

T A S M A N I A.



1868.

ANNO TRICESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 26.



AN ACT to provide for the Protection of Native Game and other Birds.

[17 September, 1863.]

WHEREAS it is expedient that protection should be afforded by Law to the Native Game and other Birds of this Island: 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:—

PREAMBLE.

1 For the purposes of this Act the term "Native Game" shall mean and include Wild Ducks, Teal, Widgeon, Quail, Plover, Emu, Black Swans, Ground Doves, Cape Barren Geese, and Bronze-winged Pigeons, whether such Birds are alive or dead.

Explanation of term "Native Game."

2 If any person kills, takes, or captures, or has in his possession or control, either alive or dead, 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: Provided that nothing in this Act contained shall prevent any person from keeping Native Game in a Mew or Breeding-place for breeding purposes.

Penalty for killing or taking, &c. Native Game.

3 The following shall be deemed to be the Breeding Seasons for Native Game; that is to say,—

Breeding Seasons.

For Wild Ducks, Teal, Widgeon, Plover, Emu, Black Swans,

Native Game.

Ground Doves, Cape Barren Geese, from the First day of *August* in every year to the Tenth day of *January* in every succeeding year.

For Pigeons, from the First day of *August* in every year to the Tenth day of *February* in every succeeding year.

For Quail, from the First day of *August* in every year to the Twentieth day of *April* in every succeeding year.

Penalty for taking or destroying eggs of Native Game.

4 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 so taken or wilfully destroyed as aforesaid.

Governor may, by Proclamation, include other Birds in the term "Native Game."

5 It shall be lawful for the Governor, by Proclamation in the *Gazette*, to name any other Bird or Birds which shall be included in the term "Native Game," and to appoint the period which shall be deemed to be the Breeding Season of such Bird or Birds; and, after the expiration of the period mentioned in such Proclamation for the time of its coming into operation, the Bird or Birds so named shall be included in the term "Native Game," and the period so appointed shall be deemed the Breeding Season of such Bird or Birds.

Penalty for killing Native Magpies or destroying their eggs.

6 If any person shoots or wilfully kills any Native White Magpie, or destroys the eggs of any such Magpie, he shall for every such offence forfeit and pay a penalty not exceeding Twenty Shillings.

Persons found taking Game may be apprehended.

7 When any person is found, contrary to the provisions of this Act, killing or taking any Native Game, or using any dog, gun, or other instrument for that purpose, it shall be lawful for any person to require the person so offending forthwith to desist from such offence, and to deliver up any Native Game unlawfully in his possession, and also to tell his Christian name, surname, and place of abode; and in case such person so found offending, after being so required, does not immediately deliver up such Native Game, or refuses to tell his name or place of abode, or gives such a general description of his place of abode as is illusory for the purpose of discovery, or wilfully continues to offend against this Act, 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 such Native Game, and to convey such offender, or cause him to be conveyed as soon as conveniently may be, before a Justice of the Peace 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 some Justice of the Peace; and if he cannot, on account of the absence or distance of the residence of any such Justice of the Peace, or owing to any other reasonable cause, be brought before a Justice of the Peace 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.

Penalty on persons setting weasels, &c. at large.

8 If any person knowingly sets at large or is concerned in setting at large or attempts to set at large any weasel, ferret, or domestic cat, every such person shall, for every such animal, forfeit and pay a penalty not exceeding Five Pounds.

Native Game.

9 All offences against this Act shall be heard and-determined, and all penalties be recovered, in a summary way by 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.

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

11 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. Limitation of Actions. Notice of Action. General Issue. Tender of amends. Costs.

12 The Acts in the Schedule are hereby repealed, except as to all offences committed before the commencement of this Act. Repeal.

13 This Act may be cited as "The Native Game Act." Short Title.

SCHEDULE.

ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>
24 Vict. No. 19.	An Act to provide for the Protection of Native Game during the breeding Season.
24 Vict. No. 20.	An Act to provide for the Protection of Black Swans.
25 Vict. No. 19.	An Act to amend an Act, intituled <i>An Act to provide for the Protection of Native Game during the Breeding Season.</i>
27 Vict. No. 17.	An Act to amend an Act, intituled <i>An Act to amend An Act to provide for the Protection of Native Game during the Breeding Season.</i>

