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A.D. 1909.

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No. 981.

An Act relating to Licences to take the Fibre known as *Posidonia Australis* and Sponges, and for other purposes.

[*Assented to, December 11th, 1909.*]

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as "The Fibre and Sponges Act, Short title. 1909."

2. The Crown Lands Act, so far as consistent with the tenor of Act incorporated. this Act, is incorporated herewith.

3. In this Act, and in regulations made under this Act, unless Interpretation. inconsistent with the context or the subject matter—

"Commissioner" means the Commissioner of Crown Lands of the said State, or the Minister of the Crown for the time being discharging the duties of such Commissioner of Crown Lands:

"Crown Lands Act" means "The Crown Lands Act, 1903," and any Act amending that Act, or any Act substituted for that Act:

"Fibre" means the fibre known as *Posidonia Australis* :

"Foreshore" means the foreshore of the sea between the high and low water marks:

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“Licence” means licence granted under this Act:

“Sea” includes any inlet or arm of the sea:

“This Act” includes regulations made under this Act.

“Undertaking” means the obtaining, raising, and landing of fibre and sponges, or either, and rendering the same merchantable, and disposing of the same.

Licences may be granted.

4. The Commissioner, or any person authorised by him, may grant licences in respect of any portions of the foreshore and of the lands which, being overflowed by the territorial waters of the sea, adjoin such portions of the foreshore, for the purpose of obtaining and removing fibre and sponges or either therefrom: Provided that—

- i. No licence shall be granted in respect of any place situated within one mile of any jetty, wharf, pier, breakwater, or harbor, or of any place disapproved by the Commissioner; and
- ii. Any application for a licence may be refused entirely in the discretion of the Commissioner.
- iii. In the granting or renewal of any licence, all other matters being equal, preference shall be given to applicants who undertake to establish a manufacturing industry in the said State in respect of fibre and sponges, or either, according to the nature of the licence.

Limit of licence.

5. No licence shall be granted in respect of a greater area than five square miles, and the area comprised in any licence shall in no case have a frontage along the high-water mark of more than two and a half miles.

Applications to be referred to Land Board.

6. Every application for a licence shall be referred by the Commissioner to the Land Board, who shall, subject to the approval of the Commissioner, determine whether a licence shall be granted; and in case there are more applicants than one for a licence in respect of the same area, the said Board shall, subject as aforesaid, determine to which (if any) of the applicants a licence shall be granted.

Terms and conditions of licence.

7. Notwithstanding anything contained in the Crown Lands Act, any licence—

- i. May be for any term not exceeding twenty-one years:
- ii. If granted for a less term than twenty-one years, may give to the licensee a right of renewal from year to year, exercisable only if the terms, covenants, conditions, and restrictions of the licence have been complied with: Provided that the total period covered by the term of the original licence and all such renewals shall not exceed twenty-one years:
- iii. Shall be subject to an annual rent of Five Pounds for every square mile comprised therein, any fraction being regarded as a square mile:
- iv. Shall

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- iii. Shall be subject to an annual rent of Five Pounds for every square mile comprised therein, any fraction being regarded as a square mile:
- iv. Shall

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- iv. Shall contain a condition that the licensee will, during the term of the licence, or of the licence and of every renewal thereof, keep continuously employed in removing or treating fibre and sponges or either (according to the nature of the licence) from the area in respect of which such licence is granted not less than one man for every square mile included in such area, and in any case not less than two men, and that he will furnish the Commissioner, when required by him, with evidence to his satisfaction that such number of men has been and is being so employed: Provided that the Commissioner may at any time during the term of a licence or any renewal thereof suspend the operation of the conditions required by this subsection for such time as he deems reasonable if in his opinion the circumstances warrant such suspension:
- v. Shall contain a covenant that the licensee will pay to the Commissioner, at the expiration of each year of the licence, or of the licence and of any renewal thereof, a royalty the amount of which shall be determined according to the scale set out in the Schedule to this Act:
- vi. Shall contain such other terms, covenants, conditions, and restrictions as the Commissioner sees fit to impose:
- vii. Shall not be revocable except for the non-payment of any rent or royalty payable thereunder, or the non-performance or non-observance of any of the terms, covenants, conditions, or restrictions thereof: Provided that nothing in any licence or this Act shall be held to interfere with any right of the Crown to resume lands.

8. No transfer or assignment of any licence, nor any sub-lease or sub-licence of any area in respect of which any licence is granted, or in respect of any part thereof, shall have any force or effect unless made or granted with the previous consent in writing of the Commissioner.

No transfer of licence without consent.

9. The licensee under any licence shall, subject to anything contained in such licence or this Act, have the exclusive right to obtain and remove the fibre known as *Posidonia Australis* and sponges or either (according to the nature of his licence) from the area in respect of which such licence is granted, and have the exclusive ownership of the fibre and sponges or either (according as aforesaid) so obtained.

Licence confers exclusive rights.

10. (1) Every licence, permit, or other authority, granted before the passing of this Act, to remove fibre, fibrous deposit, and sponges, or any of such things, from, in, or under the foreshore or the water fronting the foreshore, and in respect of which licence, permit, or other authority all the terms and conditions thereof have been complied with up to the time of the passing of this Act, is hereby confirmed, and shall, from the passing of this Act, be

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- v. Shall contain a covenant that the licensee will pay to the Commissioner, at the expiration of each year of the licence, or of the licence and of any renewal thereof, a royalty the amount of which shall be determined according to the scale set out in the Schedule to this Act:
- vi. Shall contain such other terms, covenants, conditions, and restrictions as the Commissioner sees fit to impose:
- vii. Shall not be revocable except for the non-payment of any rent or royalty payable thereunder, or the non-performance or non-observance of any of the terms, covenants, conditions, or restrictions thereof: Provided that nothing in any licence or this Act shall be held to interfere with any right of the Crown to resume lands.

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be deemed to be a licence granted under this Act and be deemed to contain all the terms, covenants, and conditions mentioned in subdivisions III., IV., V., and VII. of section 7, and in the Schedule to this Act, and shall be subject to all the said terms, covenants, and conditions and to section 8.

(2) Nothing in this Act shall be deemed to extend the period for which any such licence, permit, or authority was granted, nor to extend any right of renewal thereby conferred.

**Regulations.**

**11.** (1) The Governor may make regulations, not being inconsistent with this Act, prescribing—

- i. The manner in which applications for licences are to be made :
- ii. The forms of such applications and of licences :
- iii. The terms, covenants, conditions, and restrictions under and subject to which licences may be granted, including, amongst others, restrictions for the protection of harbors, for preventing interference with navigation or the fishing industry, and for preventing undue interference with the growth and propagation of fibre and sponges, or either :
- iv. Close seasons during which sponges shall not be obtained or removed, under licences or otherwise, from the sea or the foreshore or any land overflowed by the sea or any specified portions of the sea or the foreshore or the land overflowed by the sea :
- v. The mode of ascertaining, determining, and recording—
  - (a) The quantities of fibre and sponges obtained under licences ;
  - (b) The existing values of the capital actually spent by licensees on their undertakings ; and
  - (c) The amounts of the net profits obtained by licensees in working under their licences ; and
  - (d) The amounts of the royalties to be paid under licences :
- vi. Such other matters and things as may be necessary or convenient to enable or assist the Commissioner to carry out the powers by this Act conferred upon him ; and
- vii. Such other matters and things as may be necessary or convenient for giving effect to this Act.

(2) Any such regulation may impose a penalty not exceeding Fifty Pounds for any breach thereof, or of any regulation under this Act.

(3) All such regulations shall—

(a) Be published in the *Government Gazette* ;

(b) Take

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(b) Take effect from the date of such publication, or from a later date to be specified therein; and

(c) Be laid before both Houses of Parliament within fourteen days after publication, if Parliament is in Session, and if not, then within fourteen days after the commencement of the next Session.

(4) Notwithstanding any publication thereof, no regulation shall continue to have any force or effect if the same is disapproved, either wholly or in part, by resolution of either House of Parliament, within thirty days after such regulation has been laid before Parliament, if Parliament is so long in Session: Provided that if Parliament is not in Session for thirty days after such regulation has been laid before it, then such regulation shall not continue to have any force or effect if disapproved by either House of Parliament within thirty days after the commencement of the next Session of Parliament.

Disapproval of  
Parliament.

12. Nothing in this Act, or in any licence granted under this Act, or any licence, permit, or other authority deemed to be a licence granted under this Act, shall be held—

Saving of jurisdiction  
of Marine Board and  
offences against  
Marine Board Acts.

i. To interfere with, or to permit any interference with, the exercise by the Marine Board, or any person or body to which all or any of the powers of such Board are hereafter transferred, of any of the powers or duties of such Board, person, or body, under "The Marine Board and Navigation Act, 1881," or any Act amending or substituted for that Act, or under any regulation made under any of the said Acts; or

No. 237 of 1881.

ii. To authorise or permit the doing of anything which is prohibited or rendered unlawful by or by virtue of any of the said Acts or any such regulation, or the omission or failure to observe any thing which is required by any of the said Acts or any such regulation to be done or observed.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

DAY H. BOSANQUET, Governor.

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THE SCHEDULE.  

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Secs. 7 and 10.

The amounts of the royalties to be paid by licensees shall be determined as follows:—

If the net profits obtained by the licensee during the year in working under his licence exceed five per centum, but do not exceed fifteen per centum of the existing value of the capital actually spent on his undertaking, the royalty shall be two and a half per centum of such profits:

If the net profits so obtained exceed fifteen per centum but do not exceed forty per centum of the existing value of the capital actually so spent, the royalty shall be five per centum of such profits:

If the net profits so obtained exceed forty per centum but do not exceed seventy per centum of the existing value of the capital actually so spent, the royalty shall be ten per centum of such profits:

If the net profits so obtained exceed seventy per centum but do not exceed one hundred per centum of the existing value of the capital actually so spent, the royalty shall be fifteen per centum of such profits; and

If the net profits so obtained exceed one hundred per centum of the existing value of the capital actually so spent, the royalty shall be twenty per centum of such profits.