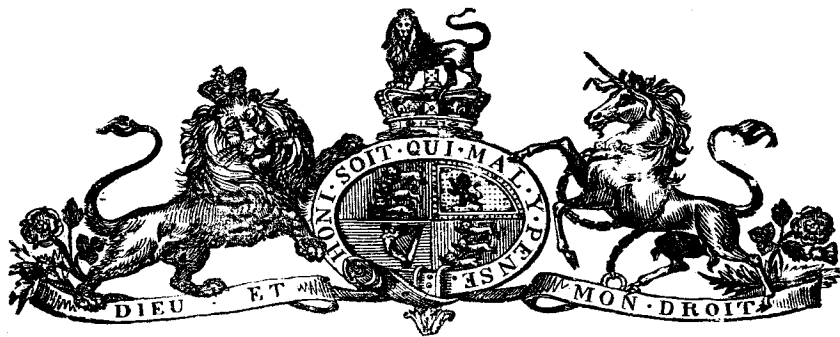


T A S M A N I A

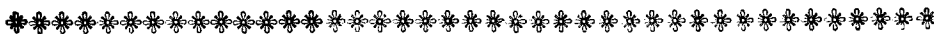


1879.

ANNO QUADRAGESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 24.



AN ACT to consolidate and amend the Laws A.D. 1879,  
relating to the Protection of Game.

[5 May, 1879.]

WHEREAS it is desirable to consolidate and amend the Laws PREAMBLE.  
relating to the Protection of Game :

Be it therefore 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 Game Protection Act, 1879.” Short title
- 2 In this Act, unless the context otherwise determines— Interpretation.
  - “Kangaroo” means the brush and forest kangaroo of *Tasmania* :
  - “Imported Game” means and includes pheasants, partridges, and grouse, whether the same are alive or dead, and any other bird or animal which the Governor by Proclamation as hereinafter provided shall declare to be Imported Game :
  - “Native Game” means and includes wild ducks, teal, widgeon, quail, plover, emu, black swans, ground doves, wattle birds, Cape Barren geese, and bronze winged pigeons, whether such birds are alive or dead, and any other bird, whether such bird is alive or dead, which the Governor by Proclamation as hereinafter provided shall declare to be Native Game :
  - “Hunt” includes to kill, take, pursue, or capture in any manner whatsoever.
  - “Police Magistrate” includes a Stipendiary Magistrate and the Warden of a Rural Municipality

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Other birds or animals may be included in term "Imported Game."

**3** It shall be lawful for the Governor, by Proclamation published in the *Gazette*, to name any other bird or animal which shall be included in the term "Imported Game;" and after the publication of any such Proclamation in the *Gazette*, and after the expiration of the period mentioned in such Proclamation for the commencement thereof, the bird or animal so named shall be included in the term "Imported Game."

Other birds may be included in term "Native Game."

**4** It shall be lawful for the Governor, by Proclamation published in the *Gazette*, to name any other bird or birds which shall be included in the term "Native Game;" and to appoint the period or periods which shall be deemed to be the breeding season or seasons of such bird or birds; and after the expiration of the time mentioned in such Proclamation for the commencement thereof, the bird or birds so named shall be included in the term "Native Game," and the period or periods so appointed shall be deemed the breeding season or seasons of such bird or birds.

*Imported Game.*

Penalty for killing imported game.

**5** If any person kills or takes any imported game, or uses any dog, gun, net, snare, or other engine or instrument for the purpose of killing or taking any such game, every such person shall for every head of imported game so killed or taken, and for every such offence of so using any dog, gun, net, snare, or other engine or instrument, incur a penalty not exceeding Ten Pounds; but nothing herein contained shall extend to any person killing or taking on his own land either himself or by other persons with his permission imported game.

Possession of imported game illegal.

**6** If any person buys or sells, or knowingly has in his house, possession, or control any imported game, except live game kept or to be kept in a mew or breeding-place, every person shall, for every head of imported game so bought or sold, or found in his house, possession, or control, incur a penalty not exceeding Ten Pounds; and nothing herein contained shall extend to any imported game lawfully killed under Section Five, or to any imported dead game brought into this colony.

Penalty for taking or destroying eggs of imported game.

**7** If any person wilfully takes out of the nest, or destroys in the nest, the eggs of any imported bird of game, or knowingly has in his house possession, or control any such eggs, every such person shall for every egg so taken or destroyed, or so found in his house, possession, or control incur a penalty not exceeding Five Pounds; but this provision shall not extend to the owner of any mew or breeding-place for game in respect of eggs in or taken from the nest in such mew or breeding-place, or to any person in respect of any eggs taken from the nest and given to such person by such owner.

*Hares.*

Penalty for hunting, &c. hares within a certain period.

**8** If any person in any manner hunts, or is found in possession, either on his own land or elsewhere, of any hare, whether alive or dead, at any time between the First day of *August* in any year and the Thirty-first day of *March* in any succeeding year, both days inclusive, which interval is herein referred to as "the close season," he shall, for every hare so hunted or found in his possession, forfeit and pay a penalty not exceeding Forty Shillings.

No person prosecuted for being found in possession of any hare contrary to this Section shall be liable to any penalty if such person

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proves to the satisfaction of the adjudicating Justices that such hare was hunted at any other time than within "the close season," or was killed elsewhere than in this Colony. This Section shall only be in operation for the period of Two years from the passing of this Act. A. D. 1879.

*Native Game.*

**9** The following shall be deemed to be the breeding seasons for native game ; that is to say,— Breeding seasons of native game.

For wild ducks, teal, widgeon, plover, emu, black swans, ground doves, and Cape Barren geese, from the First day of *August* in every year to the Tenth day of *January* in every succeeding year, both days inclusive :

For bronze-winged pigeons, from the First day of *August* in every year to the Tenth day of *February* in every succeeding year, both days inclusive :

For quail, from the First day of *July* in every year to the Twentieth day of *April* in every succeeding year, both days inclusive :

For wattle birds, from the First day of *August* in every year to the Thirtieth day of *April* in every succeeding year, both days inclusive.

**10** It shall be lawful for the Governor from time to time, by Proclamation published in the *Gazette*, to declare that any native game described in such Proclamation shall not be killed, taken, or captured during any time, to be stated in such Proclamation, in such parts of *Tasmania* as may be described and set forth in such Proclamation ; and every person acting in contravention of such Proclamation shall be liable to the like penalty as if he had offended against the next Section of this Act. Governor may prohibit the taking of native game during open season in certain places.

**11** If any person kills, takes, or captures, or has in his possession or control, and either on his own land or on that of any other person, any native game during the breeding season of such game, such person shall for every head of native game so killed, taken, or captured by him, or so found in his possession and control, forfeit and pay a penalty not exceeding Forty Shillings ; but nothing in this Section contained shall apply to any person keeping native game in a mew or breeding-place for breeding purposes. Penalty for killing or taking, &c. of native game.

**12** If any person takes or wilfully destroys the eggs of any native game, every person so offending shall forfeit and pay a penalty not exceeding Forty Shillings for every such egg taken or wilfully destroyed as aforesaid. Penalty for taking or destroying eggs of native game.

**13** Every person who commits any of the following offences shall, for every such offence forfeit and pay a penalty not exceeding Twenty Shillings:— Penalty for killing native magpie and certain gulls.

Shoots at or wilfully kills any native White Magpie, or destroys the eggs of any such magpie :

Shoots at or wilfully kills the "Black-backed Gull" or *Larus Pacificus*, or the "Silver Gull" or *Bruchigavia Jamesonii*.

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Certain terms defined.

**14** In the following provisions relating to Kangaroo—

“**Hunt**” includes to kill, take, pursue, or capture in any manner whatsoever :

“**District**” means Municipal District or Rural Municipality, as the case may be.

Penalty for hunting, &c. kangaroo within a certain period.

**15** If any person in any manner hunts, or is found in possession, either on his own land or elsewhere, of any kangaroo, whether alive or dead, or any skin or carcase thereof, at any time between the First day of *August* in any year and the Thirtieth day of *January* in any succeeding year, both days inclusive, which interval is herein referred to as “the close season,” he shall, for every head of kangaroo so hunted or found in his possession, and for every skin or carcase of kangaroo so found in his possession, forfeit and pay a penalty not exceeding Forty Shillings.

Nothing herein contained shall prevent any person from having or keeping kangaroo in a state of confinement, provided the same are not taken or captured in “the close season.”

No person prosecuted for being found in possession of any kangaroo, or skin or carcase thereof, contrary to this Section shall be liable to any penalty if such person proves to the satisfaction of the adjudicating Justices that such kangaroo, or that the kangaroo from which such skin or carcase was taken, was hunted at any other time than within “the close season.”

In this Section the term “carcase” includes any part of a carcase.

No person to hunt kangaroo unless he holds a licence.

**16** No person shall hunt kangaroo on land of which he is not the owner or occupier unless such person has the permission of the said owner or occupier, or is the holder of a licence for that purpose, and any person who acts contrary to this provision shall be liable to a penalty not exceeding Five Pounds.

Nothing herein contained shall be deemed to authorise any person holding such licence to go upon the lands occupied by or belonging to any other person, without the consent of such person, for the purpose of hunting kangaroo.

Form, mode of issuing and duration of licence.

**17** Every licence to hunt kangaroo shall be in the form in the Schedule (1), and may be issued by any Police Magistrate to such persons as he sees fit, and such licence shall be in force in the District named or described in such licence and not elsewhere, for the period therein named.

Licensed person upon demand to produce licence.

**18** Every person shall, upon the demand of the occupier of any land, or his servant or agent, whereon such person shall be hunting kangaroo, produce and show a licence issued to such person under this Act, and in default thereof shall, upon conviction, forfeit and pay a penalty not exceeding Five Pounds: Provided that this Section shall not authorise any person to go upon the land occupied by or belonging to any other person without the consent of such other person.

Licences where packs of hounds are kept for hunting.

**19** Any person who keeps or intends to keep a pack of hounds for hunting kangaroo for the purpose of recreation, may receive from the Police Magistrate of the District in which such person resides a licence in the form in the Schedule (2), which shall remain in force for one year from the date thereof, and such licence shall exempt the person to

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whom the same is issued and all other persons hunting kangaroo with the pack of hounds belonging to such licensed person from the operation of so much of this Act as relates to persons hunting kangaroo without a licence. A.D. 1879.

Any person found hunting kangaroo with a pack of hounds for the purpose of recreation shall, unless the keeper of such pack of hounds is the holder of a licence for that purpose, be liable to a penalty not exceeding Five Pounds.

**20** The sum of Two Pounds shall be paid upon the issue of any such licence as is hereinbefore mentioned; and all sums of money received for licences in any Rural Municipality shall form part of the Municipal Fund of such Municipality, and in any District not being a Rural Municipality shall form part of the Consolidated Revenue Fund. Fee for licence.  
Appropriation of fees.

**21** All licences for hunting kangaroo issued under any Act hereby repealed and in force when this Act takes effect shall, unless forfeited as herein provided in the mean time, remain in force until the expiration thereof by effluxion of time. Licences continued.

**22** If any person shall, whilst holding a licence to hunt kangaroo, issued under any Act hereby repealed, or this Act, be convicted of any offence against any provision in such Acts relating to Kangaroo, such licence shall thereupon be forfeited and void. Licence forfeited by conviction of holder.

**23** If any licensed person hunts kangaroo upon any land not being within the limits of the district specified in the licence issued to such person, he not being the owner or occupier of such land, or not having the consent or permission of the owner or occupier of such land, every such person so hunting kangaroo beyond the limits of such district shall be deemed to be an unlicensed person, and may be dealt with according to law. Licensed persons hunting beyond district.

*Miscellaneous.*

**24** If any person knowingly sets at large, or attempts to set at large, or is concerned in setting at large any Weasel, Ferret, or Domestic Cat, every person so offending shall for every such animal so set at large, or attempted to be set at large, forfeit and pay a penalty not exceeding Five Pounds. Penalty on persons setting Weasels, &c. at large.

**25** Whosoever knowingly imports or brings, or is concerned in importing or bringing, or attempts to import or bring into this Colony any Fox, Wolf, Wild Dog or Dingo, shall, for every such animal, forfeit and pay a penalty not exceeding Fifty Pounds. Penalty on persons importing any Fox, Wolf, &c.

**26** All offences against this Act shall be heard and determined, and all penalties be recovered, in a summary way by and before any Two or more Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*; and any person aggrieved by any conviction under this Act may appeal therefrom in manner directed by *The Appeals Regulation Act*. Penalties to be recovered in a summary way.

**27** For the prevention of frivolous and unnecessary prosecutions, it shall be lawful for the Justices hearing any information under this Act to dismiss the same, which dismissal shall be a bar to any other proceeding whatever against the same person for the same matter. Justices may dismiss frivolous informations.

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Onus of proof upon defendant, who shall be competent but not compellable to give evidence.

**28** In all legal proceedings taken against any person for any breach of, or non-compliance with, the provisions of this Act, the onus of proving that such person was duly licensed, or was otherwise exempted from the operation of any penalty imposed by this Act, shall in all cases rest upon the defendant, who shall in all such proceedings be competent but not compellable to give evidence, anything contained in any law or practice to the contrary notwithstanding.

One moiety of penalty to informer.

**29** One moiety of every penalty imposed under this Act shall, when recovered, be payable and paid to the informer or person suing for the same.

Limitation of actions.

Notice of action.

General issue.

Tender of amends.

Costs.

**30** No action shall be brought against any person for anything done in pursuance of this Act unless such action is commenced within Three months after the cause of action has arisen, nor 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; and the defendant may plead the general issue, and give this Act and the special matter in evidence; and the plaintiff shall not recover in such action if tender of sufficient amends has been made before action brought, or if a sufficient sum of money has been paid into Court after action brought; and if a verdict is given for the defendant, or the plaintiff is nonsuited or discontinues his action, or if judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client; and though a verdict is given against the defendant, the plaintiff shall not have costs against the defendant unless the Judge who tries the case certifies his approbation of the action, and of the verdict.

Repeal.

**31** The Acts, and part of an Act, mentioned in the Schedule (3) are hereby repealed, except as to all offences committed before the commencement of this Act.

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## SCHEDULE.

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### (1.)

This is to certify that I, *A.B.*, Police Magistrate of the District of [or Warden of the Rural Municipality of ] have by virtue of "The Game Protection Act, 1879," granted to *C.D.*, of , in the said District, [or Municipality] this Licence to hunt with dogs and to kill, take, pursue, and capture Kangaroo within the said District [or Municipality] for a period of Six months from the Thirtieth day of *January* to the Thirty-first day of *July*, 18 .

Dated this                    day of                    18 .

*A.B.*, Police Magistrate.

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### (2.)

This is to certify that I, *A.B.*, Police Magistrate of the District of [or Warden of the Rural Municipality of ] have, by virtue of "The Game Protection Act, 1879," granted to *C.D.*, of                    in the said District [or Municipality] this licence to keep a pack of hounds for hunting Kangaroo.

Dated this                    day of                    18 .

*A.B.*, Police Magistrate.

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*Game Protection.*

(3.)

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## ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
10 Vict. No. 6.	An Act to restrain the Practice of Kangaroo Hunting, and for other purposes connected therewith.	The whole Act.
13 Vict. No. 7.	<i>An Act to amend the Act of Council of this Island, intituled An Act to restrain the Practice of Kangaroo Hunting, and for other purposes connected therewith.</i>	The whole Act.
29 Vict. No. 10.	<i>The Police Act, 1865.</i>	Section Thirty-six,
29 Vict. No. 22.	An Act to provide temporarily for the Protection of Imported Game.	The whole Act.
32 Vict. No. 26.	"The Native Game Act."	The whole Act.
34 Vict. No. 25.	An Act to continue <i>An Act to provide temporarily for the Protection of Imported Game.</i>	The whole Act.
38 Vict. No. 23.	"The Kangaroo Protection Act."	The whole Act.
39 Vict. No. 19.	An Act to further continue <i>An Act to provide temporarily for the Protection of Imported Game.</i>	The whole Act.
40 Vict. No. 13.	An Act to continue "The Kangaroo Protection Act."	The whole Act.
40 Vict. No. 24	An Act to further continue <i>An Act to provide temporarily for the Protection of Imported Game.</i>	The whole Act.
41 Vict. No. 26.	An Act to amend <i>An Act to provide temporarily for the Protection of Imported Game</i> , and to continue the same for a further period.	The whole Act.

