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This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,  
14th July, 1892.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Hon. Mr. Seddon.

### OYSTER FISHERIES.

#### ANALYSIS.

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## A BILL INTITULED

Title.	AN ACT to consolidate and amend the Laws relating to Oyster Fisheries.	
	BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—	5
Short Title.	1. The Short Title of this Act is "The Oyster Fisheries Act, 1892."	
Persons, &c., exempted from Act.	2. Nothing contained in this Act shall apply to— (1.) Any person, with the written permission of the Collector or other person duly authorised by the Minister to grant such permission, taking oysters or oyster-brood for the <i>bonâ fide</i> purpose of ascertaining and verifying the existence or increase of such oysters, or of removing them to stock other waters; nor to (2.) Any dredges, tackle, or boats used, or oysters taken, by such person; nor to (3.) Any person who, having unintentionally taken any oysters contrary to the provisions of this Act, shall immediately return the same, with as little injury as possible, to the water.	10 15 20
Interpretation.	3. In this Act, unless the context otherwise requires,— "Collector" means a Collector of Customs, and includes Sub-Collector or other principal officer of Customs at any port: "Close season" means the time during which it is declared unlawful to take any species of oysters, and applies to such season however the same may be varied or extended: "Fishery officer" means and includes any officer appointed by the Minister under section <i>six</i> of this Act: "Inspector" means an Inspector appointed under this Act. "Minister" means the Minister for the time being having the charge of the Marine Department, or other Minister from time to time appointed by the Governor to have charge of the administration of this Act: "Oyster-brood" includes spat, cultch, or any small oysters less in circumference than five inches: "Oysters" means and includes all kinds of oysters of any description, and all edible shell-fish that may be from time to time declared to be oysters for the purposes of this Act: "Prescribed" means prescribed by this Act or by regulations: "Take" means and includes "kill," "catch," "dredge for," "raise," or "attempt to kill," "catch," "dredge for," or "raise": "Tidal lands" means such parts of the bed, shores, or banks of a tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring-tides: "Tidal waters" means any part of the sea or of a river or creek which is within the ebb and flow of the tide at ordinary spring-tides:	25 30 35 40 45

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“Use” includes “attempt to use” or “assist in the use of:”

“Waters” means all salt or brackish waters in the colony or on the coasts or bays or harbours thereof, or in any estuary or tidal river or creek, and includes the sea within one marine league of the coast of the colony.

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## ADMINISTRATION.

4. The general administration of this Act shall be under the control and direction of the Minister for the time being having charge of the Marine Department, or other Minister, being a member of the Executive Council of the colony, whom the Governor from time to time may appoint to have charge of the administration of this Act.

Minister of Marine Department to administer Act.

5. The Governor in Council may from time to time make regulations, which shall have general force and effect throughout the colony, or particular force and effect only in any waters or places specified therein, for any of the purposes following, that is to say,—

Governor may make regulations for protection of oysters. Penalty for breach of regulations.

- 15 (1.) Generally regulating the oyster-fisheries of the colony;
- 20 (2.) Providing for carrying out, enforcing, and giving effect to the registry of boats employed in oyster-fisheries; and prescribing any system of registry, or lettering and numbering of boats, or distinguishing flags to be carried by boats, and the sails, nets, or other gear belonging to them and used in fishing;
- 25 (3.) Defining the boats or classes of boats to which any regulations are to apply, and providing for the exemption of any boats or classes of boats from such regulations or any of them;
- 30 (4.) Prescribing conditions and restrictions for regulating the taking of oysters, and for marking the situation and boundaries of oyster-beds and any subdivisions thereof;
- 35 (5.) Providing for the licensing of persons and boats engaged in taking oysters, appointing a uniform date at which such licenses shall expire, the fees to be paid for such licenses, and the terms and conditions to which any of such licenses shall be subject, the cancellation of licenses, and for restraining persons from taking oysters who are not licensed;
- 40 (6.) Preserving good order among the persons engaged in taking oysters;
- 45 (7.) Regulating the relative powers and duties of all officers appointed under this Act;
- 50 (8.) In respect of all or any species of oysters respectively,—
  - (a.) Prescribing a “close season” or “close seasons” in any year, month, week, or day, as may be most suitable for the whole or any part or parts of the colony, during which it shall be unlawful for any person to take any oysters of such species respectively, or in any way to injure or disturb the same; or
  - (b.) Extending or varying any close season so prescribed, or varying any close season so extended; or
  - (c.) Prescribing, in respect of oysters in any place, a close season over any term not exceeding three years, and, before the expiration of such term, further extending the same;

- (9.) Prohibiting the buying, selling, exposing for sale, consigning for sale, buying for sale, or having in possession any oyster in any manner in contravention of this Act;
- (10.) Prescribing the minimum size or weight of any oyster that may be taken; 5
- (11.) Fixing the time or times during which dredging shall be prohibited, or prohibiting the use of any particular engines, tackle, or apparatus for taking any oysters;
- (12.) Reserving from public use any natural oyster-beds, so as to prevent their destruction; 10
- (13.) Prohibiting altogether, for such period as he shall think fit, the taking of any oysters;
- (14.) Setting apart any tidal waters for the natural or artificial propagation of oysters;
- (15.) Excluding any part of the colony from the operation of this Act or any portion of this Act, or from the operation of any regulations made thereunder. 15

The Governor may, by such regulations, impose any penalty not exceeding *one hundred* pounds for the breach of any such regulations; and all such regulations shall be gazetted, and thereupon shall be binding and conclusive upon all persons as if the same had been contained in this Act. 20

Collectors of Customs to see Act carried into effect.

6. It shall be the duty of the Collectors and Inspectors respectively within the colony to see that the provisions of this Act are duly carried into effect, and for that purpose they severally shall have and may exercise all the powers granted by this Act in that behalf. 25

Appointment of Inspectors and fishery officers.

The Governor may from time to time appoint any persons to be Inspectors of oyster-fisheries under this Act, and may appoint and remove such assistants to the Collectors, and such other officers, servants, and other persons as may appear to him to be necessary for the effective administration of this Act, all of whom shall, as well as the Collectors and Inspectors aforesaid, be deemed to be fishery officers appointed under this Act. 30

Export duty on oysters.

#### *Export Duty on Oysters.*

7. On and after the day of the commencement of this Act, there shall be levied, collected, and paid to Her Majesty at the Customs, in manner as provided in "The Customs Laws Consolidation Act, 1882," upon oysters in their natural state in the shell, previous to their exportation from New Zealand, a duty at such rate not exceeding *one shilling* the hundredweight, as the Governor by Order in Council may prescribe from time to time. 40

#### *Fishing-boats.*

Boats to be registered and licensed.

8. Every boat engaged in the taking of oysters shall be licensed, and for that purpose every such boat which is not of tonnage sufficient to require entry on the register under any Act relating to the registry of British ships shall be entered in a register for sea-fishing boats by the Collector, at the port of the place to which such boat belongs, or at the port nearest to such place; but entry on such register shall not confer, take away, or affect any title or interest in any sea-fishing boat. 45

- (1.) The owner of a sea-fishing boat of any tonnage may obtain a license for the same by delivering to the aforesaid Col- 50

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lector a written application for such license, describing the boat, her name, size, tonnage, gear, and fittings, with true particulars of her ownership, and verifying such application by a statutory declaration, which the said Collector is hereby empowered to take; and

(2.) The Collector aforesaid shall issue to the owner, on payment of a fee of *twenty* shillings, a license in general terms authorising such boat to be used in oyster-fishing, and such license shall be in force so long as the boat described therein remains in the possession of the same owner; but on every change of ownership a new license shall be issued, and, if such license is not applied for within one month after the change of ownership, the boat shall be deemed not to be licensed.

If any sea-fishing boat required to be licensed and registered under this Act, and not being so licensed and registered, is used as a sea-fishing boat *for the taking of oysters*, the owner and master of such boat shall each be liable to a penalty not exceeding *twenty* pounds; and any fishery officer may seize and detain such boat and prevent it from sea-fishing until it is duly licensed and registered.

9. The master of every such boat shall have on board his boat the license issued under this Act in respect of such boat; and if he acts in contravention of this section, unless there is reasonable cause for not having such license on board (the proof whereof shall lie on him), he shall be liable to a penalty not exceeding *twenty* pounds for every such offence.

Master of boat to have license on board.

10. In all proceedings against the owner or master of, or any person belonging to, any boat registered or entered in the register for sea-fishing boats for offences against this Act, and in all actions and suits for the recovery of damages for injury done by any such boat, such register, or the register under any Act relating to the registry of British ships, as to boats registered therein, shall be conclusive evidence that the persons registered at any date as owners of such boat were at that date owners thereof, and that the boat is a sea-fishing boat within the meaning of this Act.

Register to be evidence of ownership of boat.

11. Any Collector or Inspector and any person appointed as aforesaid is hereby empowered, for the enforcement of the provisions of this Act, to exercise the powers and authorities of a constable, and may exercise the following powers:—

Power of officers to enter boats, examine license, and inspect tackle, gear, &c.

- (1.) He may at all times and seasons, without any let or hindrance whatsoever, enter any boat or boats engaged in taking oysters;
- (2.) May require the owner, master, and crew, or any of them, to produce the license for the boat, and may take copies thereof or any part thereof; and
- (3.) May require the master to give any explanation concerning his boat and her crew, and any person on board his boat, and the said license; and
- (4.) May examine all dredges, engines, and instruments whatsoever, and seize all illegal engines, instruments, and devices whatsoever, and all and every other engines and instruments whatsoever when used illegally; and

(5.) May do all such other acts and things as he is required to do by such regulations as aforesaid.

The production of his instrument of appointment, or a copy of the *Gazette* notifying such appointment, shall be sufficient warrant for any such person so acting in any of the cases aforesaid. 5

*Natural Oyster-beds.—Ordinary Licenses.*

Governor may declare tidal waters open for oyster-fishing.

12. The Governor from time to time may declare any bay, estuary, or tidal waters in the colony to be an oyster-fishery under this Act, and may part the same into subdivisions by distinguishing marks, and prescribe the subdivisions thereof wherein it shall be 10 lawful and unlawful respectively to take oysters.

All such oyster-beds and the subdivisions thereof shall be marked out, as far as may be, as provided in section *eighteen* in respect of artificial oyster-beds, in such manner as may be prescribed.

Governor may grant licenses for taking oysters from natural beds.

13. The Governor may from time to time make regulations for 15 granting licenses for the right of taking oysters either from the bed of the sea or from lands below high-water mark, which may be declared open as an oyster fishery, for any period not exceeding *one* year, on payment for the same of an annual fee of *ten* shillings.

Special order as regards taking of oysters by Natives.

14. The Governor may, by Order in Council, from time to time 20 declare any bay, or portion of a bay, estuary, or tidal waters in the colony in the vicinity of any Native pa or village to be an oyster-fishery where Natives exclusively may take oysters for their own food at all times, irrespective of any of the provisions of this Act, and may from 25 time to time revoke the same; and may prescribe regulations for preventing the sale by Natives of any oysters from such beds, and for protecting any such bay, estuary, or tidal waters from trespassers, and the oysters therein from destruction.

*Artificial Oyster-beds.—Permissive Licenses.*

Permission to form and occupy artificial bed.

15. The occupier of any lands bordering on the sea or any 30 estuary, or any person, with the consent of such occupier, may apply to the Collector at the nearest port or place for a permissive license to form or plant any artificial oyster-bed on or near the shore adjacent to such lands; and the Minister, on the report of the said Collector upon any such application, may grant such license to the applicant 35 upon such conditions and upon payment of such rent as he may think fit.

Any person who shall obtain from the Minister, in the same manner, a permissive license for the purpose, may form or plant any artificial oyster-bed on or near the shore adjacent to any Crown lands 40 bordering on or near the sea or any estuary.

Rights of the occupier.

16. The person forming or planting any such artificial oyster-bed, his executors, administrators, and assigns, shall hold the same, for such period not exceeding *twenty* years as the Minister may think fit, as tenant thereof. 45

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 50 of this Act.

Governor may revoke license within three years if oyster bed not formed.

17. The Governor may from time to time, by an order in writing under his hand, revoke any license granted under section *fifteen* if it is made to appear to him that the holder of such license, or his assigns, has not, within the period of *three* years from the date of such 55

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license, taken steps proper, in the Governor's opinion, to form and plant the oyster-bed in such license mentioned; and thereupon all the rights and privileges created by such license shall cease and determine. But the Governor shall, previously to the making of  
 5 such order, cause notice in writing of his intention to make the said order to be served upon the person for the time being entitled to such license, or, if he cannot be found, shall cause the said notice to be published in the *Gazette* in each of two consecutive weeks; and no such order shall be made until after the expiration of one month  
 10 from the service of such notice, or from the date of the last of such notices in the *Gazette*.

18. The occupier of every artificial oyster-bed shall set up on some convenient part of the adjacent shore, not being private property, distinguishing posts or marks, to be approved by the Collector  
 15 at the nearest port, by which the boundaries of such oyster-bed may be sufficiently indicated.

Boundaries of oyster-beds to be indicated by marks.

Where any such oyster-bed cannot be conveniently marked by posts or otherwise on the shore, the same may be indicated by buoys or other floating marks, approved as aforesaid.

20 19. Every permissive license granted under this Act—

General provisions affecting oyster-bed licenses.

(1.) Shall continue in force for such time and be subject to such conditions and restrictions, and the payment of such fees, and in such manner, as shall be prescribed therein;

License not to warrant trespass.

25 (2.) Shall be granted only with the consent of the Minister or of the local authority, if any, in whom is vested any part of the foreshore affected thereby;

(3.) Shall be subject to a condition that any part of the area affected thereby may, at any time after not less than three months' notice, be resumed, if needed for the purpose of  
 30 constructing any public works on such area, without the licensee being entitled to claim any compensation in respect of such resumption.

20. Any Collector or Inspector, with the sanction of the Minister, may, by writing under his hand, authorise any person to be named in  
 35 such writing, to take oysters and oyster-brood from natural oyster-beds for the purpose of supplying and replenishing any artificial oyster-bed in his occupation, if *seven* days' notice of the purpose of taking such oysters or oyster-brood is published in a newspaper circulating in the neighbourhood, stating the places from and to which re-  
 40 spectively the said oysters are to be taken.

Collector may authorise oysters or oyster-brood to be taken for purposes of propagation.

Any person who applies or uses, and any licensee who knowingly authorises or permits to be applied or used, otherwise than in manner authorised by this section any oysters so taken is liable to all the like penalties and consequences to which he would have been liable  
 45 if this section had not been passed.

21. Every person who wilfully damages, interferes with, or removes oysters from any artificial oyster-bed, without the consent of the occupier of such bed, is liable to a penalty of not less than *twenty* shillings nor more than *fifty* pounds, and, in addition to  
 50 such penalty, to 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.

Penalty for injury to oyster-beds.

22. Nothing in this Act contained shall be deemed to make it  
 55 necessary for any person who, by express words in a grant, lease, or license from the Crown, is seised of or entitled to the soil of and in

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

any part of the sea-shore to obtain any permission under this Act to form oyster-beds on such parts of the shore.

*Oyster-beds generally.*

Penalty for interfering with oyster-beds.

23. Every person who, within the limits of any oyster-fishery, knowingly does any of the following things :— 5
- (1.) Uses 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 ; or
  - (2.) Dredges for any ballast or other substance, except under a lawful authority for improving the navigation ; or 10
  - (3.) Deposits any stone, ballast, rubbish, or other substance ; or
  - (4.) Places 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 15 for a lawful purpose of navigation or anchorage ; or
  - (5.) Disturbs or injures in any manner, except as last aforesaid, any oyster-bed or oysters, or brood or spawn thereof, or the oyster-fishery ; or
  - (6.) Interferes with or takes away any of the oysters from such 20 bed without the consent of the licensees, or owners or occupiers of such bed ;—

Is liable, on summary conviction, 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 25 subsequent offence, and also to such further sum of money not exceeding *ten* pounds, to be paid to the party aggrieved, as appears to the Justices to be a reasonable compensation for the damage sustained.

Penalty for taking oysters without license.

24. Every person who, by any means whatsoever, takes any 30 oysters from any natural oyster-bed lying below the level of the lowest water of spring-tides, or dredges for oysters, or uses any oyster-dredge or any net, instrument, or engine 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 with any net, 35 instrument, or engine drags upon the ground or soil of any such natural oyster-bed, or takes any rock-oysters for the purpose of sale or export, without having a license under this Act, is liable to a penalty not exceeding *five* pounds.

Penalty for taking oysters from part of oyster-bed not declared open.

25. Every licensed person who, during any period of the year 40 takes any oysters from any part of an oyster-bed which is not declared to be open as an oyster-fishery, is liable to a penalty not exceeding *twenty* pounds, and his license shall be cancelled.

Penalty for not returning oyster-brood to place whence taken.

26. Every person who, whilst lawfully taking, catching, or dredging for oysters on or from any natural oyster-bed, raises or 45 takes any oyster-brood, and does not, within six hours thereafter, return such brood to the place whence taken, is liable for every such offence, to a penalty not exceeding *ten* pounds.

But this provision shall not apply to any person lawfully taking oysters or oyster-brood for the purpose only of supplying or re- 50 plenishing any artificial oyster-bed.



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27. The portion of the seashore to which any license as aforesaid relates (as far as it is not by law within the body of any borough or county) shall, for all purposes of jurisdiction, be deemed to be within the body of the adjoining borough or county, or to be within the body of each of the adjoining boroughs or counties, or boroughs and counties if more than one.

Seashore to be deemed part of adjacent county for purposes of jurisdiction.

28. The Governor may from time to time, upon the recommendation of the Minister, alter any license granted under this Act or heretofore granted under any Act hereby repealed, or grant a new license in lieu thereof to the licensee or his representative, so as to give effect to any agreement or undertaking given or entered into by or on behalf of any such licensee with any person or persons subsequently to the date of such license.

Governor may alter license after grant to give effect to any arrangements.

PENALTIES.

29. Every person who, during any close season for any species of oysters, takes any oysters of such species, is liable for every such offence to a penalty not exceeding *twenty* pounds nor less than *twenty* shillings.

Penalty for taking oysters in close season.

30. Every person who buys, sells, exposes for sale, consigns for sale, buys for sale, or has in possession any oysters taken in contravention of this Act, is liable for each offence to a penalty not exceeding *twenty* pounds.

Penalty for selling oysters contrary to Act.

But a person shall not be guilty of an offence under this section if he satisfies the Court that the oysters alleged to have been sold, exposed for sale, consigned for sale, or bought for sale were preserved in tins or otherwise cured out of the colony.

*New paragraph.*

Nor shall a person be deemed guilty of an offence under this section for consigning for sale any oysters within the first *fourteen* days of any close season for such oysters, if he satisfies the Court that the oysters alleged to have been consigned for sale were actually taken before the commencement of the said close season.

31. Any penalties imposed by this Act for taking, buying, selling, exposing for sale, consigning for sale, buying for sale, or having in possession any oysters during any close season for the same respectively, applies to such season however the same may be varied or extended.

Penalties to apply to extended close seasons.

32. Where any enactment hereof, or any regulation made thereunder, provides a penalty for the breach hereof, such penalty may, in all cases where the breach is a continuous one, be any sum not exceeding *five* pounds for every day or part of a day during which such breach shall continue.

Continuing penalties.

33. Any Collector, Inspector, or any officer appointed under this Act, or any constable, with or without warrant, may seize any gear, tackle, or apparatus which any person found offending against any of the provisions of this Act may be using; and may also, with or without warrant, apprehend any person whose name and address are unknown to him and who is found offending against any of the provisions of this Act.

Apprehending of offenders.

If the officer or person in charge of the lock-up or police-station in which such person is detained see fit so to do, he may liberate such person on his making a deposit of ten pounds, or on his own recognisance in a like sum, conditioned to appear before some Justice of the Peace; and such deposit shall be absolutely forfeited if the aforesaid person fail to appear at the place and time notified by

Offenders may be admitted to bail.

the officer or person taking the same; and such recognisance shall be made or be in such form and recoverable in the same manner as any recognisance now or hereafter may be if taken and acknowledged before a Justice of the Peace.

Oysters, &c., and tackle to be forfeited.

34. All oysters unlawfully taken, or exposed for sale, consigned for sale, or bought for sale, and the baskets or other receptacles thereof, and also all boats, gear, tackle, or other apparatus used in any unlawful taking of oysters, whether found on shore or in the possession of the persons taking the same or any other person whomsoever, or in any boat, shall be forfeited, and shall be disposed of as the Minister may think fit. 5

Disposal thereof.

Police to aid and assist in execution of Act.

35. All police-constables and others, if called upon to aid and assist any Collector, Inspector, or any other officer appointed under this Act in the execution of any of the powers vested in him by this Act, are hereby authorised and required to aid and assist such Collector, Inspector, or officer in the lawful exercise of the powers and authorities so given to him for enforcing the provisions of this Act. 15

Search-warrants may be granted.

36. Any Justice of the Peace, upon information on oath that there is probable cause to suspect any breach of the provisions of this Act to have been committed anywhere, may, by warrant under his hand and seal, authorise and empower by name any officer appointed under this Act, or any constable, to enter any dwellinghouse or premises for the purpose of detecting such offence. 20

And the person so authorised may, at any hour between sunrise and sunset, enter into and search any house, shop, store, tent, or other premises, and go on board of any boat, and search for, seize, and take away any such gear, tackle, or apparatus. 25

Penalty for obstructing officers.

37. Every person who assaults, resists, or obstructs any officer in the execution of any of the powers conferred on him by this Act is liable for every such offence a penalty not exceeding *ten* pounds. 30

Penalty in cases not provided for.

38. Every person who fails or neglects to observe all or any of the provisions of this Act, or does or commits anything contrary to the true intent or plain meaning thereof, is liable, for every such offence, if no other penalty is provided, to a penalty not exceeding *twenty* pounds. 35

On second conviction license to be forfeited.

39. Every person who is convicted of a second or subsequent offence against the provisions of this Act 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. 40

Penalty for removing boundary-marks.

40. Every person who, without lawful authority, removes, takes away, or has in possession any post, stone, buoy, or other mark defining the limits of any oyster-bed, or removes, destroys, displaces, or alters the position thereof respectively, whether such mark be on shore or in any tidal waters, is guilty of a misdemeanour, and liable to imprisonment with hard labour for any period not exceeding *two* years, and, if a licensee under this Act, shall forfeit his license, and be incapable of again becoming a or licensee under this Act. 45

#### PROCEDURE.

Offences committed on sea-coast, where to be tried.

41. Any offence committed under this Act on the sea-coast, or at sea within *three* miles from any part of the coast, shall be deemed to be committed in waters of the colony; and, if beyond the ordinary jurisdiction of any Court of summary jurisdiction, shall be deemed 50

either to have been committed on the land abutting on such sea-coast or adjoining such sea, or to have been committed in any place where the offender is found.

42. All prosecutions and proceedings under this Act may be in the name of the Minister, or of any Collector, or of any Inspector, or of any officer of police, or any fishery officer under this Act, and may be brought in any district wherein an offence is committed or an offender is found.

Proceedings to be in name of Minister or nominated officer.

In any such prosecution or proceeding it shall be sufficient to set forth the offence in the words of this Act.

43. Any person found in possession of any oysters during any close season, or any part or portion thereof, shall be deemed to have obtained the same in violation of this Act, except only upon legal proof to the contrary, which proof shall devolve wholly upon the person accused.

Onus of proof for having oysters in close season.

44. 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.

45. No proceeding under this Act shall be removed into the Supreme Court by *certiorari*.

No *certiorari*.

46. All offences under this Act, where not otherwise provided for, may be heard and determined, and all fines and penalties may be recovered, in a summary way, before a Resident Magistrate or any two or more Justices of the Peace, in manner provided in "The Justices of the Peace Act, 1882," and when recovered shall be paid into the Public Account and form part of the Consolidated Fund.

Recovery of penalties.

47. All fees received under this Act in respect of any ordinary license or permissive license for an oyster-bed shall be handed to the local authority in which is vested that part of the foreshore upon which the fishery is situate or abuts, and shall form part of the fund of such authority, or, if the said part of the foreshore is vested in Her Majesty, shall be handed to the Treasurer of the local authority within which the said part of the foreshore is situate, and form part of the fund of such local authority.

Fees to be paid to local authority in whom foreshore is vested, otherwise to Public Account.

The provisions of this section shall be sufficient authority to the Colonial Treasurer for the issue and payment of any fees to the Treasurer of any local authority, as herein directed, without any further appropriation thereof respectively. All other fees shall be paid into the Public Account and form part of the Consolidated Fund.

48. The Minister may direct, in any case of conviction for an offence under this Act, that any portion of the penalty not exceeding a moiety thereof shall be granted to or distributed amongst the persons giving any information that procured the conviction, or who procured or assisted in procuring such conviction.

Rewards to informers.

#### MISCELLANEOUS.

49. No action shall be brought against any Collector, Inspector, or officer appointed under this Act for anything done in pursuance of this Act unless such action shall be commenced within three months after the cause of action has arisen, nor unless notice in writing of such action and the cause thereof is given to the defendant one

Limitation of actions.

month at least before the commencement of the action; and the defendant may plead the general issue and give this Act and the special matter in evidence, and the plaintiff shall not recover in such action if tender of sufficient amends has been made before action brought, or if a sufficient sum of money has been paid into Court after action brought. 5

If a verdict is given for the defendant, or the plaintiff is nonsuited or discontinues his action, or if judgment is given against the plaintiff, the defendant shall recover his full costs as between solicitor and client, and, though a verdict is given against the defendant, the plaintiff shall not have costs against the defendant unless the Judge who tries the case certifies his approbation of the action and of the verdict. 10

Repeals.

50. The Acts and parts of Acts enumerated below are hereby repealed to the extent therein mentioned, without prejudice, however, to any Proclamation, Order in Council, rule or regulation, or any appointment, notice, license, lease, or other grant made thereunder respectively, and subsisting at the commencement of this Act:— 15

1866, No. 57.—“The Oyster Fisheries Act, 1866.”

1869, No. 50.—“The Oyster Fisheries Act Amendment Act, 1869.” 20

1874, No. 71.—“The Oyster Fisheries Act Amendment Act, 1874.”

1884, No. 48.—“The Fisheries Conservation Act, 1884.” In part: *namely*, in so far as relating to matters provided for by this Act.

~~1885, No. 56.—“The Land Act, 1885.” So much of section one hundred and one as relates to oysters.~~ 25