

No. XVIII.

An Act to protect certain imported and other Birds. [1st June, 1893.]

WHEREAS it is expedient to repeal the “Birds Protection Act of 1881:” 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:—

1. This Act shall come into force immediately on the passing thereof, and may be cited as the “Birds Protection Act of 1893.”

Preamble.
Commencement.
Short title.

2. The Act forty-fifth Victoria number twenty-nine is hereby repealed.

Repeal of 45 Vic.
No. 29.

3. The expression “Protected bird” in this Act means any imported or native bird mentioned in or which may be added to the First and Third Schedules hereto. “Game bird”—any bird mentioned in or which may be added to the first or second parts of the Second Schedule hereto. “Scheduled bird”—a bird of any of the kinds or families mentioned in or which shall be added to any Schedule to this Act. And “Close season”—the periods of time prescribed by this Act for the protection of the birds included in the Schedules hereto.

Interpretation of
terms.

4. Any bird not mentioned in the Schedules hereto may, by direction of the Colonial Secretary by a notice published in the *Gazette*, at any time hereafter be added to the appropriate Schedule to this Act; and after the publication of such notice the provisions of this Act shall apply to such bird, and the production of the *Gazette* containing such notice shall be conclusive evidence of such addition.

Colonial Secretary
may add any bird to
Schedules.

5. The Close Season for all birds save quail included in the Second and Third Schedules hereto shall be the period of time between every first day of August and the thirty-first day of January then next succeeding, both days inclusive, and the Close Season for quail shall be the period of time between every first day of October and the thirty-first day of March then next succeeding, both days inclusive: Provided that the Colonial Secretary may by notice in the *Gazette* vary the period of the Close Season for any district described in such notice whenever it shall appear to him to be expedient so to do for the better preservation of the scheduled birds or any of them included in such Schedules.

Close Season.

6. Any person who shall within a period of five years from the passing of this Act, wilfully kill, capture, or injure, or attempt or use any means whatever to kill, capture, or injure any birds in the First Schedule hereto shall, for each such offence, be liable to a penalty not exceeding five pounds in addition to any penalty he may incur by reason of any infringement of the seventh section of this Act.

Certain birds pro-
tected for five years.

7. Any person who shall during the close season wilfully kill, capture, or injure, or attempt, or use any means whatever to kill, capture, or injure any bird in the Second or Third Schedule hereto, shall for each such offence be liable to a penalty not exceeding five pounds.

Penalty for killing,
&c., protected birds
during the close
season.

8. Any person who shall sell or offer for sale, or shall have in his control or possession during the close season, any scheduled bird recently killed or taken, shall for every such bird be liable to a penalty not exceeding five pounds, unless he shall prove that the bird was killed, taken, bought, or received, either during the period in which such bird could legally be killed, or in or from another Colony.

Penalty for having
dead birds in
possession.

Birds Protection.

Punt guns not to be used, &c.

9. No firearms having a greater length of barrel than six feet or with the bore exceeding one inch in diameter shall be used for the purpose of shooting any scheduled bird, and no firearms of any description intended to be used for such purpose shall be affixed to any boat, punt, or floating vessel of any kind during any period of the year, or be loaded with a charge exceeding four drachms of gunpowder or two ounces of shot, and any person offending against the provisions of this section shall be liable to a penalty not exceeding ten pounds.

Penalty on taking or destroying eggs.

10. If any person shall take out of the nest or destroy in the nest the eggs of any scheduled bird, he shall be liable to a penalty not exceeding the sum of ten shillings for each egg so taken or destroyed.

Act not to extend to birds domesticated.

11. Nothing in this Act shall apply to the taking or killing of any bird in a domesticated state or ordinarily in confinement by the owner thereof, or to the taking or destroying of the eggs of any such bird by him, or to any eggs, or any such bird taken or killed within any mew or breeding place by the owner thereof: Provided that the bird so killed or taken shall not have been originally caught or taken during the close season.

Birds may be protected in preserves.

12. Whenever any sheet of water, island, or enclosed land has been or shall be set apart by the Government or any private person for preserving any scheduled birds, the Colonial Secretary may declare by notice in the *Gazette* such setting apart, and thereafter any person other than the owner thereof who shall kill, capture, or injure any such bird within the limits of such water, island, or land, shall be liable to a penalty not exceeding five pounds: Provided that the Colonial Secretary may by a like notice cancel any such setting apart.

Penalty for refusing to give name, place of abode, &c.

13. It shall be lawful for any householder or constable to require any person offending against any of the provisions of this Act to give his name in full and place of abode. And in case such person shall, after being so required, refuse to give his real name or place of abode, or shall give a false or fictitious name, he may be at once arrested and taken before some Justice of the Peace, and shall be liable for every such offence to an additional penalty not exceeding five pounds.

Prosecution of offences.

14. All informations or charges for offences against this Act may be heard and determined in a summary way before one Justice of the Peace, in accordance with the provisions of the Act or Acts for the time being in force with reference to summary proceedings before Justices of the Peace, subject to the right of appeal to the next Court of Quarter Sessions holden nearest to the place of conviction, and in all cases the defendant shall be a competent witness.

Disposal of penalties.

15. All penalties recovered under this Act shall be paid—one-half to the person who in the opinion of the convicting Justice of the Peace shall have given such information as led to the conviction, and one-half to the Zoological Society.

Exceptions.

16. This Act shall not apply to any person authorised by the Colonial Secretary to collect specimens of natural history for any scientific institution or museum.

Provision to amend Schedules by notice.

17. The Colonial Secretary may remove the name of any bird from any of the Schedules hereto for any particular district described in a notice in the *Gazette* or altogether whenever it shall be deemed by him expedient so to do by reason of any great increase in the number of such birds or of their being found to be injurious: And from time to time such notices may be issued or annulled by the Colonial Secretary.

Birds Protection.

SCHEDULES.

FIRST SCHEDULE.

Birds absolutely protected for five years and after that period during the Close Season.

FOREIGN BIRDS.

Common Name.	Scientific Name.
Skylark	<i>Alauda arvensis.</i>
Chaffinch	<i>Fringilla cœlebs.</i>
Goldfinch	<i>Carduelis elegans.</i>
Linnet	<i>Linaria cannabina.</i>
Starling	<i>Sturnus vulgaris.</i>
Thrush	<i>Turdus musicus.</i>
Blackbird	<i>Turdus merula.</i>
Nightingale	<i>Sylvia luscinæa.</i>
Pheasant	<i>Phasianus colchicus.</i>
Grouse of every species	<i>Tetrao and Lagopus.</i>
Partridges of every species	<i>Perdix.</i>
White Swans	<i>Cygnus.</i>
Californian Quail	<i>Callipepla Californica.</i>

AUSTRALIAN BIRDS.

Fish Hawks or Sea Eagles	<i>Haliæetus Haliastur and Pandion.</i>
Lyre Birds	<i>Menura.</i>
Regent Bird	<i>Sericulus melinus.</i>
Rifle Bird	<i>Ptiloris paradisea.</i>
Bell Bird	<i>Manorhina melanophrys.</i>
Black Cockatoos	<i>Calyptorhynchus.</i>
Native Companion	<i>Grus Australiensis.</i>
Nankin Crane	<i>Nycticorax Caledonicus.</i>
Laughing Jackass	<i>Dacelo gigas.</i>
Kingfishers	<i>Haleyon and aleyone.</i>
Emu	<i>Dromaius Novæ Hollandiæ.</i>
Seagulls of every description.	

SECOND SCHEDULE.

PART I.

Australian Game Birds protected during the Close Season from 1st August in every year to 31st January then next succeeding inclusive.

Common name.	Scientific name.
Brush Turkey	<i>Talegallus Latham.</i>
Mallee Hen	<i>Acipoa ocellata.</i>
Land Curlew	<i>Oedienemus grallarius.</i>
Bittern	<i>Botaurus poecilopterus.</i>
Land Rail	<i>Hypotaenidia Phillipeusis.</i>
Black Swan	<i>Cygnus atratus.</i>
Bustard or Plains Turkey	<i>Eupodotis Australis.</i>

Wild ducks of every species, including Teal.

Plovers of every species.

Pigeons and doves of every species.

Wild geese of every description.

PART II.

Birds protected during the Close Season from 1st October in every year to 31st March then next succeeding inclusive.

Quail of every species, including Turnix, Pedionomus, Coturnix, Synoicus, and Excalforia.

Close season
Non commenced
16 Sep? in every year
terminates on 1st
23 May next succeeding
vide Gaz. No 285
1 aft 1898

THIRD

(Consolidated Fund) Appropriation.

THIRD SCHEDULE.

Australian Birds other than game protected during the Close Season from 1st August in every year to 31st January then next succeeding inclusive.

Common name.	Scientific name.
Dollar Bird	Eurystomus pacificus.
Wood Swallows	Artamus.
Magpies (other than the Black Magpie)	Gymnorhina.
Peewit or Magpie Lark	Grallina Australis.
Thrush	Collyriocincla harmonica.
Wagtails	Sauloprocta and Seisura.
Jackey Winter	Micræca fascians.
Robins	Petroeca.
Yellow Robins	Eopsaltria Australis.
Blue Wrens	Malurus cyanens and Malurus Lamberti.
Emu Wren	Stipiturus malachurus.
Lark	Anthus Australis.
Skylark or Nightingale	Cinchoramphus.
Diamond Sparrow	Estrilda guttata.
Gang Gang Cockatoo	Callocephalon galeatum.
Indian Minah	Aeridotheres tristis.
Butcher Bird	Cracticus torquatus.
Coachwhip Bird	Psophodes crepitans.
Honeysucker	Meliornis.
Mocking Bird	Anellobia mellivora.
Swamp Pheasant.	
King Parrots	Aprosmictus and Ptistes.
Ibis	Geronticus and Threskiornis.
The bird commonly known as "The Happy Family," or "The Twelve Apostles."	