

T A S M A N I A.

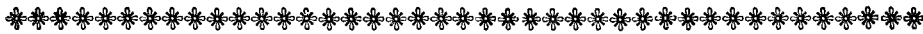


1859.

ANNO VICESIMO-TERTIO

VICTORIÆ REGINÆ,

No. 9.



AN ACT temporarily to make Provision for the Preservation and Propagation of Salmon in this Colony. [14 September, 1859.]

WHEREAS it is contemplated to introduce Salmon into this Colony from abroad : And whereas no definite or permanent Law can be passed for the Regulation of the Salmon Fishery in this Colony until experience has been obtained as to what may be the habits of Salmon in the Climate of this Colony, and it is necessary that temporary provision should be made for the Preservation and Propagation of Salmon on arrival in this Colony: 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 It shall be lawful for the Governor in Council from time to time as may become necessary to make such Regulations as to the Governor in Council seems expedient—

Governor in Council empowered to make Regulations for preserving and propagating Salmon, and regulating fishing for Salmon.

For the preservation and propagation of young Salmon, Salmon Fry and Spawn, upon its importation into this Colony :

For prohibiting or restricting, from time to time, for any period which the Governor in Council thinks necessary, fishing in any River or Stream in which young Salmon, Salmon 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 fishing :

For regulating the times and seasons at which the taking of Salmon 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 is placed or deposited, or any other practice tending in the opinion of the Governor in Council to be in any manner detrimental to the increase of Salmon :

For regulating the times and places, and the manner, at and in which Nets or other engines employed in taking Salmon 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, young Salmon, or Salmon Fry to Water-courses, Cuts, Channels, or Sluices, now or hereafter constructed for the purpose of conveying water from any River or Stream in which young Salmon, Salmon 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 is placed or deposited :

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

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 any 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 *Gazette*, and when so published shall be binding and conclusive on all persons whomsoever as if the same had been contained in and enacted by this Act.

Penalty for breach of Regulation, £100.

Nets, &c. unlawfully used may be seized.

Gazette to be evidence of Regulations.

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

Land may be taken for purposes of Act.

3 The Commissioner of Crown Lands, by direction of the Governor, is hereby authorised to purchase and take, in the mode prescribed by *The Lands Clauses Act*, any Land, being part of the bed or soil of or adjoining any River or Stream, which may be required for the purpose of constructing any work used in the hatching or rearing of Salmon Fry or Spawn; and *The Lands Clauses Act* shall be incorporated with this Act, and for the purposes of such incorporation such Commissioner shall be deemed to be the promoter of the undertaking.

Governor to appoint necessary Officers.

4 It shall be lawful for the Governor 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 due management and protection of Salmon in any River or Stream in this Colony, and for the prevention and detection of offences against such Regulations as aforesaid, and enforcing such Regulations in respect of such River or Stream.

5 Every such Officer is hereby empowered, for the enforcement of Powers of Officers. 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, Mill-pools, Mill-dams, Mill-races, 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 Colonial Secretary, shall be sufficient warrant for such Officer so acting in any of the cases aforesaid: Provided, that nothing herein contained shall be construed to authorise any such Officer to enter any Garden enclosed with a wall or paling, nor any Dwelling-house or the curtilage thereof, except where the ordinary passage to any such River, Stream, or Tributary, or to any Sluice, Mill-pool, Mill-dam, Mill-race, or Watercourse is through any such Garden or curtilage as aforesaid, save when thereunto authorised by the Warrant of a Justice of the Peace as hereinafter provided.

6 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 premises, by Warrant under his hand, to authorise and 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.

7 If any person assaults, resists, or obstructs any such 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.

8 When any person is found offending against any such Regulation as aforesaid, it shall be lawful for any person to require the person so found 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 Apprehension of offenders.

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.

Recovery of penalties.

9 All offences against this Act or any such Regulations as aforesaid shall be heard and determined, and all Nets or other engines, instruments, or devices directed to be forfeited by any such Regulation 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 Magistrates Summary Procedure Act*.

19 Vict. No. 8.

Limitation of Actions.

10 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 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.

Notice of Action.

General issue.

Tender of amends.

Costs.

Duration of Act.

11 This Act shall continue and be in force until the end of the First Session of the Parliament of *Tasmania* which is held in the year 1861, and no longer.

Short title.

12 In referring to this Act it shall be sufficient to use the expression *The Salmon Act*.