Legislative Council.

42° VICTORIÆ, 1878.

# A BILL

## To secure the protection of certain Birds and Animals.

[MR. THORNTON;—11 *September*, 1878.]

WHEREAS it is expedient to encourage the importation and breeding of Game not indigenous to the Colony of New South Wales and also to prevent the destruction of Native Game 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:— Preamble.

1. The words "imported game" shall mean and include the birds and animals mentioned in the First Schedule and the words "native game" shall mean and include the birds and animals mentioned in the Second Schedule to this Act and the eggs and progeny of any such game respectively. Interpretation of terms.

2. From the date of its passing this Act shall remain in force for the period of five years as regards imported game and for ten years as regards native game. Duration of Act.

Penalty for trespass in pursuit of game.

3. Any person trespassing upon enclosed land in pursuit of game shall be liable to a penalty not exceeding *five* pounds and if any such game or any eggs or progeny thereof be by him killed taken or destroyed while so trespassing he shall also pay to the occupant of such land the value of the bird or animal or eggs or progeny thereof so killed taken or destroyed as such value is set forth in the First Schedule hereto And every person so trespassing (where imported game is ordinarily kept or is at the time upon such land) who shall be found with any gun net trap call-bird springle noose or other instrument used for killing capturing or destroying game shall be deemed to be trespassing in pursuit of imported game unless the contrary be proved.

Penalty for destroying native game.

4. If any person shall wilfully shoot capture kill take or destroy any native game at any time between the first day of October and last day of February next following Or shall use any of the means specified in the last section within the same period for the purpose of capturing killing or destroying any such native game he shall be liable to a penalty not exceeding *two* pounds.

Punt guns &c. not to be used.

5. No description of fire-arms shall be used for the purpose of shooting any of the game mentioned in either of the Schedules hereto having a greater length of barrel than six feet or with the bore exceeding one inch in diameter And no fire-arms of any description having the barrel or bore exceeding such dimensions shall be affixed to boats punts or floating-vessels of any kind during any period of the year Nor shall the charge when loaded exceed four drachms of gunpowder or three ounces of shot And any person offending against the provisions of this section shall be liable to a penalty not exceeding *ten* pounds.

Birds &c. (being destroyers of vermin) may be protected by this Act.

6. Any birds animals or reptiles known to be destroyers of snakes vermin or insects injurious to vegetation may by the authority of the Colonial Secretary by a notice published in the *Gazette* at any time be added to the lists of birds and animals set forth in the First or Second Schedule and after publication of such notice all the provisions of this Act (so far as they may be applicable) shall be held to apply to the birds animals or reptiles therein mentioned.

Preserves of birds &c. may be protected under this Act.

7. Whenever any parcel of land or water has been dedicated to the public or otherwise set apart by the Government or any private person for preserving any of the birds or animals mentioned in either of the Schedules the Colonial Secretary may declare by a notice published in the *Gazette* that any of the birds or animals mentioned in such Schedules shall be held to be included in the First Schedule and thereupon all the provisions of this Act (so far as the same may be applicable) shall be held to apply to the birds or animals mentioned in such notice And in the event of any such being taken killed or otherwise destroyed the person so offending shall be liable to a penalty not exceeding *five* pounds.

Penalty for having any game in possession &c.

8. If any person shall buy sell or knowingly have in his possession or under his control any dead game whether native or imported not being game imported from any neighbouring Colony within the period stated in the fourth section he shall be liable to a penalty not exceeding *five* pounds for every head of imported game and also to pay to the owner the value of any such imported game as specified in the First Schedule and for every head of native game or for each egg of any such game such value not exceeding *twenty* shillings as may be assessed by the Justices adjudicating upon the case.

Act not to extend to private owners.

9. Nothing in this Act shall be construed to extend to any person being the owner of any imported game or native game having in his possession any such game in confinement or in a domesticated state provided such imported game shall not have been found wild or such native game shall not have been captured or taken within the period specified in the fourth section nor to the owner of any eggs of such game respectively taken from the mew or breeding-place.

10.

10. All offences against this Act may be heard and determined in a summary way by any two Justices and the moiety of any penalty imposed by them shall belong to the informer Provided that this Act shall not extend to any aboriginal native as it respects native game unless employed by another person nor (as regards animals and birds included in the Second Schedule) to any person authorized by the Colonial Secretary to collect specimens of Natural History for any public Museum. Summary jurisdiction.

11. Every person feeling aggrieved by any conviction under this Act may appeal against the same in the manner provided by the Act passed in the fifth year of King William the Fourth numbered twenty-two as the same is enforced or amended by the Act passed in the thirty-ninth year of Her Majesty numbered thirty-three. Appeal allowed.

12. This Act may be cited for all purposes as the "Birds and Animals Protection Act of 1878." Short title.

## SCHEDULES.

### THE FIRST SCHEDULE.

*Imported Game.*

Value or sum to be paid.

| | | | |
|---|---|---|---|
| For every Pheasant | £5 | For every White Swan | £5 |
| „ Partridge | £5 | „ Deer | £15 |
| „ Californian Quail | £5 | „ Hare | £5 |
| „ Grouse | £5 | „ Antelope | £15 |

„ bird or animal which may from time to time be named for that purpose by proclamation by the Governor in Council ..... £2

For each of the progeny of such birds or animals ..... £2

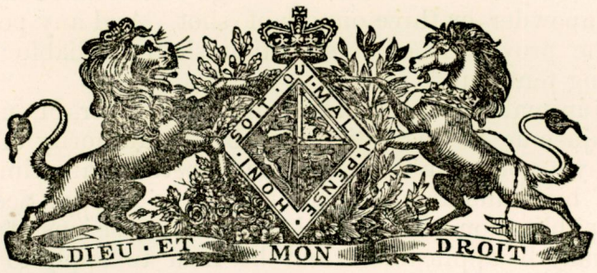
### THE SECOND SCHEDULE.

*Native Game.*

| | |
|---|---|
| Wild Duck of any species. | Common Shore Gull. |
| Teal Widgeon Coot. | Great White-bellied Sea Eagle. |
| Emu. | Pelican. |
| Gigantic Crane or Native Companion. | Black-breasted Gull. |
| Bustard or Wild Turkey. | Tern or Sea Swallow. |
| Black Swan. | White-breasted Oyster-catcher. |
| Wild Goose of any species. | Sooty Oyster-catcher. |
| Bronze-wing or other indigenous Pigeon. | Lyre-bird. |
| Mallee Hen. | Rifle-bird. |
| Quail. | Satin-bird. |
| Land Rail. | Dragoon-bird. |
| Curlew. | Regent-bird. |
| Tallegalla or Brush Turkey. | Nankeen Night Heron. |
| Great Kingfisher or Laughing Jackass. | Magpie. |
| | Magpie Thrush or Peewit. |

The eggs or progeny of such birds.

Sydney: Thomas Richards, Government Printer.—1878.



*This* Public Bill *originated in the* Legislative Council, *and, having this day passed, is now ready for presentation to the* Legislative Assembly *for its concurrence.*

*Legislative Council Chamber,*
*Sydney, 25th September, 1878.*

JOHN J. CALVERT,
*Clerk of the Parliaments.*

# New South Wales.

ANNO QUADRAGESIMO SECUNDO

# VICTORIÆ REGINÆ.

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

## No. .

## An Act to secure the protection of certain Birds and Animals.

Preamble.

WHEREAS it is expedient to encourage the importation and breeding of Game not indigenous to the Colony of New South Wales and also to prevent the destruction of Native Game 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:—

Interpretation of terms.

1. The words "imported game" shall mean and include the birds and animals mentioned in the First Schedule and the words "native game" shall mean and include the birds and animals mentioned in the Second Schedule to this Act and the eggs and progeny of any such game respectively.

Duration of Act.

2. From the date of its passing this Act shall remain in force for the period of five years as regards imported game and for ten years as regards native game.

3. Any person trespassing upon enclosed land in pursuit of game shall be liable to a penalty not exceeding five pounds and if any such game or any eggs or progeny thereof be by him killed taken or destroyed while so trespassing he shall also pay to the occupant of such land the value of the bird or animal or eggs or progeny thereof so killed taken or destroyed as such value is set forth in the First Schedule hereto And every person so trespassing (where imported game is ordinarily kept or is at the time upon such land) who shall be found with any gun net trap call-bird springle noose or other instrument used for killing capturing or destroying game shall be deemed to be trespassing in pursuit of imported game unless the contrary be proved.

Penalty for trespass in pursuit of game.

4. If any person shall wilfully shoot capture kill take or destroy any native game at any time between the first day of October and last day of February next following Or shall use any of the means specified in the last section within the same period for the purpose of capturing killing or destroying any such native game he shall be liable to a penalty not exceeding two pounds.

Penalty for destroying native game.

5. No description of fire-arms shall be used for the purpose of shooting any of the game mentioned in either of the Schedules hereto having a greater length of barrel than six feet or with the bore exceeding one inch in diameter And no fire-arms of any description intended to be used for such purpose having the barrel or bore exceeding such dimensions shall be affixed to boats punts or floating-vessels of any kind during any period of the year Nor shall the charge when loaded exceed four drachms of gunpowder or three ounces of shot And any person offending against the provisions of this section shall be liable to a penalty not exceeding ten pounds.

Punt guns &c. not to be used.

6. Any birds animals or reptiles known to be destroyers of snakes vermin or insects injurious to vegetation may by the authority of the Colonial Secretary by a notice published in the *Gazette* at any time be added to the lists of birds and animals set forth in the First or Second Schedule and after publication of such notice all the provisions of this Act (so far as they may be applicable) shall be held to apply to the birds animals or reptiles therein mentioned.

Birds &c. (being destroyers of vermin) may be protected by this Act.

7. Whenever any parcel of land or water has been dedicated to the public or otherwise set apart by the Government or any private person for preserving any of the birds or animals mentioned in either of the Schedules the Colonial Secretary may declare by a notice published in the *Gazette* that any of the birds or animals mentioned in such Schedules shall be held to be included in the First Schedule and thereupon all the provisions of this Act (so far as the same may be applicable) shall be held to apply to the birds or animals mentioned in such notice And in the event of any such being taken killed or otherwise destroyed the person so offending shall be liable to a penalty not exceeding five pounds.

Preserves of birds &c. may be protected under this Act.

8. If any person shall buy sell or knowingly have in his possession or under his control any dead game whether native or imported not being game imported from any neighbouring Colony within the period stated in the fourth section he shall be liable to a penalty not exceeding five pounds for every head of imported game and also to pay to the owner the value of any such imported game as specified in the First Schedule and for every head of native game or for each egg of any such game such value not exceeding twenty shillings as may be assessed by the Justices adjudicating upon the case.

Penalty for having any game in possession &c.

9. Nothing in this Act shall be construed to extend to any person being the owner of any imported game or native game having in his possession any such game in confinement or in a domesticated state provided such imported game shall not have been found wild or such native game shall not have been captured or taken within the period specified in the fourth section nor to the owner of any eggs of such game respectively taken from the mew or breeding-place.

Act not to extend to private owners.

10.

10. All offences against this Act may be heard and determined in a summary way by any two Justices and the moiety of any penalty imposed by them shall belong to the informer Provided that this Act shall not extend to any aboriginal native as it respects native game unless employed by another person nor (as regards animals and birds included in the Second Schedule) to any person authorized by the Colonial Secretary to collect specimens of Natural History for any public Museum. Summary jurisdiction.

11. Every person feeling aggrieved by any conviction under this Act may appeal against the same in the manner provided by the Act passed in the fifth year of King William the Fourth numbered twenty-two as the same is enforced or amended by the Act passed in the thirty-ninth year of Her Majesty numbered thirty-three. Appeal allowed.

12. This Act may be cited for all purposes as the "Birds and Animals Protection Act of 1878." Short title.

## SCHEDULES.

### THE FIRST SCHEDULE.

*Imported Game.*

Value or sum to be paid.

| | | | |
|---|---|---|---|
| For every Pheasant | £5 | For every White Swan | £5 |
| „ Partridge | £5 | „ Deer | £15 |
| „ Californian Quail | £5 | „ Hare | £5 |
| „ Grouse | £5 | „ Antelope | £15 |

„ bird or animal which may from time to time be named for that purpose by proclamation by the Governor in Council ..... £2

For each of the progeny of such birds or animals ..... £2

### THE SECOND SCHEDULE.

*Native Game.*

| | |
|---|---|
| Wild Duck of any species. | Common Shore Gull. |
| Teal Widgeon Coot. | Great White-bellied Sea Eagle. |
| Emu. | Pelican. |
| Gigantic Crane or Native Companion. | Black-breasted Gull. |
| Bustard or Wild Turkey. | Tern or Sea Swallow. |
| Black Swan. | White-breasted Oyster-catcher. |
| Wild Goose of any species. | Sooty Oyster-catcher. |
| Bronze-wing or other indigenous Pigeon. | Lyre-bird. |
| Mallee Hen. | Rifle-bird. |
| Quail. | Satin-bird. |
| Land Rail. | Dragoon-bird. |
| Curlew. | Regent-bird. |
| Tallegalla or Brush Turkey. | Nankeen Night Heron. |
| Great Kingfisher or Laughing Jackass. | Magpie. |
| | Magpie Thrush or Peewit. |

The eggs or progeny of such birds.

Sydney: Thomas Richards, Government Printer.—1878.