hunters of the State:
- II. The fur-skin merchants of the State:
- III. The Tasmanian Farmers', Stockowners', and Orchardists' Association:
- IV. The Agricultural Bureau of Tasmania:
- V. Associations or societies interested in or concerned with the science of zoology:
- VI. The Municipal Association of Tasmania:
- VII. The Game Protection and Acclimatisation Association of Tasmania—

and the remaining member to be so appointed shall be such person as the Governor shall determine.

(4) Each of the members to be appointed on the first appointment of members to the Board shall, subject as hereinafter mentioned, hold office for a term of four years from the date of his appointment, and thereafter each member to be appointed shall, subject as aforesaid, hold office for a term of three years from the date of his appointment. Term of office of appointed member.

(5) If any appointed member shall die, resign, or be removed from office, or be declared by the Governor to be disqualified from continuing to hold office, a successor shall be appointed by the Governor, who shall hold office for the unexpired portion of his predecessor's term of office. Casual vacancies.

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Disqualifications.

(6) Without prejudice to the power of the Governor to remove any appointed member of the Board from office, the Governor may declare any such member to be disqualified from continuing to hold office if he—

- I. Votes at any meeting of the Board in respect of any contract or agreement, or proposed contract or agreement, with the Board, in which he is (otherwise than as a member of the general public, or as a shareholder in, but not being a director of, any incorporated company, in which there are more than twenty members) directly or indirectly interested, or if he remains at any meeting of the Board while the subject-matter of any such contract or agreement is under discussion: or
- II. In any way participates, or claims to be entitled to participate, in the profit of, or in any benefit or emolument arising from any such contract or agreement as aforesaid: or
- III. He is absent without leave of the Board from three consecutive meetings of the Board.

Deputy members may be appointed.

8—(1) In case of the illness or absence of an appointed member of the Board the Governor may appoint some person to act as his deputy during such illness or absence, and until such appointment is terminated by notice in the Gazette.

(2) Every person so appointed shall, while so acting, have all the powers and perform all the duties of the person for whom he was appointed deputy.

Judicial notice to be taken of common seal, &c., of the Board.

9 All courts and persons acting judicially shall take judicial notice of the common seal of the Board, and of the signatures of the Chairman and the appointed members thereof, and their deputies, and of the fact of their respective appointments.

Expenses of members of Board.

10 Each member of the Board shall be entitled to be paid, out of the funds at the disposal of the Board, all such travelling and other out-of-pocket expenses as shall have been reasonably incurred by him in the performance of his duties as such member. The amount of such expenses shall in each case be certified by the Chairman.

Chairman's voting power

11—(1) The Chairman of the Board shall have a deliberative vote only.

Board may act notwithstanding vacancy.

(2) The Board may act notwithstanding a vacancy in its membership.

Quorum.

(3) Any seven members of the Board shall form a quorum for the transaction of business.

Animals and Birds Protection.

(4) If the Chairman is absent from any meeting of the Board at the time appointed for the holding thereof, one of the members present shall preside, and shall have a deliberative vote only.

(5) Subject to this Act the Board may regulate its own procedure.

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Absence of
Chairman from
meeting.Procedure of
Board.*Contracts of the Board.*

12 Contracts on behalf of the Board may be made, varied, or discharged as follows:—

How contracts to
be entered into.

I. Any contract which, if made between private persons, would by law be required to be in writing under seal may be made, varied, or discharged in the name and on behalf of the Board in writing under its common seal:

II. Any contract which, if made between private persons would by law be valid, although made by parol only signed by the parties to be charged therewith, may be made, varied, or discharged in the name and on behalf of the Board in writing, signed by any person acting under its express or implied authority:

III. Any contract which, if made between private persons, would by law be valid, although made by parol only and not reduced into writing, may be made, varied, or discharged by parol, in the name and on behalf of the Board, by any person acting under its express or implied authority.

Powers and Functions of the Board.

13 The Board shall have such powers, and shall perform such duties and functions, as are conferred or imposed upon it by this Act.

General power of
Board.

14 The Board may, with the consent in writing of the Minister, appoint a Secretary to the Board, and all such inspectors, clerks, bailiffs, rangers, and other officers as may be necessary for the purposes of this Act, and may pay to such Secretary and other officers, out of any funds at the disposal of the Board, such remuneration, by way of salary or otherwise, as may be approved by the Minister.

Board may
appoint secretary
and other officers.

15 The Board shall cause minutes to be kept, in a book to be provided for that purpose, of the proceedings at meetings of the Board, and of the attendance of members thereat. Minutes of the proceedings at any meeting of the Board shall be signed by the Chairman at the next ordinary meeting, and such minutes, so signed as aforesaid, shall be *prima facie* evidence in all judicial proceedings of the matters therein recorded.

Board to cause
minutes to be
kept.

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Board may enter into contracts, &c.

16 The Board may enter into all such contracts, buy and sell all such property, offer and pay all such rewards, and incur all such expenditure as it shall deem necessary or convenient for the purpose of carrying out its powers, duties, and functions under this Act.

Commissioner of Police may detail members of Police Force for duty as rangers.

17—(1) The Commissioner may detail members of the Police Force for special duty as rangers, who shall perform such functions and duties under this Act as the Board shall from time to time assign to them.

Commissioner may make available services of his clerical staff.

(2) The Commissioner may make available the services of any of the members of the clerical staff of the Police Department to assist the Board in carrying out its powers, duties, and functions under this Act.

Regulations.

18—(1) The Board may, with the approval of the Governor, make regulations—

- I. Providing generally the conditions under which the taking of partly protected animals and partly protected birds may be carried on:
- II. Providing for the licensing of persons engaged in taking partly protected animals or partly protected birds, or any kind or species thereof; regulating the issue, forms, terms, and conditions, duration, suspension, and cancellation of such licences, and the fees to be paid in respect thereof:
- III. Prohibiting persons from taking partly protected animals or partly protected birds of any kind or species without being licensed for that purpose, or in any manner or place not authorised by their licences:
- IV. Prescribing the times, seasons, and places at which the taking of the several kinds of partly protected animals and partly protected birds, shall commence or cease, or be prohibited or permitted, and the conditions as to or the restrictions on such taking:
- V. Prohibiting, either generally or in any prescribed places, or for any prescribed periods, the taking of any particular kind or species of partly protected animal or partly protected bird, or the male or female thereof, or the eggs of any such bird, or the destroying of the nests of any such bird:
- VI. Prescribing the maximum number of any particular kind or species of partly protected animal or partly protected bird or of the male or female thereof, which any one person may take or have in his possession in any one day or within any prescribed period:

Animals and Birds Protection.

- VII. Prescribing generally the conditions under which partly protected animals and partly protected birds, or any particular kind or species thereof, may be taken or had in possession; and prohibiting the taking or having in possession of partly protected animals or partly protected birds, or any kind or species thereof, or the carcasses, skins, or eggs thereof, except under prescribed conditions: A.D. 1928
- VIII. Prohibiting the taking in any specified manner, or by any specified means, of partly protected animals and partly protected birds, or any kind or species thereof:
- IX. Prohibiting or regulating the buying, selling, or having in possession, at such times or seasons as shall be prescribed, of the carcass, skin, or any part of any kind or species of partly protected animal or partly protected bird:
- X. Providing that all or any partly protected animals or birds, of any kind or species, or the carcasses, skins, or eggs thereof, intended for sale or export, be inspected by an officer of the Board; prescribing the places where such inspection shall take place, and the fees to be paid for such inspection; and prohibiting the sale or export of any partly protected animal or partly protected bird of any kind or species, or the carcass, skin, or eggs thereof, which has not been so inspected:
- XI. Prohibiting the taking, buying, selling, exporting, dealing in any manner with, or having in possession of, wholly protected animals or wholly protected birds, or the carcasses, skins, or any parts thereof, or the eggs of any such birds:
- XII. Prohibiting the exportation, or having in possession for the purpose of exportation, of any kind or species of partly protected animal or partly protected bird, or the eggs of such bird:
- XIII. Imposing and prescribing royalties to be paid in respect of the taking of any particular kind or species of partly protected animal or partly protected bird:
- XIV. Prohibiting the tanning or dressing of the skins of partly protected animals, or any kind or species thereof, where such skins have not been marked to indicate that the prescribed royalties (if any) payable in respect of the taking thereof have not been paid:
- XV. Prescribing the description, form, or size, of snares, nets, guns, traps, or other engines that may be used or shall be prohibited in the taking of partly

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- protected animals or partly protected birds, and prohibiting or regulating the use, or the use in any place, or the possession of any particular kind of snare, net, gun, trap, or other engine for taking any kind or species of partly protected animal or partly protected bird:
- XVI. Prohibiting generally the use, or having in possession of searchlights, lamps, lanterns, or any other kind of lights, for the purpose of taking partly protected animals or partly protected birds, or any kind or species thereof; or prohibiting the use or possession for the purpose aforesaid of any particular kind of light or lighting apparatus:
- XVII. Providing for the inspection and identification of the skins of partly protected animals, or of any kind or species thereof, taken by or in the possession of persons, or specified classes of persons; requiring such persons, or classes of persons within prescribed times to produce such skins to prescribed officers and at prescribed places, for the purpose of having the same examined and identified, and the particulars thereof recorded; and providing for the marking of all such skins as have been so inspected, either for purposes of identification, or to indicate that the prescribed royalties have been paid thereon, or for any other purpose:
- XVIII. Providing for the licensing of persons, or specified classes of persons, buying or selling the skins of partly protected animals, or any kind or species thereof; regulating the issue, forms, terms, and conditions, duration, suspension, and cancellation of such licences, and the fees to be paid in respect thereof; and prohibiting persons from buying or selling any such skins, without being licensed for the appropriate purpose, or from buying or selling the same, except in accordance with the terms and conditions of their licences:
- XIX. Providing for the collection and recovery by or on behalf of the Board of fees, charges, royalties, and other moneys payable under this Act:
- XX. Providing for the production to such persons, at such times and places, and on such occasions as shall be prescribed, of licences and permits issued or granted under this Act:
- XXI. Providing for licencees to keep records of the taking buying, selling, dealing with, or having in possession of partly protected animals, or any kind or species thereof, or the carcasse or skins thereof; for the furnishing by such licencees, to prescribed

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- officers and at prescribed times, of returns of all or any of the matters aforesaid; and for prescribing the forms of the records to be kept and the returns to be furnished as aforesaid:
- XXII. Regulating the lighting of fires upon any sanctuary or Crown reserve for any of the purposes of this Act, and prohibiting the lighting of fires thereon during the prescribed periods:
- XXIII. Regulating or prohibiting the use, in any specified district, sanctuary, or other place, of motor-boats, or other boats, either generally or at prescribed periods or times:
- XXIV. Providing for the sale or disposal of anything forfeited to His Majesty by the Board:
- XXV. Providing for the preservation of good order among persons engaged in taking partly protected animals or partly protected birds:
- XXVI. Providing for the custody of the common seal of the Board, and prescribing the manner of affixing the same to all documents executed by the Board:
- XXVII. Prohibiting the doing of any matter or thing whatsoever, tending, in the opinion of the Board, to be detrimental to the wholly protected or partly protected animals and birds of the State, or the conservation thereof:
- XXVIII. Providing for or prescribing any other matter or thing for which regulations are contemplated by, or which the Board thinks expedient for the purpose of giving effect to the provisions of, this Act, or which in any manner relates to the protection or conservation of the wholly protected or partly protected animals or birds of this State:
- XXIX. Imposing penalties for breaches of the regulations with power to impose a minimum penalty for the breach of any regulation, and different penalties for successive breaches, and daily penalties for continuing breaches, but so that no penalty for the breach of any regulation shall exceed Fifty Pounds, nor, in the case of a continuing breach, Five Pounds in respect of any day during which the breach is continued; and with power also to impose a special penalty not exceeding Five Pounds in respect of each and every animal or bird of any kind or species taken, bought, or sold, or in the possession of any person in breach of the regulations, and a special penalty of the like amount in respect of each and every snare, net, gun, trap, or other engine, lamp, lantern, or other light, used or in the possession of any person in breach of the

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regulations; and such special penalties may be in addition to any other penalties imposed for such breaches:

xxx. Providing for the issue of permits to any person to kill or destroy any animal or bird found on the property of such person and committing any damage or injury to his crops or property, or whose presence on such property is likely to cause such damage or injury, and the conditions generally subject to which such animals or birds may be killed or destroyed, and for the disposal of the skins of such animals or birds and the net proceeds of the sale thereof:

(2) Any such regulation may be made to apply throughout the State or to any district, area, or locality.

(3) Notwithstanding anything contained in the foregoing provisions of this section, or any regulation to be made thereunder, the times and seasons during which kangaroo and wallaby shall be permitted to be taken within the Municipality of King Island shall be the months of May, June, and July in every year.

Board may make investigations, experiments, &c.

19 The Board may—

- I. Make such research, enquiries, and investigations as it thinks fit with respect to any matters relating to or concerning animals or birds, whether the same are indigenous to the State, or have been acclimatised therein, or otherwise:
- II. Establish and carry on experimental zoological stations and experimental fur farms, and carry on all such experimental operations as it may deem expedient in connection with all or any of the animals or birds aforesaid: and
- III. Subject to this Act, introduce into the State animals or birds of any kind or species whatsoever which it considers that it would be in the interests of the State to so introduce.

Prohibition of introduction of certain animals and birds into the State.

20—(1) The Board may recommend to the Governor to prohibit the introduction into the State of animals or birds of any kind or species whatsoever which the Board considers that it would be contrary to the interests of the State to so introduce; and the Governor may, upon such recommendation, by proclamation, prohibit the introduction into the State of animals or birds of any kind or species mentioned in such recommendation.

(2) Any person, who, after the coming into effect of any such proclamation as aforesaid, introduces or causes to be introduced, or is concerned in the introduction of, any animal or bird

Animals and Birds Protection.

of the kind or species mentioned in such proclamation, shall be guilty of an offence against this Act. A.D. 1928.

Penalty: Fifty Pounds.

21—(1) Notwithstanding anything in this Act, the Board may grant permits for the taking on any Crown lands, or on any other land with the consent of the occupier of such land, of animals or birds, of any kind or species, or the eggs of such birds, for scientific or educational purposes, or, in the case of such animals or birds, for the purpose of the same being kept in confinement or in a domesticated state. Permits to take animals and birds for certain purposes.

(2) Every permit granted hereunder may be issued subject to such restrictions and upon such terms as the Board thinks fit: Provided that—

- I. Every permit shall be liable to revocation at any time by the Board:
- II. Every permit shall specify a period during which the same shall remain in force unless revoked before the expiration of such period: and
- III. In no case shall such period exceed twelve months.

22—(1) The Board may, notwithstanding anything in this Act to the contrary, by order in writing, signed by the Chairman or Secretary of the Board— Permits in other cases.

- I. Authorise the trustees or manager of any public gardens, grounds, or exhibition to have and keep in their possession or control any animals or birds specified in such order, or the skin, or flesh, or eggs thereof: and
- II. Authorise any person to retain in a state of domestication or captivity such animals or birds as are so specified.

(2) The Board may at any time revoke any order made by the Board under Subsection (1) of this section.

23 All sanctuaries and Crown reserves shall be under the general management and control of the Board in all matters affecting the animals and birds therein. Sanctuaries, &c., to be under general control of the Board.

24 All animals and birds with respect to which a sanctuary has been declared shall, within such sanctuary, be deemed to be wholly protected animals and wholly protected birds, notwithstanding that they are elsewhere only partly protected or are unprotected: Provided that the Board may, upon the recommendation of the approved society, if any, controlling the sanctuary, or at its own discretion where no such society controls the sanctuary, grant permits for the taking of animals and birds Sanctuaries.

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generally, or any particular kind of animal or bird, within such sanctuary upon such terms and conditions as the Board shall think fit.

Dogs may be destroyed.

(2) Any dog found upon any sanctuary may be destroyed by any officer of the Board, or any person in charge of, or exercising any supervision over such sanctuary, if such dog is not under the proper and efficient control of some person having lawful business in such sanctuary, or if such officer or first-named person is of opinion that the presence of such dog in the sanctuary is causing, or is likely to cause, injury to, or to disturb, any of the animals or birds in the sanctuary. The destruction of any dog under the provisions of this subsection shall not render any person effecting such destruction liable to any action or proceeding in respect of such destruction.

Finance.

Funds at disposal of the Board.

25—(1) The funds at the disposal of the Board for the purposes of this Act shall consist of all moneys at any time appropriated by Parliament out of the Consolidated Revenue for the use of the Board.

(2) All such moneys as and when received by the Board shall be paid into the Commonwealth Bank of Australia to the credit of an account to be called "The Animals and Birds Protection Board Account." Such account shall be operated upon only by cheque signed by two members of the Board and countersigned by the Secretary, or some other officer of the Board authorised in that behalf by the Minister.

9 Geo. V. No. 3,

(3) The provisions of the Audit Act, 1918, with respect to the moneys and accounts of local authorities, except Section **32a** of the lastmentioned Act, shall apply to the moneys aforesaid, and to the accounting therefor, as if the Board were a local authority within the meaning of those provisions.

Other moneys received by Board to be paid into Consolidated Revenue.

26—(1) All moneys received by or on behalf of the Board, other than those referred to in the immediately preceding section of this Act, shall be paid into the Consolidated Revenue.

(2) The Board may make arrangements with the Commissioner of Police for the collection by the Commissioner of all moneys payable to the Board, other than those referred to as aforesaid, and for the payment by him into the Consolidated Revenue of all such moneys, and if any such agreement is made the Commissioner shall, for the purposes of the Audit Act, 1918, be deemed to be the collector of such moneys.

Powers of Officers.

Officers to have police powers.

27 Every officer is hereby empowered, for the enforcement of the provisions of this Act, to exercise the powers and authorities of a member of the Police Force.

Animals and Birds Protection.

28—(1) For the purposes of this Act every member of the Police Force shall have, and may exercise, all or any of the powers and authorities conferred by this Act on an officer; and whenever in this Act reference is made to an officer, such reference shall, unless the context otherwise requires, include a reference to a member of the Police Force.

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—
Members of Police Force to have powers of officers.

(2) Any officer exercising any power or authority, or carrying out any duty, conferred or imposed on him by this Act, may employ such persons as he thinks fit to assist him in so doing, and no person so employed shall incur any liability by reason of his rendering any such assistance.

Officers may employ assistants.

29 The production by any officer appointed by the Board of his appointment in writing, or of a copy of the Gazette containing a notification of such appointment, shall be sufficient authority for such officer to do all such acts and things as he is required or empowered to do under this Act; but it shall not be necessary for any member of the Police Force doing any such acts or things to produce any authority for so doing.

Production of authority.

30 It shall be lawful for any officer—

Further powers of officers.

- I. To enter and search any premises, boat, or place—
 - (a) Where there is, or he suspects there is, any animal, or the carcase, or skin, or any part of any animal or any bird, or the carcase of any bird, or any eggs, taken, or which he suspects to have been taken, in contravention of the provisions of this Act; or
 - (b) Where there is, or he suspects there is, any property liable to forfeiture under this Act; or
 - (c) Where any animal, or the carcase, or skin, or any part of any animal, or any bird, or the carcase of any bird, is on sale, or in which he believes the same to be on sale:
- II. Search any vehicle or boat, or (whether *in transitu* or not) any box, receptacle, or package, and open any box, receptacle, or package, containing, or which he suspects to contain, any animal or bird, or any eggs, carcase, or skin taken, or which he suspects to have been taken, in contravention of the provisions of this Act, or any property which he has reason to believe to be liable to forfeiture under this Act, and examine any such animal or bird or eggs, carcase, skin, or property:
- III. Seize any property forfeited by, or which he has reason to believe to be liable to forfeiture under, this Act:

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- IV. Demand the production of any licence or permit issued under this Act:
- V. Demand the name and address of any person whom he has reason to suspect of any offence against the provisions of this Act:
- VI. Require any person trespassing upon any sanctuary or Crown reserve to quit such sanctuary or reserve;
- VII. Take into custody any person offending against the provisions of this Act who—
- (a) Refuses on demand to give his name in full and address; or
 - (b) In the opinion of such officer gives a false name or address; or
 - (c) When required by such officer to quit a sanctuary or Crown reserve, refuses or fails to do so forthwith; or
 - (d) Does not deliver up to such officer on demand every animal and bird, and the carcase and skin of every animal and the carcase of every bird, and all eggs, and every engine or article in his possession or under his control: and
- VIII. Do any other thing prescribed or which may be necessary or expedient for enforcing the provisions of this Act, or for detecting offences against this Act, or for preventing evasions of this Act.

Forfeitures, Offences, &c.

Forfeiture of animals, birds, engines, &c.

31 Every animal or bird, and the carcase and skin of every animal and the carcase of every bird, and all eggs taken and every engine or article used, or intended to be used, in contravention of any provision of this Act, is hereby forfeited to the Board, and shall be disposed of as the Board may determine or prescribe, and the forfeiture and disposal thereof shall not confer any right to compensation upon any person.

Penalty for importing fox, &c.

32 Every person who imports or brings into this State any fox, wolf, wild dog, or dingo shall be guilty of an offence against this Act.

Penalty: Not less than Twenty-five Pounds nor exceeding One hundred Pounds for every such animal.

Ferrets not to be at large.

33 No person shall allow any weasel or ferret to go at large.
Penalty: Ten Pounds.

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- 34** Notwithstanding anything in this Act, when the commission of any offence against this Act, or the regulations, involves a forfeiture of any engine or article, the conviction of any person for such offence shall have effect as a condemnation of such engine or article, without the necessity of any complaint being laid for such condemnation. A. D. 1928
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Conviction to operate as a condemnation.
- 35** No person shall be liable for any seizure under this Act for which there shall have been reasonable cause. Reasonable cause for seizure a bar to action.
- 36** All penalties shall be in addition to any forfeiture. Penalties in addition to forfeiture.
Prosecutions.
- 37** All offences against this Act, and all penalties and forfeitures incurred thereunder or imposed thereby, and the liability to forfeiture of any engine or article may (except as in this Act otherwise provided) be prosecuted, determined, recovered, and enforced, before and by a police magistrate, or any two or more justices, in the mode prescribed by the Justices' Procedure Act, 1919, the provisions whereof shall apply, save so far as may be otherwise provided by this Act. 10 Geo. V. No. 55.
- 38** When any complaint shall have been laid before a justice against any person for the forfeiture of any engine or article seized under this Act, such justice is hereby required to summon such person to appear before a police magistrate or any two or more justices, and upon his appearance or default to appear, due service of such summons being proved, such magistrate or justices may proceed to the examination of the matter, and, on proof that the engine or article is liable to forfeiture, may condemn the same. Justices may condemn goods liable to forfeiture.
- 39** Condemnation under this Act of any engine or article by any magistrate or justices, or as the result of any conviction by such magistrate or justices, may be proved in any court of justice, or before any competent tribunal, by production of a certificate of such condemnation purporting to be signed by the magistrate or justices, or an examined copy of the record of such condemnation, certified by the clerk of petty sessions. Evidence of condemnation or forfeiture.
- 40**—(1) It shall be lawful for the Governor— Governor may restore seizure and mitigate penalty.
- I. To direct that any engine or article whatsoever seized under this Act be delivered to the owner thereof, whether condemnation shall have taken place or not: and
- II. To relieve from any penalty, in whole or in part—
on such terms and conditions (if any) as the Governor shall think fit,

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(2) No person shall be entitled to the benefit of any order for such delivery or relief unless such terms and conditions (if any) are fully and effectually complied with.

(3) If such owner accepts the terms and conditions prescribed by the Governor, or accepts the benefit of any such order under this section, he shall not have or maintain any action for recompense or damage on account of any seizure, detention of, or interference with any such engine or article, and the person making the seizure shall not proceed in any manner for condemnation, if such condemnation has already not taken place.

Apprehension of offenders.

41 When any person is found offending against this Act it shall be lawful for any person to require the person so found offending forthwith to desist from such offence, and also to state his name and place of abode; and in case such person wilfully continues such offence, it shall be lawful for the person so requiring as aforesaid, and also for any person acting by his order and in his aid, to apprehend such offender, and to seize any engine or article unlawfully used by such offender, and to convey him, or cause him to be conveyed, as soon as conveniently may be, before a justice to be dealt with according to law: Provided always that no person so apprehended shall, on any pretence whatsoever, be detained for a longer period than twenty-four hours from the time of his apprehension before he is brought before a justice; and that if he cannot, on account of the absence, or distance of the residence or place of business, of any such justice, or owing to any other reasonable cause, be brought before a justice within such twenty-four hours as aforesaid, then the person so apprehended shall be discharged, but may, nevertheless, be proceeded against for his offence by summons or warrant as if no such apprehension had taken place.

Effect of permit to take animals or birds for scientific purposes or for domestic pets.

42—(1) Nothing in this Act shall render unlawful anything done by any person to whom a permit has been granted by the Board to take any animals or birds, or the eggs of any birds, for scientific or educational purposes, or to take any animals or birds for the purpose of the same being kept in confinement or in a domesticated state: Provided that such thing is within the authority conferred by such permit.

Domestic pets.

(2) Notwithstanding anything in this Act, any person may keep any animal as a domestic pet.

Pheasants, &c., may be kept in enclosures.

43 Nothing in this Act shall be deemed to prohibit the keeping, subject to any prescribed conditions, in any mew or other enclosure, of pheasants, partridges, or grouse, or any prescribed exotic animals or birds, for acclimatisation or other purposes, or the disposal, subject as aforesaid, of the young or eggs of any such animals or birds aforesaid.

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44—(1) Nothing in this Act shall be deemed to authorise any person, holding any licence issued under this Act—

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- I. To take any partly protected animal or partly protected bird, except during the time prescribed for such taking: or
- II. To go upon any land leased from the Crown for the purpose of taking any partly protected animal or partly protected bird, or the eggs of any such bird, without the consent in writing of the Board or the Chairman being first obtained for that purpose.

Effect of licence.

(2) Such consent as is referred to in Subsection (1) of this section may be granted by the Board or the Chairman upon application being made as prescribed, and such consent may be granted upon such terms and conditions as the Board or the Chairman may in any particular case determine.

Provided, however, that no such consent as aforesaid shall be given in the case of any land so leased as aforesaid, unless the lessee thereof—

- I. Has signified, in writing, to the Board or the Chairman his approval of such consent being given: or
- II. Has been notified in writing, by or on behalf of the Board or the Chairman, of the application having been made, and his objections, if any, to the granting of such consent (such objections to be made in writing, and within the prescribed time) have been considered by the Board or the Chairman, as the case may be, after having been notified in writing, to the applicant for such consent, whose answer, if any, to such objections shall be considered by the Board or the Chairman along with such objections.

45 The owner or occupier of any land, or the servant or agent of such owner or occupier, may demand the name and address of any person trespassing upon such land whom he suspects of any offence against this Act, and may require any such trespasser to quit such land.

Trespasser to give name, &c., and quit when required.

46 Every person who—

- I. Enters or is upon any land leased from the Crown for the purpose of taking any partly protected animal or partly protected bird, or the eggs of any such bird, without the consent in writing of the Board or the Chairman being first obtained for that purpose:
- II. Not being the holder of a permit from the Board for that purpose, enters or is upon any sanctuary with any engine or article capable of being used for the purpose of taking any animal or bird:

Penalty for certain offences.

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- III. Refuses to give his name and address, or gives a false name or address, when lawfully demanded under this Act:
- IV. Refuses to quit any land when lawfully required under this Act:
- V. Re-enters upon any land after having been lawfully required under this Act to quit the same:
- VI. Refuses to produce to an officer when required by such officer so to do, any licence or permit held by such person under this Act:
- VII. Refuses to deliver up to an officer, when required by such officer so to do, any property forfeited or liable to forfeiture under this Act:
- VIII. Refuses to comply with any lawful requirement of an officer under this Act: or
- IX. Resists or in any way interferes with or hinders any officer or other person in the lawful discharge of his duty under this Act—

shall be guilty of an offence against this Act, and shall be liable to a penalty of Fifty Pounds.

General penalty.

47 Every person who is guilty of an offence against this Act for which no penalty is otherwise prescribed shall be liable to a penalty of Fifty Pounds.

Onus of proof.

48—(1) In any prosecution for an offence in respect of the taking, selling, buying, exporting, or having in possession of any animal, bird, carcase, skin, engine, or other article, the onus of proving that such taking, selling, buying, exporting, or having in possession was lawful, shall be upon the defendant.

(2) In all judicial proceedings the onus of proving the illegality of any seizure, or that the officer or person seizing was not authorised to seize, shall lie upon the person setting up such illegality.

(3) In any proceedings taken against any person for any contravention of this Act, the onus of proving the existence of any licence required to be held by such person, or that such person was exempted from any penalty or forfeiture, shall lie upon the defendant.

Notice of action.

49 No action shall be brought against any person for any thing done in pursuance of this Act unless notice in writing of such action, and the cause thereof, is given to the defendant one month at least before the commencement of the action.

Licencee to produce his licence on prosecution.

50 In all proceedings against the holder of a licence under this Act for an offence against any provisions of this Act, such holder shall produce his licence to the magistrate or justices hearing the case.

Penalty: Five Pounds.

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51 The magistrate or justices before whom the holder of a licence under this Act is convicted of an offence against this Act may, in addition to imposing any other penalty for the offence, cancel the licence by endorsing thereon a memorandum of such conviction; and in such case the licence shall be surrendered to the Clerk of the Court, who shall forward or deliver it to the Board.

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Cancellation of
licence on
conviction.**SCHEDULES****(1)**

Section 2.

Date and Number of Act.	Title of Act.	Extent of Repeal.
10 Geo. V. No. 56	The Animals and Birds Protection Act, 1919	The whole Act
11 Geo. V. No. 62	The Animals and Birds Protection Act, 1920	The whole Act

(2)**PART I.****ANIMALS WHOLLY PROTECTED.**

Section 5.

Flying Squirrel (*Petaurus*).
 Opossum Mouse (*Dromicia*).
 Platypus (*Ornithorhynchus anatinus*).
 Tasmanian Great or Forester Kangaroo (*Macropus giganteus*).
 Tasmanian Porcupine (*Echidna—Tachyglossus aculeata*).

PART II.**BIRDS WHOLLY PROTECTED.**

All indigenous or exotic birds except those for the time being included in Part II. of Schedule (3) or Part II. of Schedule (4).

(3)**PART I.****ANIMALS PARTLY PROTECTED.**

Deer.
 Kangaroo, *Macropus* (including all species except the Tasmanian Great or Forester Kangaroo, *Macropus giganteus*).
 Opossums and Ringtailed Opossums.
 Wallaby (all species).

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PART II.

BIRDS PARTLY PROTECTED.

Mutton Birds or Short-tailed Petrels (*Puffinus tenuirostris*).
 Wild Duck and Coot and Bald Coot of every species.
 Teal and Black Swans.
 Quail of every species, and Wattle Birds, except Brush Wattle Birds.
 Pheasants (all species).

(4)

PART I.

ANIMALS UNPROTECTED

Section 5.

Foxes (*Canis vulpis*).
 Hares (*Europeus*).
 Native Cats (*Dasyurus viverrimus*).
 Tiger Cats (*Dasyurus maculatus*).
 Kangaroo Rats
 Native Tiger (*Thylacinus cynocephalus*).
 Rabbits (all species).
 Tasmanian Devil (*Sarcophilus harrisi*).
 Wombat (*Phascolomys*).

PART II.

BIRDS UNPROTECTED.

Native Hen (*Tribonyx mortieri*).
 Black Cormorant (*Phalacrocorax carbo*).
 Little Black Cormorant (*Phalacrocorax ater*).
 White-breasted Cormorant (*Phalacrocorax fuscesens*).
 Pied Cormorant (*Phalacrocorax varius*).
 Little Cormorant (*Microcarbo melanoleucus*).
 Australian Goshawk (*Astur fasciatus*).
 Collared Sparrowhawk (*Accipiter cirrocephalus*).
 Wedge-tailed Eagle (*Uroaetus audax*).
 Little Falcon (*Falco longipennis*).
 Black-cheeked Falcon (*Falco peregrinus*).
 Striped Brown Hawk (*Ieracidea berigora*).
 Swift Parrot (*Lathamus discolor*).
 Rosella Parrot (*Platycercus eximius*).
 Musk Lorikeet (*Glossopsitta concinna*).
 Little Lorikeet (*Glossopsitta pusilla*).
 White Cockatoo (*Cacatua galerita*).
 Green Parrot (*Platycercus caledonicus*).
 Tasmanian Raven ("Crow") (*Corvus coronoides*).
 Black-Bell-Magpie ("Jay") (*Strepera fuliginosa*).
 Hill-Bell-Magpie ("Mountain Magpie") (*Strepera arguta*).
 English House Sparrow
 English Hedge Sparrow.
 English Starling (*S. vulgaris*).
 English Blackbird.
 Goldfinch.