

New Zealand.

ANNO TRICESIMO PRIMO

VICTORIÆ REGINÆ.

No. 34.

AN ACT to make provision for the preservation and propagation of Salmon and Trout in this Colony. Title.

[10th October 1867.]

WHEREAS it is contemplated to introduce salmon and trout into this Colony from abroad And whereas it is necessary that provision should be made for the preservation and propagation of salmon and trout on their arrival in this Colony Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

1. The Short Title of this Act shall be “The Salmon and Trout Act 1867.” Short Title.

2. It shall be lawful for the Governor from time to time as may become necessary to make such regulations as to the Governor seems expedient Governor may make regulations for preserving and propagating salmon and trout and regulating fishing for salmon and trout.

For the preservation and propagation of young salmon salmon fry and spawn and young trout trout fry and spawn upon its importation into this Colony

For prohibiting or restricting from time to time for any period which the Governor thinks necessary fishing in any river or stream in which young salmon salmon fry or spawn or young trout trout fry or spawn is placed or deposited or at the mouth or entrance of any such river or stream

For defining what shall be deemed to be the mouth or entrance of any such river or stream

For imposing or prescribing any conditions and restrictions in respect to salmon or trout fishing

For regulating the times and seasons at which the taking of salmon or trout in each river or stream shall commence and cease

For prohibiting the use of nets or other engines instruments or devices for taking fish in any river or stream in which young salmon salmon fry or spawn or young trout trout fry or spawn is placed or deposited or any other practice tending in the opinion of the Governor to be in any manner detrimental to the increase of salmon or trout

For regulating the times and places and the manner at and in which nets or other engines employed in taking salmon or trout shall be used and the description and form of nets which may be used and the size of the meshes thereof

For preventing the ingress of salmon or young salmon or salmon

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fry or trout or young trout or trout fry to watercourses cuts channels or sluices now or hereafter constructed for the purpose of carrying water from any river or stream in which young salmon salmon fry or spawn or young trout trout fry or spawn is placed or deposited

For, preventing lime or any other matter or liquid deleterious to fish being put thrown or caused or allowed to flow into any river or stream in which young salmon salmon fry or spawn or young trout trout fry or spawn is deposited or placed

Or as to any other matter or thing which in any manner relates to the management and protection of salmon or trout in this Colony or to the fishing for or taking salmon or trout

And from time to time to rescind or vary such regulations or any of them and substitute others in lieu thereof and in and by such regulations to impose any penalty not exceeding one hundred pounds for any breach of such regulations and also to direct that all nets or other engines instruments or devices whatsoever used contrary to such regulations shall be seized forfeited destroyed or removed as the case may require and all such regulations shall be published in the *Government Gazette* and when so published shall be binding and conclusive upon all persons whomsoever as if the same had been contained in and enacted by this Act and every such regulation imposing a penalty shall be so framed as to allow the Justices before whom such penalty is sought to be recovered to order a part only of such penalty to be paid if such Justices shall think fit.

Penalty for breach of regulation not exceeding £100.

Nets &c. unlawfully used may be seized.

Government Gazette to be evidence of regulations.

Governor in Council may extend list of fish protected.

Superintendent may appoint necessary officers.

Powers of officers.

3. The *Government Gazette* containing any such regulations shall be received and taken as conclusive evidence of such regulations and that the same were duly made.

4. It shall be lawful for the Governor by Order in Council published in the *Government Gazette* from time to time to declare that in any part or parts of the Colony the fish mentioned in the second section of this Act or any other fish shall be protected and come under the operation of such of the provisions of this Act as may be specified in such Order in Council and from time to time to revoke alter and amend any such Order in Council.

5. It shall be lawful for the Superintendent of any Province from time to time to appoint during pleasure all such officers servants and other persons as may appear to him to be necessary for the management and protection of salmon or trout in any river or stream within such Province and for the prevention and detection of offences against such regulations as aforesaid and enforcing such regulations in respect of such river or stream.

6. Every such officer is hereby empowered for the enforcement of the provisions of this Act and of such regulations as aforesaid to exercise the powers and authorities of a constable and shall be at liberty at all times and seasons without any let or hindrance whatsoever to enter into and pass through or along the banks or borders of the river or stream in respect of which he is appointed and with boats or otherwise to enter upon such river or stream and to enter upon and examine all tributaries sluices millpools milldams millraces and watercourses communicating therewith and to pass along the same and to enter any boat or boats engaged in fishing and to examine all standing floating or other nets whatsoever and to seize all illegal nets engines instruments and devices whatsoever and all and every other nets engines and instruments whatsoever when used illegally and to do all such other acts and things as he is required to do by such regulations as aforesaid and the production of his appointment under the hand of the Superintendent shall be sufficient warrant for such

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officer so acting in any of the cases aforesaid Provided that nothing herein contained shall be construed to authorize any such officer to enter any garden enclosed with any wall or paling nor any dwelling-house or the curtilage thereof except when the ordinary passage to any such river stream or tributary or to any sluice millpool milldam millrace or watercourse is through any such garden or curtilage as aforesaid save when thereunto authorized by the warrant of a Justice of the Peace as hereinafter provided.

7. It shall be lawful for any Justice of the Peace upon an information on oath that there is probable cause to suspect any breach of such regulations as aforesaid to be committed within any of the hereinbefore excepted grounds and places by warrant under his hand to empower any such officer as aforesaid to enter the said excepted premises for the purpose of detecting such offence at such time or times in the day or night as in such warrant is mentioned provided that no such warrant shall continue in force for more than fourteen days from the date thereof.

Justice may grant warrant to enter suspected places.

8. If any person assaults resists or obstructs any officer in the execution of any of the powers conferred on him by this Act or by any such regulation as aforesaid every person so offending shall for every such offence incur a penalty not exceeding ten pounds.

Penalty for obstructing officers.

9. When any person is found offending against any such regulation as aforesaid it shall be lawful for any person to require the person so offending forthwith to desist from such offence and also to tell his Christian name surname and place of abode and in case such person so found offending after being so required refuses to tell his real 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 such offence 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 any net or other engine or instrument illegally used by such offender and to convey him 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 that 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.

Apprehension of offenders.

10. All offences against this Act or against any regulations as aforesaid shall be heard and determined and all nets or other engines instruments or devices directed to be forfeited by any such regulations as aforesaid be adjudged forfeited and all penalties be recovered in a summary way by and before any two or more Justices of the Peace in the mode prescribed by "The Justices of the Peace Act 1866."

Recovery of penalties.

11. No action shall be brought against any person for anything done in pursuance of this Act or any such regulation as aforesaid unless such action shall be 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

Limitation of actions.

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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.

Governor may
delegate powers.

12. It shall be lawful for the Governor by Order in Council under his hand and the public seal of the Colony from time to time to delegate to the Superintendent or the Provincial Executive of any Province or to two or more Superintendents or Provincial Executives jointly or to such other person as the Governor may deem fit all or any of the powers vested in the Governor or the Governor in Council by this Act subject or not to any limitations or restrictions as he may think fit and in like manner to alter or revoke any such power.

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