

New Zealand.

ANNO TRICESIMO

VICTORIÆ REGINÆ.

No. 57.

ANALYSIS.

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An Act to provide for the protection of Title. Oyster Fisheries. [8th October 1866.]

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

I. The Short Title of this Act shall be “The Oyster Fisheries Act Short Title. 1866.”

II. The word “Oyster” whenever used in this Act shall mean the Interpretation. undermentioned species or varieties of the oyster that is to say

1. Shore oysters excepting rock oysters between high and low water marks.
2. Lesser mud oyster from low water mark to ten fathoms depth.
3. Great mud oyster.

III. Where no natural oyster-beds at present exist it shall be lawful Permission to form and occupy artificial oyster beds. for any person to form or plant any artificial oyster bed on the shore adjacent to any Crown lands bordering on the sea or any estuary and also for the occupier of any lands bordering on the sea or any estuary or for any other person with the consent of such occupier to form or plant any artificial oyster-bed on the shore adjacent to such last-mentioned lands Provided that in every such case as aforesaid every such person shall first obtain from the Governor through the Commissioner of Crown Lands of the Province within which such shore is a permission in writing and every such permission shall set forth the boundaries and limits within which such oyster-beds may be formed and every such permission shall be in the form contained in the first First Schedule. Schedule to this Act or to the like effect.

IV. The person forming or planting any such artificial oyster-bed Rights of the occupier. his executors administrators and assigns (paying to the Receiver of Land Revenue of the Province towards the land revenues of the Province within which such bed is such yearly sum for the same as

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the said Commissioner shall in and by the said permission require) shall hold the same for such period not exceeding fourteen years as the said Commissioner may think fit as tenant thereof but the forming and planting of such artificial oyster beds as aforesaid shall not give any exclusive right or title to the occupation of the said shore or sea ground except for the purpose aforesaid or prevent the full and free exercise and enjoyment of any right whatsoever in or along the said shore or sea ground subject to the provisions of this Act.

Penalty for interfering with beds.

V. If any person shall wilfully interfere with or remove oysters from any artificial oyster bed without the consent of the occupier of such bed every such person shall forfeit and pay a penalty of not less than twenty shillings nor more than fifty pounds and shall also in addition to such penalty forfeit and pay to the party aggrieved such sum of money not exceeding fifty pounds as shall appear to the Justices before whom such person shall be convicted to be a reasonable compensation for the damage and injury done Provided always that distinguishing posts or marks to be approved of by the said Commissioner shall have been put up by each occupier on that part of the shore not being private property from which the boundaries of his oyster bed may be sufficiently indicated.

Oysters not to be caught or offered for sale during certain periods.

VI. If any person shall during the months of November December January February or March in any year by any means whatsoever take or catch any oysters or oyster brood or shall during such months dredge for oysters or oyster brood or use any oyster dredge or any net instrument or engine whatsoever for the purpose of taking or catching oysters or oyster brood although no oysters or oyster brood shall be actually taken or shall during such months with any net instrument or engine drag upon the ground or soil of any natural or artificial oyster bed or shall during such months sell or offer for sale or knowingly have in his possession any oysters or oyster brood every such person shall forfeit and pay a penalty not exceeding twenty pounds.

Governor to declare oyster beds closed.

VII. The Governor may from time to time by proclamation in the *New Zealand Gazette* declare any natural oyster bed to be closed against dredging for any period to be stated in such proclamation and any person dredging or taking any oysters from any bed so proclaimed to be closed shall be liable to the penalties enforced by the sixth clause of this Act.

Power during closed season to replenish artificial oyster beds.

VIII. Notwithstanding the provisions hereinbefore contained it shall be lawful for any person having such permission as aforesaid and being licensed for such purpose as hereinafter provided to fish for oysters in natural oyster beds and for any person claiming under him or authorized in writing by any such person to dredge for and take oysters and oyster brood from any natural bed for the purpose of supplying and replenishing any such artificial oyster bed as aforesaid and for no other purpose whatsoever during any of the said months if notice in writing of the intention so to dredge for and take oysters and oyster brood and of the beds from and to which the same are intended to be removed shall have been given to the said Commissioner and published in some newspaper circulating in the neighbourhood of the said beds respectively if any there be and if not then in such newspaper as the Commissioner shall direct fourteen days before dredging for or taking such oysters and oyster brood.

Catching or dredging for oysters in natural beds without a license.

IX. If any person shall by any means whatsoever take or catch any oysters in or from any natural oyster bed lying below the level of the lowest water of spring tides or shall dredge for oysters or use any oyster dredge or any net instrument or engine

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whatsoever in or upon any such natural oyster bed for the purpose of taking or catching oysters although no oysters shall be actually taken or shall with any net instrument or engine drag upon the ground or soil of any such natural oyster bed without having a license under this Act every such person shall forfeit and pay a penalty not exceeding five pounds.

X. It shall be lawful for the Collector or Sub-collector of Customs at any port upon application in that behalf made to him by any person and upon payment of the fee of two shillings and sixpence to grant to such person a license to dredge for take and catch oysters within such limits and boundaries as shall be set forth in the said license and every such license shall be in the form contained in the second Schedule to this Act and shall continue in force during the time therein mentioned and no longer but no such license shall confer a right of entry upon the lands of any person without or against his consent.

Licenses to be granted.

Second Schedule.

XI. If any person whilst lawfully taking catching or dredging for oysters on or from any natural oyster bed shall happen to raise take or catch any oyster brood spat cultch or small oyster the shell of which shall be less in circumference than a crown piece and shall not within six hours thereafter return in a living state such brood spat cultch or small oyster as aforesaid to such natural oyster bed every such person shall forfeit and pay a penalty not exceeding ten pounds.

Oyster brood and small oysters to be returned to place from whence taken.

XII. The provision lastly hereinbefore contained shall not apply to any person raising taking or catching such oyster brood spat cultch or small oysters as aforesaid for the purpose only of supplying or replenishing any such artificial oyster bed as hereinbefore mentioned.

Except in certain cases.

XIII. One half part of every sum which shall be imposed as a penalty under this Act shall be paid to the person on whose information the conviction shall have been obtained unless compensation shall have been awarded to such person under this Act in which case no further sum shall be paid to him than the amount of such compensation.

Half of penalties to informers.

XIV. Every conviction or order under this Act shall be a full and effectual release from all further or other proceedings whether civil or criminal for the same cause and shall and may be pleaded in bar of such proceedings.

Proceedings to bar other proceedings.

XV. For the more effectual enforcement of the provisions of this part of this Act any person found actually offending against or infringing the same may be immediately apprehended without any other warrant than this Act by the party aggrieved or by any person in his service or by any officer of the Customs or Police and dealt with according to law.

Offenders may be apprehended without warrant.

XVI. If any person shall be convicted of a second or subsequent offence against the provisions of this Act such person shall forfeit any license or permission he may have obtained under the authority of this Act and shall be incapable of holding any such license or permission for the period of three years.

On second conviction license to be forfeited.

XVII. All penalties in this Act imposed shall be recovered in a summary way before two or more Justices of the Peace in the manner provided by "The Justices of the Peace Act 1866" so far as it relates to summary convictions.

Penalties how to be recovered.

XVIII. No thing in this Act contained shall be deemed to make it necessary for any person who by express words in a grant lease or license from the Crown is seized of or entitled to the soil of and in any part of the sea shore to obtain any permission under this Act to form oyster beds on such parts of the shore.

Persons entitled to land on the shore may form oyster beds.

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Governor may pro-
claim certain Districts
exempt.

XIX. It shall be lawful for the Governor from time to time by proclamation published in the *New Zealand Gazette* to declare that this Act shall not be in force in such parts of the Colony as he shall in and by such proclamation define and from time to time as he may think fit by proclamation in like manner to cancel any such proclamation.

FIRST SCHEDULE.

THESE are to permit [A. B. and C. D.] to form and plant an artificial oyster bed on the shore or sea ground adjacent to _____ and commencing at _____ and continuing thence in a [*northerly*] direction to _____ and extending between the limits aforesaid to a distance of _____ from high water mark [*or such other description as may be necessary*] and in consideration of the payment by them their executors administrators or assigns of the annual rent of _____ to the Receiver of Land Revenue for the Province of _____ on the first day of January in every year in advance (the first payment being made on the first day of January next) they their executors administrators or assigns may hold the said oyster bed for the term of _____ commencing from the first day of January next but only for the purpose aforesaid.

Dated at _____ the _____ day of _____

} Commissioner of Crown Lands
for Province of _____

SECOND SCHEDULE.

WHEREAS [*insert the name residence and calling of licensee*] has applied to me to grant him a license to fish for oysters and has paid into my hands the sum of two shillings and sixpence for the same Now therefore I do hereby license the said _____ to fish for oysters in the natural oyster beds situate within [*here state the limits*] during this present year at all lawful times and for all lawful purposes.

Dated in the port of _____ this _____ day of _____

A. B., Collector of Customs.

WELLINGTON, NEW ZEALAND:

Printed under the authority of the New Zealand Government, by GEORGE DIDSBURY, Government Printer.