ANNO QUADRAGESIMO OCTAVO

GEORGII III. REGIS.

****

CAP. CXLIV

An Act for the more effectual Protection of Oyſter Fiſheries and the Brood of Oyſters, in *England*.

[2d *July* 1808.]

WHEREAS an Act of Parliament paſſed in the Thirty-firſt Year of the Reign of His preſent Majeſty, intituled, *An Act for better protecting the ſeveral Oyſter Fiſheries within this Kingdom*: And whereas the Proviſions of the ſaid Act have been found inadequate to the Protection of the Oyſter Fiſheries of this Kingdom: And whereas Doubts have ariſen, ſince the paſſing of the ſaid Act, whether the taking Oyſters or Oyſter Brood from any Oyſter Bed or Laying, or from any Oyſter Fiſhery, can under any Circumſtances be deemed Felony, and puniſhable as ſuch: And it is therefore expedient and neceſſary that more effectual Proviſion ſhould be made for the Protection of the Oyſter Fiſheries, and for removing ſuch Doubts as aforeſaid; May it therefore pleaſe Your Majeſty that it may be declared and enacted; and be it declared and enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That every Perſon who ſhall at any Time after the Firſt Day of *Auguſt* One thouſand eight hundred and eight, knowingly and wilfully ſteal, take, and carry away any Oyſters or Oyſter Brood from any Oyſter Bed, or Oyſter Laying, or Oyſter Fiſhery, being the Property of any Perſon or Perſons or Body or Bodies Politick or Corporate, and ſufficiently marked out as ſuch, ſhall be deemed guilty of Felony, and ſhall and may be tranſported for any Term not exceeding Seven Years, or be impriſoned and kept to hard Labour in

31 G. 3. c. 51.

Perſons ſtealing Oyſters or Oyſter Brood from Oyſter Beds, &c. ſhall be deemed guilty of Felony.

in any Common Gaol or Houſe of Correction, or Penitentiary Houſe, or impriſoned only for any Term, not exceeding Three Years, as the Court before whom any ſuch Perſon ſhall be convicted may adjudge.

Act not to affect Perſons claiming a Right to take away ſuch Oyſters, &c.

II. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend or be conſtrued to extend to ſubject or make liable any Perſon or Perſons to the Penalties of this Act who ſhall take or carry away any Oyſter or Oyſter Brood from any Oyſter Bed, Oyſter Laying, or Oyſter Fiſhery, wherein ſuch Perſon or Perſons ſhall have or claim to have a Right to take and carry away ſuch Oyſters, or Oyſter Brood.

Pariſh need not be named in Indictments, and where the County cannot be aſcertained the Offence may be ſtated to be in the County where Offence committed.

III. And whereas Doubts may ariſe in what Pariſh or County any Oyſter Beds, Layings, or Fiſheries are ſituated, and on that Account Difficulties may occur in bringing Offenders to Juſtice; be it therefore further enacted, That it ſhall be ſufficient in any Indictment under this Act, or under the ſaid recited Act of the Thirty firſt Year aforeſaid, to deſcribe, either by Name or otherwiſe, the Bed, Laying, or Fiſhery in which the Offence ſhall have been committed, without ſtating the ſame to be in any particular Pariſh; and where the Offence is committed on the Border of any County, ſo as to make it difficult to aſcertain the County, ſuch Offence may be ſtated to have been committed in the County in which the Indictment ſhall be preferred, being either the County in which the Offence was committed or the adjoining County.

Juſtices for Towns, &c. may act as Juſtices for Counties.

IV. And whereas it is doubtful whether Juſtices of the Peace for Towns Corporate, Boroughs, or other Places, and not being Counties of themſelves, and having ſpecial or excluſive Juriſdictions, can act by virtue of the Statute of the Thirty-firſt Year aforeſaid; be it therefore enacted and declared, That it ſhall be lawful for ſuch Juſtices to act in all Caſes ariſing within their reſpective Juriſdictions in like Manner as any Juſtice of the Peace for any County, Riding, or Diviſion may act for ſuch County, Riding, or Diviſion, in the Execution of the ſaid Act, or of any Law for protecting the Oyſter Fiſheries, and Broods of Oyſters.

Proviſions of 31 G. 3. c. 51. not to be repealed by this Act.

V. And be it further enacted, That nothing herein contained ſhall extend, or be conſtrued to extend, to repeal any of the Proviſions of the ſaid Act of the Thirty-firſt Year aforeſaid, except ſo far as the ſame reſpect the ſtealing and taking of Oyſters from any Oyſter Bed, Laying, or Fiſhery.

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