



ANNO TRICESIMO SEPTIMO ET TRICESIMO OCTAVO

VICTORIÆ REGINÆ.

A.D. 1874.

No. 21.

An Act to prevent the Destruction of certain Birds and Animals.

[Assented to, 6th November, 1874.]

WHEREAS it is expedient to prevent the wanton destruction of certain Birds and Animals—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows: Preamble.

1. This Act may be cited as the "Game Act, 1874." Title of Act.

2. The Act, No. 23 of 1864, entitled "An Act to prevent the wanton Destruction of certain Wild and Acclimatized Animals," is hereby repealed: Provided that nothing herein shall affect any act or thing lawfully made or done under the authority of the said Act; and all offences committed, and penalties incurred under the said Act, shall be prosecuted and enforced as if this Act had not been passed. Repeal of existing Act, No. 23 of 1864.

3. This Act shall apply within the limits of Counties, and the rivers, creeks, lakes, and other inland waters within or bounding such Counties only. Where Act in force.

4. For the purposes of this Act, the term "Game" shall mean and include all birds and other animals mentioned in the First Schedule to this Act, and the terms "Native Game" shall mean and include all birds and animals mentioned, by way of inclusion and not of exception, in the Second Schedule to this Act; and the terms "Special Game," shall mean and include all birds mentioned in the Third Schedule to this Act: Provided that it shall be lawful for the Commissioner of Crown Lands and Immigration at Interpretation of terms.

Commissioner may add other birds and other animals to be protected.

at

Game Act.—1874.

at any time after the passing of this Act, by notice in the *Government Gazette*, to name any bird or animal, which shall be included in, or excluded from, such First or Second Schedule respectively; and, after the publication of any such notice as aforesaid, and the expiration of the period mentioned in such notice for the time of its coming into operation, the birds and animals so named shall be deemed and considered as being thenceforward included in, or excluded from, such First or Second Schedule, as the case may be.

Periods of operation
of section 6 of this
Act.

5. Swans and geese shall be protected in manner provided by section 6 of this Act from and inclusive of the first day of July to and inclusive of the thirtieth day of November, turkeys, curlews, and plover from and inclusive of the first day of August to and inclusive of the thirtieth day of November, and ducks of all descriptions from and inclusive of the first day of September to and inclusive of the thirty-first day of December, in every year; and all the birds and animals mentioned in First Schedule to this Act shall, from and after the passing thereof, and the birds mentioned in the Third Schedule of this Act shall, from and after the expiration of two years as hereinafter mentioned, be protected in manner provided by section 6 during the period of time extending from and inclusive of the first day of September to and inclusive of the thirty-first day of March in every year; and the birds mentioned in the said Third Schedule shall be protected as provided by the said section 6 for two years from and after the passing of this Act, or for such other and additional periods of time as the said Commissioner may, by notice in the *Government Gazette*, from time to time direct; and all other the birds or animals mentioned by way of inclusion, and not of exception, in the Second Schedule of this Act, shall be protected as provided by the said section 6 for the period of time extending from and inclusive of the first day of July to and inclusive of the thirtieth day of November in every year.

Penalty on having in
possession game or
native game during
period of prohibition.

6. If any person shall kill, wound, or destroy, catch or take, or shall buy, sell, or knowingly have in his possession, house, or control, any game, native game, or special game, alive or dead, the same having been wilfully killed, wounded or destroyed, caught or taken within the periods of the year, or periods of time, during which such game, native game, or special game shall, in accordance with the last preceding section of this Act, or in accordance with any notice which may be given as aforesaid, be protected, every person so offending shall forfeit and pay a penalty not exceeding the sum of Five Pounds for every head of game, and a sum not exceeding the sum of Two Pounds for every head of native game, and a sum not exceeding the sum of Five Pounds for every head of special game so killed, wounded, or destroyed, caught or taken by him, or so found in his house, control, or possession, in addition to the value of such game, native game, or special game respectively, which value shall, in the case of game, be the sum set opposite the
name

Game Act.—1874.

name of such bird or animal in the First Schedule hereto, and, in the case of native game, the sum of Five Shillings, and, in the case of special game, the sum of Two Pounds; and proof that such game, native game, or special game has been lawfully killed, wounded, or destroyed, caught or taken, shall lie on the defendant.

7. If any person shall wilfully take out of the nest, or destroy in the nest, the eggs of any bird of game, native game, or special game, or shall knowingly have in his possession any such eggs, every such person shall forfeit and pay a penalty not exceeding the sum of Ten Shillings for each egg so wilfully taken or destroyed, or found in his possession. Penalty on taking and destroying eggs.

8. The provisions in this Act contained shall not extend, or be construed to extend, to any person, being the owner of any game, native game, or special game, having in his possession such game, native game, or special game, in confinement, or in a domesticated state; nor to any person killing, wounding, or destroying, catching or taking any game, native game, special game, in any building, enclosure, garden, vineyard, or field of corn whereof he is the owner or occupier. Limitation.

9. If any person shall enter on any enclosed land, except lands held under lease from the Crown for pastoral purposes, or enclosed land whereof he is owner or occupier, for the purpose of killing, wounding, or destroying, catching, or taking any bird or animal, or the eggs or young of any bird, or the young of any animal, without first having obtained permission, in writing, from the owner or occupier of such land, he shall, upon conviction, forfeit and pay a sum of not exceeding Five Pounds in addition in the case of game, native game, or special game to the value of each bird or animal, or the young of any bird or animal, according to the sixth section of this Act; and in the case of any bird or animal, or the young of any bird or animal other than game, native game, or special game, to the sum of Five Shillings for each bird or animal, or the young of any bird or animal so killed, wounded, or destroyed, caught, or taken. Penalty for trespass in pursuit of animals.

10. In any proceeding for any offence against the last preceding clause, the proof of permission having been obtained, shall lie on the defendant. Proof of permission having been obtained to be given by defendant.

11. Nothing in this Act shall remove the liability of any person to an action for damages, in respect of any bird or animal destroyed or injured by such person. Action for damages.

12. Nothing in this Act shall prevent any aboriginal native of Australia from killing, for his own consumption, any native or imported game, or taking any eggs for the same purpose from Waste Lands of the Crown, or from any lands reserved specially for the use of the aborigines. Act not to apply to aboriginals.

13. If

Game Act.—1874.

Offenders to give up name and address on demand.

13. If any person shall be found offending against the provisions of this Act, and shall not give up his name and address, or shall give a false name or address to any person who may demand the name and address of such first-mentioned person, or who shall not deliver up any bird or animal, instrument, net, or other means of destruction, used for killing, wounding, or catching any such bird or animal, to any person being the owner, or occupier, or the agent of such owner or occupier, of the land whereon such bird or animal shall have been killed, destroyed, wounded, or taken, who may demand the same, it shall be lawful for such last-mentioned person, with any assistance he may require, and for any constable, to take such person into custody and take him before any Special Magistrate, or two Justices of the Peace, to be dealt with according to law; and any person who shall give a false name or address, or shall assault or resist any such person so demanding such bird or animal, instrument, net, or other means of destruction, used for killing, wounding, or catching any such bird or animal, shall forfeit and pay a penalty not exceeding Five Pounds, besides any other penalty he may have incurred under this Act.

Penalty for resistance.

Summary procedure.

14. All fines and penalties for any offences against this Act, and all sums of money payable hereunder, may be recovered in a summary way, before any Special Magistrate or two Justices of the Peace, under the provisions of an Ordinance, No. 6 of 1850, "To facilitate the performance of duties of the Justices of the Peace out of Sessions, with respect to Summary convictions and orders," or of any Act hereafter to be in force for facilitating the duties of Justices of the Peace with respect to summary convictions and orders; and all convictions and orders may be enforced as in the said Ordinance is mentioned.

Who may lay informations.

15. Informations may be laid for any offence against this Act at the instance of any person, and every such information and the summons to be issued thereupon, shall specify the kind of bird or animal (where the information is in respect of any bird or animal), in respect of which the offence charged has been committed.

Appeal.

16. There shall be an appeal from any order or conviction, of any Special Magistrate or Justices under this Act, or from any order dismissing any information, or otherwise, which appeal shall be to the Local Court of Adelaide of Full Jurisdiction only, and the proceedings on such appeal shall be conducted in manner appointed by said Ordinance, No. 6 of 1850, for appeals to Local Courts; and such Local Court of Adelaide may make such order as to the payment of the costs of appeal as it shall think fit, although such costs may exceed Ten Pounds.

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

A. MUSGRAVE, Governor.

FIRST

Game Act.—1874.

FIRST SCHEDULE.

Pheasants £2		Hares £2
Partridges £2		Deer £10
Grouse £2		Antelopes £10
Swans £2		

SECOND SCHEDULE.

All birds indigenous to Australia, excepting the following, namely :—

Eagles of all sorts
 Hawks of all sorts
 Crows
 Black Magpies
 Wattle Birds
 Silver Eyes
 Yellow-crested Cockatoos
 Rosella Paroquets
 Water Hens

And all animals indigenous to Australia, excepting the following, namely :—

Wild Dogs
 Native Cats
 Opossums
 Kangaroos
 Wallabies, and all other Marsupials
 Rats.

THIRD SCHEDULE.

Pheasants		Partridges.
-----------	--	-------------