An Act to repeal the "Game Act, 1874," and Act No. 337 of 1885, and to make other provisions in lieu thereof.

[Assented to, November 17th, 1886.]

WHEREAS it is expedient to repeal the "Game Act, 1874," and Act No. 337 of 1885, and to make other provisions in respect thereof—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:

1. The "Game Act, 1874," and Act No. 337 of 1885, are hereby repealed.

2. This Act may be cited as the "Game Act, 1886."

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

4. For the purposes of this Act, the term "special game" shall mean and include all birds and other animals mentioned in the First Schedule to this Act, and the term "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.

5. The following "special game" and "game" shall be protected in every year, viz.:—Black swans and geese from and inclusive of
the first day of June to and inclusive of the fourteenth day of December; turkeys, curlews, and plover from and inclusive of the first day of August to and inclusive of the fourteenth day of December; ducks of all descriptions from and inclusive of the first day of August to and inclusive of the fourteenth day of December. All the birds and animals mentioned in First Schedule to this Act shall, from and after the passing hereof, be protected 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 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 for the period of time extending from and inclusive of the first day of July to and inclusive of the fourteenth day of December in every year.

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 special game, or 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 special game or game shall, in accordance with the last preceding section of this Act, be protected, every person so offending shall forfeit and pay a penalty not exceeding the sum of Five Pounds for every head of special game, and a sum not exceeding the sum of Two Pounds for every head of 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 special game, or game respectively, which value shall, in the case of special game, be the sum set opposite the name of such bird or animal in the First Schedule hereto, and, in the case of game, the sum of Five Shillings, and proof that such special game or 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, special game, or 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.

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

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
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, or if any person carrying firearms, or accompanied by one or more dogs, and not being thereunto authorised by law being on any land held under lease from the Crown for pastoral purposes, whether such land be within or beyond the limits mentioned in the third section of this Act, for the purpose of killing, wounding, destroying, catching, or taking any bird or animal, or the eggs or young of any bird or animal, and refuses or delays to quit such land after being requested so to do by the owner, lessee, licencee or occupier thereof, or his agent or servant, he shall, upon conviction for any one of such offences forfeit and pay a sum of not exceeding Five Pounds, in addition, in the case of special game or 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 special game or 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.

10. In any proceeding for any offence against the last preceding clause, the proof of permission having been obtained, shall lie on the defendant, and the fact of any person being on such enclosed land or land held under lease from the Crown for pastoral purposes, and having with him firearms, or other weapons, or dogs, shall be prima facie evidence that such person was upon such land for the purpose of killing, wounding, destroying, catching, or taking birds or animals. Section 15 of this Act shall not apply to land held under lease from the Crown for pastoral purposes.

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.

12. Nothing in this Act shall prevent any aboriginal native of this province from killing, for his own consumption or that of his family, any game from any Crown lands, or from any lands reserved specially for the use of the aborigines.

13. No person shall at any time kill, or attempt to kill or destroy any special game or game with any device or instrument known as a swivel or punt gun, or other fixed gun, rifle, or firearm, or with any gun or rifle other than such guns and rifles as are habitually raised at arm’s length and fired from the shoulder; and any person offending against the provisions of this section shall be liable to a penalty of not exceeding Twenty Pounds for the first offence; for the second offence shall be liable to a penalty of not exceeding Fifty Pounds; and for a third or subsequent offence, in addition to the last-mentioned fine, may be imprisoned with hard labor for not exceeding six months. This section shall also apply to the aborigines.

14. The
**Game Act.—1886.**

14. The device or instrument known as the swivel or punt gun is hereby declared to be an illegal device or instrument, and any person in whose possession any such device or instrument shall be found shall be guilty of an offence punishable in a summary way, as follows:—For the first offence a penalty not less than Five Pounds nor exceeding Ten Pounds; for the second offence a penalty not less than Twenty Pounds nor exceeding Thirty Pounds; and for the third and every subsequent offence a penalty not exceeding Fifty Pounds, and the device or instrument shall be forfeited to the Crown. This section also shall apply to the aborigines, and shall come into force one month after the passing of this Act.

15. 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.

16. 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 in force, or 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.

17. 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.

18. There shall be an appeal from any order or conviction of any Special Magistrate or Justices under this Act, or from any order dismissing
dismissing any information, or otherwise, which appeal shall be to the nearest Local Court of Full Jurisdiction, and the proceedings on such appeal shall be conducted in manner appointed by Ordinance, No. 6 of 1850, for appeals to Local Courts; and such Local Court 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.

WM. C. F. ROBINSON, Governor.

SCHEDULES.
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FIRST SCHEDULE.

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

- Crows
- Black Magpies
- Wattle Birds
- Silver Eyes
- Yellow-crested Cockatoos
- Partridges £2
- Grouse £2
- Californian Quail £2
- White Swans £2
- Deer £10
- Antelopes £10.

SECOND SCHEDULE.

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

- Rosella Paroquets
- Sparrows
- Snipe
- Cormorants
- Wild Dogs
- Native Cats
- Opossums
- Kangaroos
- Wallabies, and all other Marsupials

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

- Rats
- Hares
- Rabbits
- Foxes

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