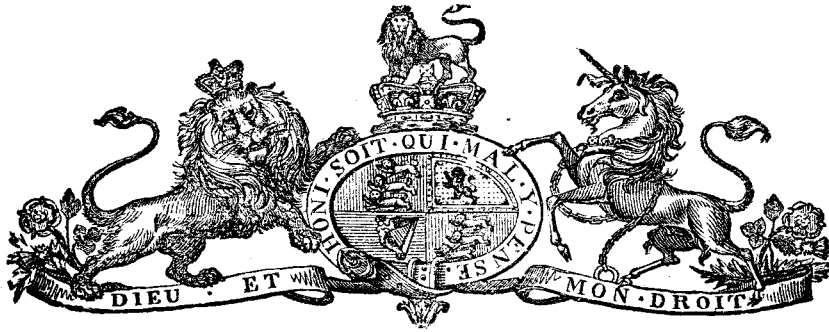


T A S M A N I A

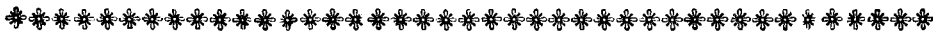


1868.

ANNO TRICESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 16.



AN ACT for the Improvement and Regulation of  
the Oyster Fisheries.

[17 September, 1868.]

**W**HEREAS it is expedient to promote the cultivation and improve- PREAMBLE.  
ment of the Oyster Fisheries 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 :—

**1** In the construction of this Act "Owner of Lands" shall mean Interpretation.  
any person entitled to the possession or receipt of the rents and profits "Owner of  
Lands."  
of lands for an estate for his own life, or for years determinable on his  
own life, or for any greater estate, exclusive of any person entitled to  
such lands by virtue of any lease for lives or years at a rack-rent :  
"Oysters" shall include the Brood, Ware, Half-ware, Spat, and Spawn "Oysters."  
of Oysters.

*Private Oyster Fisheries.*

**2** It shall be lawful for the Governor to grant a Licence to the owner Power to Gover-  
nor to grant  
Licences.  
of any land bordering on the sea or any estuary, or to any person or  
persons with the consent of such owner, or in case of Crown Land without  
any such consent, to form or plant any Oyster bed or laying, whether  
above or below low-water mark : Provided always, that the forming and  
planting of such Oyster beds shall not give any exclusive right or title  
to the occupancy of the shore except for the purpose aforesaid.

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*Oyster Fisheries.*


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Such Licence to be in writing under hand of Governor.

**3** Every such Licence shall be in writing and under the hand of the Governor, and shall, by reference to a map or otherwise, as to the Governor seems best, define the position and limits of such Oyster bed or laying; and may be made subject to such conditions and limitations, and may be for such period not exceeding Twenty-one years, as to the Governor seems proper.

Notice to be given previously to the granting of such Licence.

**4** Previously to granting any such Licence as aforesaid a notice stating the application for such Licence shall be inserted Three times in the *Gazette*; and no such Licence shall be granted in any place where the Governor is of opinion that the public exercise and enjoy *bonâ fide* a substantially profitable fishing for Oysters, nor within the limits of any Oyster bed or Oyster fishery the property of any private person.

Notice to be given of the granting of such Licence.

**5** When any such Licence is granted, notice thereof shall be given in like manner as aforesaid in respect to the application for any such Licence, and a true copy of every such Licence so granted shall be lodged with the Clerk or Deputy Clerk of the Peace of the District within which such Licence shall operate; and a copy of such Licence, certified under the hand of such Clerk or Deputy Clerk of the Peace, shall be admitted in evidence in all Courts of Justice in the same manner as if the said copy was the original Licence of which it purports to be a copy.

Appeal to the Governor in Council.

**6** At any time within the period of One month after the granting of such Licence it shall be lawful for any person or persons dissatisfied with the same to apply by way of memorial to the Governor in Council that such Licence may be vacated; and notice of every such memorial, by way of appeal, shall be given to the Licensee; and the Governor in Council shall adjudicate upon the matter of such memorial, and either confirm or vacate such Licence as to him appears expedient.

Effect of such Licence.

**7** Every such Licence so granted as aforesaid, if unappealed from as aforesaid, or if confirmed on such appeal, shall be binding and conclusive on all persons whomsoever, including Her Majesty the Queen, and shall operate to vest in the Licensee or Licensees, and their heirs, executors, administrators, and assigns, such rights and privileges as are thereby given according to the tenor of the same, free from all prior or other rights, titles, estates, or interests whatsoever.

Licence may be determinable by certificate of the Governor.

**8** Notwithstanding anything in any licence or authority heretofore granted or hereafter to be granted by the Governor, the same shall be determinable by a Proclamation by the Governor in the *Gazette*, (which Proclamation he is hereby empowered to make) declaring that the Governor is not satisfied that the Licensee is properly cultivating the Oyster ground within the limits of such Licence; and on any such Proclamation being made, the right by such Licence conferred shall by virtue of this Act and of the Proclamation as aforesaid be absolutely determined, and all the provisions of this Act shall cease to operate in relation to such Licence as an Oyster fishery or otherwise; and for the purposes of this provision the Governor may from time to time, with respect to such Licence or Oyster fishery, make such enquiries and examinations by an Inspector or otherwise, and require from such Licensee such information as the Governor may think necessary or proper; and the Licensee shall afford all facilities for such inquiries and examinations, and give such information accordingly.

*Oyster Fisheries.*

**9** The production of a copy of any such Licence, certified under the hand of any such Clerk or Deputy Clerk of the Peace, shall be evidence in all Courts that the Licence of which the same may purport to be a copy was duly granted by the Governor, and that all matters and things by this Act required to be done previously to the granting of such Licence have been duly done and performed.

A copy of Licence certified by Clerk of the Peace to be evidence.

**10** It shall not be lawful for any person other than the Licensees, or their assigns, their agents, servants, and workmen, within the limits of any Oyster-bed or Laying, knowingly to do any of the following things:—

Penalties for injuring Oyster beds.

To use any implement of fishing except a line and 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, or the Oyster Fishery :

To dredge for any ballast, or other substance, except under a lawful authority for improving the navigation :

To deposit any stone, ballast, rubbish, or other substance :

To place any implement, apparatus, or thing prejudicial or likely to be prejudicial to any Oyster-bed or Oysters, or Brood or Spawn thereof, or to the Oyster Fishery, 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, or Brood or Spawn thereof, or the Oyster Fishery :

To interfere with or take away any of the Oysters from such Bed without the consent of the Licensees, or Owners or Occupiers of such Bed :

And if any person does any act in contravention of this Section he shall, on conviction, be liable to the following penalty ; namely, to a penalty not exceeding Two Pounds for the first offence, and not exceeding Five Pounds for the second offence, and not exceeding Ten Pounds for the third and every subsequent offence ; and also such further sum of money as appears to the Justices to be a reasonable compensation for the damage sustained, not exceeding the sum of Ten Pounds, which last-mentioned sum of money shall be paid to the party aggrieved ; and if such sums of money, together with costs (if ordered), are not paid either immediately after the conviction or within such period as the Justices at the time of the conviction appoint, the Justices may commit the offender to any Gaol or House of Correction, there to be imprisoned only or to be imprisoned and kept to hard labour as the Justices think fit, for any term not exceeding Two months, unless such sums and costs are sooner paid.

**11** In any case where any such Licence is granted by the Governor, if it appears to the Governor that the Licensee under such Licence, or his assigns, within the period of Three years from the date of such Licence, has not taken steps proper in his opinion to form the Oyster-bed or Laying in such Licence mentioned, then and in such case it shall be lawful for the Governor, by an order in writing under his hand, to revoke such Licence, and thereupon all the rights and privileges created by such Licence shall cease and determine : Provided always, that previously to the making of such order the Governor shall cause a notice in writing, stating his intention to make such order, to be served upon

Power to the Governor to revoke Licences in certain cases.

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*Oyster Fisheries.*

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the person for the time being entitled to such Licence, or in case such person cannot be found the Governor shall cause such notice to be inserted twice in the *Gazette*; and no such order shall be made until after the expiration of One month from the service of such notice, or from the date of the last of such notices in the *Gazette*.

Power to alter Licences heretofore granted so as to give effect to any agreements.

**12** Notwithstanding any thing in any Act to the contrary, it may be lawful for the Governor to alter any Licence or Permission heretofore granted by him, or to grant a new Licence in lieu thereof to the Licensee or his representative, so as to give effect to any agreement or undertaking which may have been given or entered into by or on behalf of any such Licensee with any person or body subsequently to the date of any such Licence.

*Public Oyster Fisheries.*

Regulations in respect of public Oyster fisheries.

**13** The Governor may make Regulations for any of the following purposes relating to public Oyster Fisheries:—

1. To determine the seasons during which Oysters may be fished, taken, and sold:
2. To regulate the manner of fishing, and the size of Oysters that may be taken:
3. From time to time to close and open any Beds, or supposed Beds, for such time as he thinks fit:
4. To restrain persons from fishing and taking Oysters who are not licensed, and to prescribe the mode for issuing such Licences, and the fees to be paid for such Licences not exceeding Ten Pounds in any case; and also to make such Licences subject to such limitations and conditions as he thinks fit:
5. Generally to regulate the Oyster Fisheries of this Colony:

And such Regulations shall be forthwith published in the *Gazette*, and shall thereupon have the force of law; and if any person does any act in contravention of any such Regulation, he shall on conviction be liable to forfeit and pay a penalty not exceeding Ten Pounds.

Procedure in respect of offences.

19 Vict. No. 8.

19 Vict. No. 10.

**14** Proceedings in respect of offences made punishable under this Act shall be had by and before any Two Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*; and any person who thinks himself aggrieved by any summary conviction may appeal against the same in the mode prescribed by *The Appeals Regulation Act*.

Repeal.

**15** The Acts in the Schedule are hereby repealed: Provided, that, as to all acts done, rights conferred, or penalties or liabilities incurred by virtue of the said Acts before the passing of this Act, the said Acts shall be deemed to continue in full force and effect, and all Licences and Permissions heretofore granted shall be deemed to be granted under the provisions of this Act.

Short Title.

**16** This Act may be cited as “The Oyster Fisheries Act.”

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*Oyster Fisheries.*


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SCHEDULE.

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<i>Date and Number of Act.</i>	<i>Title of Act.</i>
17 Vict. No. 10.....	<i>An Act for the Improvement and Regulation of the Oyster Fisheries in Van Diemen's Land.</i>
25 Vict. No. 10.....	An Act to vest in the Municipal Council of every Rural Municipality the Control and Management of the Oyster Beds and Fisheries, if any, situate upon or adjacent to the Shores of such Municipality.
31 Vict. No. 33.....	An Act to amend <i>The Oyster Fishery Act, 1853.</i>

