

New Zealand.



ANALYSIS.

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1885, No. 30.

Title. AN ACT to provide for the Reservation of State Forests in New Zealand, and for the Control and Management thereof.
[14th September, 1885.]

Preamble. WHEREAS it is expedient to make provision for setting apart areas of forest land in New Zealand as State forests, and to subject the same to skilled management and proper control, in order thereby to prevent undue waste of timber, and to provide timber for future industrial purposes, and to provide for the proper conservation of climatic conditions by the preservation of forest growth in elevated situations :

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

Short Title. 1. The Short Title of this Act is "The New Zealand State Forests Act, 1885."

Interpretation. 2. For the purposes of this Act,—
 " Treasurer " means the Colonial Treasurer, and includes any member of the Executive Council acting for the Colonial Treasurer for the time being :
 " Commissioner " means Commissioner of State Forests

appointed under this Act, and includes any member of the Executive Council acting for the Commissioner for the time being.

3. The Governor in Council may, by Proclamation published in the *Gazette*, set apart any forest lands forming part of the Crown lands in New Zealand as and for State forests within the provisions of this Act.

Governor in Council...
may set apart
forest land.

4. The Governor may appoint some one of the Responsible Ministers of the Crown in New Zealand to be the Commissioner of State Forests, hereinafter referred to as the Commissioner, for the purposes of this Act.

Governor may ap-
point Commissioner.

5. Subject to the provisions of this Act all State forests created under this Act, and all forest reserves already proclaimed as such under the provisions of any Act heretofore in force or otherwise, shall respectively be deemed to be in the possession of and under the control of the Commissioner.

State forests under
control of Commis-
sioner.

The Commissioner shall, on behalf of Her Majesty the Queen, have all such powers, authorities, and duties as are, or under this Act may be conferred or imposed upon him; and all acts or things done by him under the authority of this Act shall be binding on Her said Majesty, her heirs and successors, and on the Commissioner for the time being acting under this Act.

No Commissioner shall be liable either in person or estate for any act or thing done by him under the authority of this Act.

6. The Colonial Treasurer shall cause a separate account to be kept in the Consolidated Fund, called the State Forests Account, to which shall be paid all rents, license fees, fines, penalties, awards for damage, the value of articles confiscated, and all other revenue of what kind soever accruing from the management of the State forests under the provisions of this Act, and which shall be charged with the salaries of all persons engaged in such management, and the contingent expenses relating thereto, and with the repayment of all moneys borrowed under the provisions of this Act, and the interest thereon.

State Forests
Account.

7. The Commissioner may borrow from any person or persons willing to lend the same, or from the Treasurer, and the Treasurer may lend out of any Trust Funds under the control of the General Government of New Zealand, or out of any other funds available for investment, the sum of ten thousand pounds and such further sums as the General Assembly shall from time to time authorize, and such moneys shall be paid into "The State Forests Account," and shall be applied in the management, improvement, and development of all or any State forests under the control of the Commissioner, or in the execution of any works authorized by this Act in or in connection with any State forest.

Commissioner may
borrow money for
State-forest pur-
poses.

8. All moneys so borrowed, and the interest thereon, shall be deemed to be a first charge upon the revenues arising from State forests, and shall be repaid out of such revenues within the period of twenty years, computed from the date of such advance; and the Governor shall, by regulations published in the *Gazette*, fix and determine the mode in which such repayment shall be secured and effected, and the rate of interest and sinking fund in respect of each advance, and the nature and terms of the securities to be given.

Mode of repayment.

If the Commissioner is hereafter authorized to borrow in excess of such ten thousand pounds, the additional amount authorized shall rank equally with the said ten thousand pounds as a first security on the State Forests Account.

Commissioner may grant licenses to cut timber.

9. The Commissioner may grant licenses to cut timber in any State forest; but every such license shall be subject to the regulations for the time being in force under the authority of this Act regulating the cutting of such timber.

Way-leaves.

10. The Commissioner may grant to any such licensee all such way-leaves over any part of any State forest as may be necessary for the purpose of leading and carrying away any timber cut therein, but every such way-leave shall be subject to the regulations for the time being in force relating to the use of way-leaves.

Floating of timber.

11. The Commissioner may grant to any such licensee the right of floating timber cut by him, either in log or in raft, down any river or stream within the limits of the forest in which the same has been cut, in manner provided by "The Timber-floating Act, 1884;" but such licensee shall in every such case alone be liable for any injury done by the exercise of such right.

Appointment of officers.

12. The Governor may, for the purposes of this Act, from time to time appoint and remove all the officers and servants required for the purposes of this Act, including one or more conservator or conservators of State forests.

Salaries.

13. The salaries of all officers and servants engaged in or about the administration of this Act, and all other expenses whatsoever to be incurred in such administration, shall be subject to the appropriation of the General Assembly.

Governor may fix duties of conservator.

14. The Governor may from time to time fix and determine what part or parts of any State forest created under the provisions of this Act shall be under the management of any conservator appointed as aforesaid.

Governor in Council may make regulations.

15. The Governor in Council may from time to time make, alter, or repeal such regulations for all or any of the purposes next herein-after mentioned in relation to State forests, that is to say,—

Subjects of regulations.

- (1.) For regulating the duties of conservators and other officers and servants employed in State forests under this Act, and prescribing what acts or omissions by such officers shall be punishable by penalties as breaches of such regulations, and limiting the amount of such penalties, and for prescribing and regulating the powers of such officers for preventing the cutting, removing, and destruction of timber contrary to the provision of this Act and the regulations made thereunder.
- (2.) For prescribing the mode and form of application for licenses or grants of privileges in State forests, and the terms and conditions of such licenses and grants;
- (3.) For regulating the seasons at, and mode in which the licensees or grantees of privileges may fell trees reserved, and cut or remove timber or bark;
- (4.) For requiring such licensees and grantees to take from all trees cut down all the timber fit for use;
- (5.) For preventing all unnecessary destruction of growing timber

in State forests, and for the planting of trees and renewal of forests ;

- (6.) For preventing the danger and spread of fire in State forests ;
- (7.) For prohibiting trespassing in State forests and for regulating access thereto ;
- (8.) For the protection of roads in State forests ;
- (9.) For regulating and authorizing the construction, maintenance, and use of tramways, railroads, and other roads and ways in State forests, and for charging rents, tolls, or other dues for the use of tramways, railroads, and other roads and ways in State forests ;
- (10.) And generally for facilitating and more effectually carrying into execution the objects of this Act ;

and, until any such regulations shall have been made, the regulations set forth in the Schedule to this Act shall be in force within any State forest.

16. Any regulations for the time being in force under the last preceding section may be made applicable to State forests generally, or to any part or parts thereof.

Regulations may apply to whole or part of State forest.

17. The Governor in Council may by any such regulation, to be made under this Act, impose reasonable penalties not exceeding fifty pounds for any one offence, and every such regulation shall be so framed as to allow the Justice or Justices before whom any such penalty may be sought to be recovered, to order a part only of such penalty to be paid if such Justice or Justices shall think fit.

Penalties.

18. Every regulation made under this Act shall be published in the *Gazette* and in some newspaper generally current in the district comprising any State forest affected thereby, and shall come into operation and shall have the force of law upon a day to be named therein, and the production of a *Gazette*, containing therein printed matter purporting to be a regulation made under this Act, shall be sufficient proof thereof.

Regulations to be published in *Gazette*.

19. Where any license or grant of privilege made under this Act shall have become liable to forfeiture by reason of the breach or non-performance of any condition or provision therein contained or implied, the Commissioner shall have the right, without any suit or other proceeding at law, or in equity, or compensation to the licensee or grantee, to cancel the same, and to make a new license or disposition of the rights and privileges described therein to any other person at any time during the term of the licence or grant so cancelled. Provided that the Commissioner, if he see fit, may refrain from enforcing the forfeiture of such license or grant for non-payment of rent or other moneys.

Licenses may be cancelled for breach of condition.

20. The Commissioner may from time to time set apart any portion of any State forest for occupation by labourers employed in connection with such forests, and may, subject to appropriation by the General Assembly, apply moneys forming part of the State Forests Account for the erection of dwellings on the land so set apart, and may grant to any labourer a license to occupy any such land, with or without a dwelling thereon, subject to the payment of rent for the use of the same with or without a purchasing clause, and subject to such regulations as to the mode and terms of such occupation as shall

Provision for labourers' dwellings.

Power of delegation.

from time to time be made by the Governor in Council in that behalf
 Provided that the area granted to any one person shall not exceed
 twenty acres.

Local bodies may
 take part in manage-
 ment under Order in
 Council.

21. The Governor may, by Order in Council, from time to time, delegate to the Commissioner or to any conservator any of the powers vested in him by the provisions of this Act, excepting the powers conferred by clauses fifteen, sixteen, and seventeen; and the Commissioner may, with the consent of the Governor in Council, from time to time delegate to any conservator any of the powers vested in him by this Act. Any such delegation may be made subject to such terms and conditions as shall in each case be deemed expedient, and may from time to time be revoked or altered.

Conservator may
 exercise delegated
 powers.

22. The Governor in Council may, from time to time by Order in Council, direct that any of the powers given by this Act to or delegated to any conservator under the provisions of this Act shall, from and after a date to be mentioned in such order, be exercised by such conservator only with the consent and approbation of any local body exercising jurisdiction within any district comprising all or any part of any State forest, and may, by any such order, annex to any such direction as aforesaid any terms or conditions which he shall think fit.

Power to establish
 schools of forestry
 and agriculture.

23. The Commissioner may, with the consent of the General Assembly, establish schools of forestry and agriculture within any of the State forests created under the provisions of this Act, and may, out of the State Forests Account, provide for the cost of erecting, establishing, and maintaining any such school, and may from time to time regulate the mode and class of instruction to be given in such schools: Provided, however, that the same shall not be inconsistent with the principles set forth in the Acts for the time being in force for regulating the education of the people in New Zealand.

Whangarei Forestry
 School.

24. The Minister may at any time establish a school of forestry and agriculture on that parcel of land containing three thousand eight hundred and ninety-one acres, more or less, and known as the Kioreroa Block, situated in the Purua and Whangarei Survey Districts, as the same is defined in the Schedule to "The Whangarei High School Act, 1878."

From and after the opening of such school, the land aforesaid shall become vested in Her Majesty for the purposes of such school, and shall no longer be vested in the Board of Governors of the Whangarei High School, as provided by the said Act.

"The Whangarei High School Act, 1878," shall be repealed from and after the day upon which it is notified in the *Government Gazette* that the school for forestry and agriculture authorized to be established has been opened under this section.

Power to arrest
 trespassers.

25. Any conservator or other officer appointed under this Act may without warrant apprehend any unauthorized person found cutting or removing any timber or bark on or from any lands forming part of a State forest under this Act; and any person so apprehended shall be taken as soon as reasonably may be before some Justice of the Peace to be dealt with according to law.

Punishment of
 offenders.

26. Any person found within any State forest, or on any road in its vicinity, and having in his possession any tree or part

of a tree, who, on being thereunto required by any conservator of forests or other officer under this Act, or by any person having a right to cut wood on any such forest or part thereof, or by any one acting on behalf of such person, refuses to give a satisfactory account of the manner in which he became possessed of any such tree or part of a tree may be taken by the party interrogating him before any Justice of the Peace, and if such person does not satisfy the Justice that he came lawfully by the said tree or part of a tree, he shall on conviction by such Justice forfeit and pay over and above the value of such tree or part of a tree so found any sum not exceeding five pounds.

27. All penalties imposed by this Act, or any regulation made hereunder, shall be recoverable only on summary conviction before any Justice or Justices of the Peace. Penalties, how recoverable.

28. The provisions of Part V. of "The Land Act, 1877," are hereby repealed, but shall, notwithstanding, remain in full force so far as relates to anything done, appointment or instrument made, right or privilege accrued, work authorized, offence committed, forfeiture, penalty, or liability incurred, action, prosecution, or proceeding commenced under the authority of or against the provisions of the said Act before the passing of this Act. Repeal of part of "Land Act, 1877."

29. "The Forest Trees Planting Encouragement Act, 1871," "The Forest Trees Planting Encouragement Act Amendment Act, 1872," and "The Forest Trees Planting Encouragement Acts Amendment Act, 1879," are hereby repealed; but shall, notwithstanding, remain in full force so far as relates to anything done or commenced, appointment or instrument made, right or privilege accrued or accruing, work authorized, offence committed, forfeiture, penalty, or liability incurred, action, prosecution, or proceeding commenced under the authority of or against the provisions of the said Acts before the passing of this Act. Repeal of other Acts.

30. In case there shall be no fairly good land, of which the Commissioner shall be the judge, available for the purpose of satisfying the claim of any person under the provisions of section three of "The Forest Trees Planting Encouragement Act, 1871," the Commissioner may agree to pay to any such person out of the State Forest Account a sum not exceeding two pounds in lieu of each and every acre of land to which such person would have been entitled under such provisions. Compensation in certain cases.

31. The Commissioner may enter into agreements with local bodies, subject to moneys for the purpose being voted by the General Assembly, to give them subsidies for planting reserves or for establishing plantations. Subsidies to local bodies for planting reserves or establishing plantations.

32. All the provisions of any Act in force at the time of the passing of this Act, relating to State forests or forest reserves which are inconsistent with or repugnant to this Act, shall be deemed to be repealed by this Act. Repeal of inconsistent provisions.

Schedule.

SCHEDULE.

1. Every State forest shall be surveyed, and the boundaries thereof duly marked upon the ground before any unalienated Crown lands adjoining thereto shall be sold or otherwise disposed of.

2. No timber shall be cut or barked within the area of any such forest above such altitude, as shall be fixed in relation thereto by the Commissioner, the whole area above such elevation being reserved for climatic purposes.

3. For the purpose of ascertaining elevations under these regulations, sea level shall be the base.

4. For the purpose of utilizing such parts of any such forest as shall be below the elevation fixed as aforesaid, the same shall be divided into mountain reserve and level reserve.

5. No timber shall be felled on any part of any State forest as shall be classed as a mountain reserve, except such as shall be marked by the conservator or by some subordinate officer appointed by him for that purpose.

6. Every part of any State forest which shall be classed as a mountain reserve shall be divided into blocks in which timber may be felled in rotation of a given number of years to be fixed by the conservator and approved by the Commissioner.

7. The Conservator, with the approval of the Commissioner, shall regulate the mode of felling and utilizing timber to be cut on such part of any State forest as shall be classed as a level reserve, and every such regulation shall be distinctly set forth in any license issued under the foregoing Act and these regulations.

8. The Commissioner may grant licenses for taking wood suitable for fuel only from any part of any State forest which shall be classed as a level reserve upon such terms and conditions as he shall think fit.

9. Where it shall be necessary to grant to any licensee or other person authorized to cut and remove timber, bark, or wood for fuel from any State forest any right or rights of way through any part of the same, the conservator shall report to the Commissioner the extent of such right or rights, and the mode in which the same is or are to be used, and the Commissioner shall set forth in the license granted to every such person the exact extent and nature of the right or rights so to be granted, and any conditions which he may consider necessary to secure the due enjoyment and observance of such right or rights.

10. All timber and other produce within any State forest may be disposed of either by auction, appraisement, or license to fell upon such terms as the Commissioner shall prescribe, and all moneys which shall be payable for such timber or other produce shall be paid in such manner as the Commissioner shall direct.

11. Every person holding any license to fell timber shall use a brand, and shall register the same in the office of the conservator, and no two persons shall use the same brand.

12. Any person marking any timber with any brand not belonging to him, or branding any timber belonging to any other person with any brand other than the brand of the owner thereof, shall be guilty of an offence, and shall be liable to a penalty not exceeding £5 for every such offence.

13. Any person lighting any fire within a State forest, and intentionally or negligently allowing the same to spread, shall be guilty of an offence, and shall be liable to a penalty not exceeding £20, but the payment of such penalty shall not prevent the recovery from the wrongdoer of the value of any damage which may be done by such fire.

14. Any person who shall permit any fire lighted by him outside the boundaries of any State forest to spread into or cause injuries to such State forest shall be guilty of an offence, and shall be liable to a penalty not exceeding £20, but the payment of such penalty shall not prevent the recovery from the wrongdoer of the value of any damage which may be done by such fire.

15. In case any fire shall occur in any State forest so as to threaten injury to the same, every person in the vicinity may be called upon to assist in extinguishing the same, and any person refusing, without lawful excuse, to give such assistance shall be guilty of an offence, and shall be liable to a penalty not exceeding £5.

16. Any person who shall unlawfully injure or destroy any timber or other tree or shrub within the limits of any State forest shall be guilty of an offence, and shall be liable to a penalty not exceeding £5 for every timber-tree so injured or destroyed, and of £1 for every other tree or shrub so injured or destroyed.

17. Any person who shall suffer any cattle or animal of any kind to wander in any reserve, or to browse upon or otherwise destroy any timber or other trees or shrubs, shall be guilty of an offence, and shall be liable to a penalty not exceeding £5, and the payment of such penalty shall not prevent the recovery from the wrongdoer of the value of any damage which may be done by any such cattle or animal, but nothing in this or any other regulations contained shall apply to cattle being driven through any State forest, or temporarily wandering without neglect of the person in charge of the same.

18. Any ranger or other person may drive any cattle or other animal as aforesaid to the nearest public pound, and the same shall not be released therefrom except upon payment of the sum of 5s. per head to the conservator of the State forest, in addition to all other poundage charges.

19. Any person found within the limits of any State forest, and suspected of being there for an illegal purpose, may be arrested by any conservator or other officer concerned in the management of such State forest, and shall, unless such Magistrate shall be of opinion that his being on such State forest was not for any unlawful purpose, be guilty of an offence, and be liable to a penalty not exceeding £2.

20. Any person who shall hinder or obstruct any officer concerned in the management of any State forest in the execution of his duty, or in doing any act authorized by the foregoing Act or in these regulations, shall be guilty of an offence, and be liable to a penalty not exceeding £5.