

No. XX.

OYSTER-BEDS. An Act to regulate Oyster Fisheries and to encourage the formation of Oyster-beds. [1st February, 1868.]

Preamble.

WHEREAS it is expedient to encourage the cultivation and improvement of Oyster Fisheries and to prevent the exhaustion of the Oyster-beds in the Colony 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:—

Interpretation clause.

Oyster-beds may be leased.

1. In the construction and for the purposes of this Act the word "oyster" shall include all bivalve shell-fish commonly known and sold as oysters together with their spat—the word "bed" shall include any bank of mud sand silt or any rock growing or dead tree or branch timber and any substance or thing whatsoever to which oysters or spat shall be found attached.

2. The Governor with the advice of the Executive Council may subject to any regulations to be made as hereinafter provided demise by auction or otherwise for any term not exceeding ten years any Crown Land being part of the shore and bed of the sea or of an estuary or tidal water above or below or partly above and partly below low water mark for or in connection with the laying down or forming of any oyster-bed Provided always that the lessee shall not possess any exclusive right or title to the occupancy of the shore except for the purposes aforesaid.

Oyster-beds.

3. Every such lease shall be in writing and shall by reference Form of license. to a map or otherwise define the position and limits of such proposed oyster-bed and shall be made subject to such conditions and limitations as to the Governor and Executive Council shall seem proper.

4. The lessees shall have by virtue of the lease within the Lessees rights. limits therein described the exclusive right of depositing propagating dredging and fishing for and taking oysters and in the exercise of that right may within the limits aforesaid proceed as follows namely make and maintain oyster-beds and collect oysters and remove the same from place to place and deposit the same as and where they think fit and do all other things which they think proper for obtaining storing and disposing of the produce of their oyster-beds.

5. It shall not be lawful for any person other than the lessees Penalties for injuring oyster-beds. or their assigns their agents servants and workmen knowingly within the limits of any oyster-bed to do any of the following things—

- To use any implements of fishing except a line or a hook or a net adapted solely for catching floating fish and so used as not to disturb or injure in any manner any oyster-bed or oysters
- To dredge for any ballast or other substance except under a lawful authority for improving the navigation
- To deposit any ballast rubbish or other substance
- To place any implement apparatus or thing prejudicial or likely to be prejudicial to any oyster-bed or oysters except for a lawful purpose of navigation or anchorage
- To disturb or injure in any manner except as last aforesaid any oyster-bed or oysters
- To interfere with or take away any of the oysters from such oyster-bed without the consent of the lessees—

And if any person does any act in contravention of this section he shall forfeit and pay any sum not exceeding five pounds for every such offence and every such person shall also be liable to make full compensation to the lessees for all damage sustained by them by reason of his unlawful act and the same may be recovered from him by the lessees in any Court of competent jurisdiction whether he has been prosecuted for or convicted of an offence against this section or not.

6. The Governor with the advice aforesaid may by proclamation Oyster-beds or fisheries may be closed. in the *Government Gazette* shut up and close for any term not exceeding three years any natural oyster-bed the position and limits of such bed being defined in such proclamation by reference to a map or otherwise and whosoever except as hereinafter provided shall dredge for take catch or destroy any oysters from any such oyster-bed during the time the same is shut up and closed shall forfeit and pay any sum not exceeding ten pounds.

7. Whosoever shall dredge gather or burn for the purpose of Burning oysters prohibited. converting the shells into lime any live oysters shall forfeit and pay any sum not exceeding ten pounds.

8. The Governor with the advice of the Executive Council Regulations may be made. may make and proclaim regulations for carrying this Act into full effect And all such regulations shall upon publication in the *Government Gazette* be valid in law Provided that a copy thereof shall be laid before both Houses of Parliament within one month from the issue thereof if Parliament be then in Session or otherwise within one month after the commencement of the then next ensuing Session.

9. All offences under this Act may be heard and determined and all penalties attaching thereto may be recovered in a summary way by and before any Justice of the Peace who may order and direct all dredges and other implements found in the possession of any person convicted of any offence under this Act to be forfeited and destroyed Offences hereunder to be heard before a Justice. and

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and may order all oysters so found to be deposited in some tidal water appointed for that purpose by the Governor with the advice of the Executive Council.

If penalty not paid
imprisonment not
exceeding three
months.

10. If any penalty imposed by any Justice of the Peace under this Act shall not be paid either immediately or within such time as such Justice may appoint for such payment not exceeding fourteen days after conviction then the person so convicted shall be imprisoned for any period not exceeding three months unless such penalty be sooner paid.

Commencement and
short title.

11. This Act shall come into operation upon the first day of February one thousand eight hundred and sixty-eight and may be cited as the "Oyster-beds Act of 1868."
