

## Synopsis of Fisheries Bill, 1899.

Clause 1. The definition of fish in the Principal Act applies to the nineteen species only which are Fish enumerated in the First Schedule.

The amended definition covers all kinds of fish and crustacea.

The definition of tidal waters in the Principal Act is amended by making all waters which ebb and Tidal waters. flow over lands in the possession or under the control of the Crown or the Commissioners tidal waters.

This will allow of waters under lease to the Government being brought under the Act.

Clause 2. Section 10, here repealed, provides that specified waters can be made close fisheries only against the use of fishing-nets.

The effect of this section will be that no fishing-net, scoop-net, or line may be used in any close fishery, and that anyone found in possession of fish caught in a close fishery shall be liable to a penalty.

Clause 3. There is no penalty in the Principal Act for any person using an illegal net for catching prawns.

Clause 4. This provision is necessary to enable baskets, &c., containing undersized fish to be seized.

This clause also prevents persons having undersized fish in their possession, even if not for sale.

Clause 5. Under section 11 of the Principal Act there is no limit to the length of the wings of a garfish net. The bunt is 30 fathoms and an equal length in each wing is sufficient.

Clause 6. Much difficulty has always been caused in proving that an unlicensed person in a licensed fishing-boat is fishing for sale. The burden of proving that he was not fishing for sale will now lie on the defendant.

Clause 7. Under section 17 of the Principal Act waters can only be closed for two years, and then only when the natural supply of fish in such waters has been exhausted to such a degree as to require rest for the recovery of such natural supply.

Power is given to the Governor on the recommendation of the Commissioners to close any waters against the use of fishing-nets and scoop-nets for such time as he may think fit.

Scoop-nets are used at night time, and are not held to be fishing-nets.

Clause 8. The 19 species of fish included in this schedule were the only fish that came under the Act.

All kinds of fish and crustacea are now substituted.

Clause 9. There is nothing in the Principal Act to prevent any man of bad character obtaining a license.

Clause 10. It is almost impossible to obtain direct proof of the use of explosives which are either used in the dark or in a secret manner.

Clause 11. The clause is to enable officers to get names and addresses of offenders using lines, fishing-nets, and scoop-nets unlawfully.

Clause 12. It is necessary to make some such provision to enable the Commissioners to propagate marine fish that are becoming depleted, cultivating oysters, &c., and studying their life history, habits and diseases, &c.

Clause 13. In inland waters wire-netting traps are placed in the centre of the stream with wings from each side of the trap to the shore. They prevent the free passage of fish up and down the stream.

Clause 14. It is proposed to give thirty days notice of a closure of inland waters, instead of sixty days.

Clause 15. Under section 5 of the Inland Waters Act, specified waters may be exempted from net-fishing only, from 1st October to 31st January in every year.

The effect of this section will be that no fishing-net, scoop-net, or line may be used in any waters so closed during any close months specified in the proclamation; and that any person found in possession of any fish, in or near any inland waters so exempted, during the close months shall be liable to a penalty



This will admit of this Colony and Victoria taking joint action in protecting Murray cod, and also in protecting trout during the spawning season.

Clause 16. Sunk nets are very destructive to fish life and fish food, and this amendment will be the means of preventing the sinking of any net below the surface of the water.

Clause 17. Under section 15 here repealed, persons were, under the pretence of taking oysters for their own consumption, in the habit of removing them in considerable quantities for the purposes of sale, and the present section is to prevent persons removing them for such purpose.

Clause 18. As the law is at present, though oysters on Crown lands and on lands leased from the Crown are the subject of larceny, oysters growing on lands owned by private persons or under the control of trustees are not the subject of larceny. By making them the property of the persons in possession of the land anyone removing them unlawfully, except for the purpose of consuming them on the land, may now be convicted of stealing them.

Clause 19. This power is necessary, as inspectors cannot at present enter boats to search for undersized oysters, and it is also necessary to provide for seizing oysters and receptacles.

Clause 20. There is no provision under the Net-fishing in Port Hacking Prohibition Act to enter any premises or dwelling or go on board any boat for the purpose mentioned in this section.

Clause 21. There is no penalty under the Acts referred to in the preceding section, and it is necessary to provide for such penalty.

Clause 22. This clause is intended to enable the officers of the National Park Trustees to exercise where necessary the powers of arrest given to inspectors and others under the Fisheries Acts.

Clause 23. Fines and forfeitures of nets are found to have little effect on persons who repeatedly break the laws, and it is necessary to adopt stringent measures.

The amount realised from the sale of fish unlawfully caught enables these persons to provide new nets without difficulty.

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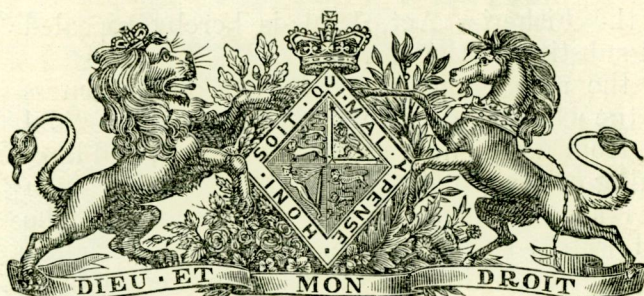


*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

*Legislative Council Chamber,  
Sydney, 29th November, 1899. }*

*JOHN J. CALVERT,  
Clerk of the Parliaments.*

## New South Wales.



ANNO SEXAGESIMO TERTIO

## VICTORIÆ REGINÆ.

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Act No. , 1899.

An Act to amend the Fisheries Act, 1881, the Net-fishing in Port Hacking Prohibition Act of 1886, and Acts amending the same.

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

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### *Fisheries.*

1. The definitions of "fish" and of "tidal waters" in section two of the Fisheries Act, 1881, are hereby repealed, and the following definitions substituted therefor—

10 "Fish"—All or any of the varieties of marine or fresh-water fish or of crustaceæ.

c 87—A

"Tidal



*Fisheries.*

“Tidal waters”—All waters which ebb and flow over Crown lands or over lands in the possession or under the control of the Crown or the Commissioners within the territorial jurisdiction of the Crown in New South Wales, and every lake and lagoon in the said Colony ordinarily subject to the influence of the tides (although the communication with the sea may for the time be closed), the soil or bed whereof is the property of the Crown, or is in the possession or under the control of the Crown or the Commissioners, together with, in each case, the soil of such Crown lands or lands under the possession or control of the Crown or the Commissioners.

2. Section ten of the Fisheries Act, 1881, is hereby repealed *Close fisheries.* and the following section substituted therefor—

The Governor on the recommendation of the Commissioners may by proclamation in the Gazette declare that any specified tidal waters shall be exempted from net-fishing, scoop-net fishing, and line-fishing, or from net-fishing or scoop-net fishing alone, during such months in every year as are specified in the proclamation. The fisheries in all such tidal waters so specified shall be termed “close fisheries,” and the months during which the same are so exempt from such net-fishing, scoop-net fishing, and line-fishing “close months.”

The Governor may, on the like recommendation and in like manner, alter or rescind any such proclamation.

Any person who, in or near any such close fishery during any close month—

- (a) places, shoots, casts, hauls, stakes, fixes, or sets any fishing-net, scoop-net, or fishing-line for the purpose of catching, taking, or inclosing any fish, or in such manner that any fish might be caught or taken thereby; or
- (b) aids or assists in the placing, shooting, casting, hauling, staking, fixing, or setting of any such net or line for such purpose or in such manner; or
- (c) is in any boat from which any such net or line is placed, shot, cast, hauled, staked, fixed, or set for such purpose or in such manner; or

(d) is found in possession of any fish, shall be liable to a penalty not exceeding twenty pounds and not less than two pounds.

In any prosecution under this section for having fish in his possession the defendant shall not be convicted if he proves that the fish were not caught in the close fishery.

3. Any person who (except in pursuance of the provisions of section one of the Fisheries Act Amendment Act, 1883) in any tidal waters catches or attempts to catch prawns with any net other than a *bonâ* Penalty for using unlawful prawn nets.



*Fisheries.*

bonâ fide prawn net as defined by section eleven of the Fisheries Act, 1881, shall be liable to a penalty not exceeding five pounds and not less than two pounds.

4. (1) Any basket or other receptacle in which are any fish liable to forfeiture under the provisions of section fourteen of the Fisheries Act, 1881, may be seized with the fish and shall be forfeited and disposed of in accordance with the regulations. Amendments of section 14 of Fisheries Act, 1881.

(2) The words "or to any person who may have in his possession fish not intended for sale" and the words "or being in possession of fish for his own consumption" in the said section are hereby repealed.

5. No wing of a bonâ fide garfish net as defined by section eleven of the Fisheries Act, 1881, shall exceed thirty fathoms in length. Length of wings of garfish net.

6. In the prosecution of any person for any offence under section twenty-one of the Fisheries Act, 1881, the burden of proving that he was a person on an excursion or pleasure party fishing for purposes other than sale shall in all cases lie upon the defendant. Burden of proof that persons are fishing not for sale.

7. Section seventeen of the Fisheries Act, 1881, is hereby repealed, and the following section substituted therefor— Governor may close fishing-grounds against net-fishing.

The Governor may, on the recommendation of the Commissioners, by proclamation published in the Gazette, and in some newspaper circulating in the nearest police district, declare that the whole or any defined portion of any tidal waters shall be closed against the use of fishing-nets and scoop-nets for such term as the Governor shall think fit, and may, on like recommendation, and in like manner, alter or rescind such proclamation.

8. The words "enumerated in the First Schedule hereto" in section nineteen of the Fisheries Act, 1881, and the First Schedule to that Act are hereby repealed. Amendment of section 19 of Fisheries Act, 1881.

9. Notwithstanding anything contained in the Fisheries Act, 1881, the Colonial Treasurer may, on the recommendation of the Commissioners, refuse to grant under the provisions of that Act a fisherman's license to or a license for any boat owned by any person who has been convicted of an offence against any of the provisions of the said Act or the Net-fishing in Port Hacking Prohibition Act of 1886, or any Act amending the said Acts, or of any regulation made under any of the Acts referred to in this section. Fisherman's license may be refused to persons convicted of offences against Fisheries Acts.

10. In any prosecution under section twenty-two of the Fisheries Act, 1881, for exploding dynamite or any such substance under tidal or other waters or for placing a poisonous or noxious thing in such waters, the fact that immediately after any such explosion or placing the defendant was found in possession of dynamite or such substance or of a poisonous or noxious thing shall be prima facie evidence that he exploded the dynamite or substance under, or placed the poisonous or noxious thing in, such waters. What is prima facie evidence of exploding dynamite.



*Fisheries.*

11. Section twenty-four of the Fisheries Act, 1881, is hereby repealed and the following substituted therefor— Repeal of section 24 of Fisheries Act.

Every person found using a fishing-net, scoop-net, or line in any waters in New South Wales, and any person found offending  
5 against any of the provisions of the Fisheries Act, 1881, or any Acts amending the same or any regulations made thereunder, shall on demand give his true name and state his place of residence to any officer of the commissioners, justice, officer of police, constable, or to any owner or occupier of land bordering such waters, or over which  
10 they ebb and flow. And if any such person refuses or neglects to comply with such demand, or gives a false or fictitious name, or states a false or fictitious place of residence he shall be liable to a penalty not exceeding *five* pounds.

12. The Governor may by proclamation in the Gazette grant to  
15 the Commissioners the right to establish a fishery in or over such area of Crown lands, and on such terms and conditions as he may think fit and as are specified in the proclamation, and in like manner may alter or rescind any such grant. Governor may allow Commissioners to establish fisheries.

Such grant shall have the same effect in respect of the Com-  
20 missioners as the grant of a license to establish a private fishery has in respect of the grantee or licensee under the provisions of the Fisheries Act, 1881, and the said provisions (except the provision as to the payment of ten pounds upon the grant) shall apply in respect of any area specified in such proclamation as if it were an area in respect of  
25 which a license had been granted as aforesaid.

*Inland fisheries.*

13. Subsection one of section two of the Inland Waters Fisheries Act of 1887 is hereby amended by inserting after the word  
“net,” where last used in the subsection, the words “or using in  
30 inland waters any trap enclosed with wire or wire-netting with wings so attached as to impede the free passage of fish on either side of the trap.

14. Subsection one of section four of the Inland Waters Fisheries Act of 1887 is hereby amended by substituting the word  
“thirty” for the word “sixty.” Amendment of section 2 of Inland Waters Fisheries Act.

15. Section five of the Inland Waters Fisheries Act of 1887 is hereby repealed, and the following section is substituted therefor— Amendment of section 4 of Inland Waters Fisheries Act.

The Governor on the recommendation of the Commissioners may by proclamation in the Gazette declare that any inland waters therein specified shall be exempted from net-fishing, scoop-net fishing  
40 and line-fishing for such months (to be designated “Close months”) in every year as are specified in the proclamation. And on like recommendation and in like manner may vary or rescind any such proclamation.

Any



*Fisheries.*

Any person who, in or near any inland waters so exempted during any close months—

- 5 (a) Places, shoots, casts, hauls, stakes, fixes, or sets any fishing-net, scoop-net, trap, device, implement, or fishing-line for the purpose of catching, taking, or enclosing any fish in any such waters, or in such manner that fish in such waters might be caught or taken thereby; or
- 10 (b) aids or assists in the placing, shooting, casting, hauling, staking, fixing, or setting of any such net, trap, device, implement, or line for such purpose, or in such manner; or
- (c) is in any boat from which any such net, trap, device, implement, or line is placed, shot, cast, hauled, staked, fixed, or set for such purpose, or in such manner; or
- (d) is found in possession of any fish,
- 15 shall be liable to a penalty not exceeding twenty pounds, and not less than two pounds.

In any prosecution under this section for having fish in his possession the defendant shall not be convicted if he proves that the fish were not caught in inland waters so exempted.

- 20 16. The words "having a cod or purse attached and" in section two of the Sunk Nets Act, 1892, are hereby repealed.

Amendment of  
section 2 of Sunk  
Nets Act.

*Oyster fisheries.*

17. Section fifteen of the Oyster Fisheries Act of 1884 is hereby repealed, and the following substituted therefor—

Repeal of section 15  
of Oyster Fisheries  
Act.

- 25 Nothing in this Act shall render liable to a penalty any person who takes oysters from the foreshore above low water-mark from Crown lands not leased under this Act if such oysters are consumed at or near the place from which they were taken.

- 30 18. Oysters growing on land other than Crown land are hereby declared to be the property of the person in lawful possession of such land:

Property in oysters  
on private land.

Provided that no person who takes oysters on any such land and consumes them there shall be guilty of the offence of stealing such oysters unless such land is enclosed.

- 35 19. Any officer of the Commissioners or of police or police constable may enter any boat to search for undersized oysters which he has reasonable cause to suspect are unlawfully taken, and all undersized oysters wherever found, and any basket or receptacle in which and any other oysters with which undersized oysters are found may be
- 40 seized by any of the persons aforesaid, and shall be disposed of in accordance with the regulations.

Boat may be  
searched for under-  
sized oysters and  
oysters seized.



*Fisheries.**Port Hacking fisheries.*

20. Any officer of police or police constable, or any officer of the Commissioners of Fisheries for New South Wales, or of the Trustees of the National Park, or any servant of the said trustees by 5 them authorised in writing in that behalf, or any person authorised in writing by any justice of the peace, or specially appointed by the Governor to enforce the observance of the Net-fishing in Port Hacking Prohibition Act of 1886 and any Act amending the same, and any regulations made thereunder, may at any time enter any 10 premises or dwelling, or go on board any boat and search for and seize and take away any net which has been used, or which he has reasonable cause to suspect has been used, in contravention of the provisions of the said Acts, and all lines, leads, corks, and gear connected therewith. And if the justice before whom the offender is brought is 15 satisfied that the net has been so used, the net and the said lines, leads, corks, and gear shall be forfeited to Her Majesty upon conviction of the offender.

Seizure of nets in case of offences against Net-fishing in Port Hacking Prohibition Act.

21. Any person who assaults, resists, obstructs, or encourages any other person to assault, resist, or obstruct any officer, constable, 20 servant, or person mentioned in the next preceding section in the execution of his duty under the Acts or regulations so mentioned shall be liable to a penalty not exceeding fifty pounds; and the adjudicating justices may in addition to imposing any such penalty order a sufficient sum to be paid by the offender to cover any damage 25 or injury sustained by the person so assaulted, resisted, or obstructed, which sum shall be recoverable in the same manner as a penalty under the said Acts.

Penalty for resisting officers.

22. Any officer, constable, servant, or person mentioned in section twenty of this Act may exercise in respect of any persons 30 offending against the Acts or regulations mentioned in that section, the powers of seizure and apprehension conferred on certain persons by section sixty-two of the Fisheries Act, 1881.

Section 62 of Fisheries Act extended to Port Hacking.

*General.*

23. If any person is convicted of any offence against the provisions of any of the Acts or regulations mentioned in this Act, after 35 a previous conviction for any offence of the same kind he shall, notwithstanding anything contained in any of the said Acts, be liable to imprisonment for any term not exceeding three months and shall not be liable to a penalty.

Imprisonment in case of second conviction under Fisheries Acts.

40 24. This Act may be cited as the "Fisheries Act, 1899."

Short title.



## Synopsis of Fisheries Bill, 1899.

Clause 1. The definition of fish in the Principal Act applies to the nineteen species only which are Fish enumerated in the First Schedule.

The amended definition covers all kinds of fish and crustacea.

The definition of tidal waters in the Principal Act is amended by making all waters which ebb and Tidal waters. flow over lands in the possession or under the control of the Crown or the Commissioners tidal waters.

This will allow of waters under lease to the Government being brought under the Act.

Clause 2. Section 10, here repealed, provides that specified waters can be made close fisheries only against the use of fishing-nets.

The effect of this section will be that no fishing-net, scoop-net, or line may be used in any close fishery, and that anyone found in possession of fish caught in a close fishery shall be liable to a penalty.

Clause 3. There is no penalty in the Principal Act for any person using an illegal net for catching prawns.

Clause 4. This provision is necessary to enable baskets, &c., containing undersized fish to be seized.

This clause also prevents persons having undersized fish in their possession, even if not for sale.

Clause 5. Under section 11 of the Principal Act there is no limit to the length of the wings of a garfish net. The bunt is 30 fathoms and an equal length in each wing is sufficient.

Clause 6. Much difficulty has always been caused in proving that an unlicensed person in a licensed fishing-boat is fishing for sale. The burden of proving that he was not fishing for sale will now lie on the defendant.

Clause 7. Under section 17 of the Principal Act waters can only be closed for two years, and then only when the natural supply of fish in such waters has been exhausted to such a degree as to require rest for the recovery of such natural supply.

Power is given to the Governor on the recommendation of the Commissioners to close any waters against the use of fishing-nets and scoop-nets for such time as he may think fit.

Scoop-nets are used at night time, and are not held to be fishing-nets.

Clause 8. The 19 species of fish included in this schedule were the only fish that came under the Act.

All kinds of fish and crustacea are now substituted.

Clause 9. There is nothing in the Principal Act to prevent any man of bad character obtaining a license.

Clause 10. It is almost impossible to obtain direct proof of the use of explosives which are either used in the dark or in a secret manner.

Clause 11. The clause is to enable officers to get names and addresses of offenders using lines, fishing-nets, and scoop-nets unlawfully.

Clause 12. It is necessary to make some such provision to enable the Commissioners to propagate marine fish that are becoming depleted, cultivating oysters, &c., and studying their life history, habits and diseases, &c.

Clause 13. In inland waters wire-netting traps are placed in the centre of the stream with wings from each side of the trap to the shore. They prevent the free passage of fish up and down the stream.

Clause 14. It is proposed to give thirty days notice of a closure of inland waters, instead of sixty days.

Clause 15. Under section 5 of the Inland Waters Act, specified waters may be exempted from net-fishing only, from 1st October to 31st January in every year.

The effect of this section will be that no fishing-net, scoop-net, or line may be used in any waters so closed during any close months specified in the proclamation; and that any person found in possession of any fish, in or near any inland waters so exempted, during the close months shall be liable to a penalty.



This will admit of this Colony and Victoria taking joint action in protecting Murray cod, and also in protecting trout during the spawning season.

Clause 16. Sunk nets are very destructive to fish life and fish food, and this amendment will be the means of preventing the sinking of any net below the surface of the water.

Clause 17. Under section 15 here repealed, persons were, under the pretence of taking oysters for their own consumption, in the habit of removing them in considerable quantities for the purposes of sale, and the present section is to prevent persons removing them for such purpose.

Clause 18. As the law is at present, though oysters on Crown lands and on lands leased from the Crown are the subject of larceny, oysters growing on lands owned by private persons or under the control of trustees are not the subject of larceny. By making them the property of the persons in possession of the land anyone removing them unlawfully, except for the purpose of consuming them on the land, may now be convicted of stealing them.

Clause 19. This power is necessary, as inspectors cannot at present enter boats to search for undersized oysters, and it is also necessary to provide for seizing oysters and receptacles.

Clause 20. There is no provision under the Net-fishing in Port Hacking Prohibition Act to enter any premises or dwelling or go on board any boat for the purpose mentioned in this section.

Clause 21. There is no penalty under the Acts referred to in the preceding section, and it is necessary to provide for such penalty.

Clause 22. This clause is intended to enable the officers of the National Park Trustees to exercise where necessary the powers of arrest given to inspectors and others under the Fisheries Acts.

Clause 23. Fines and forfeitures of nets are found to have little effect on persons who repeatedly break the laws, and it is necessary to adopt stringent measures.

The amount realised from the sale of fish unlawfully caught enables these persons to provide new nets without difficulty.



Legislative Council.

No. , 1899.

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## A BILL

To amend the Fisheries Act, 1881, the Net-fishing in Port  
Hacking Prohibition Act of 1886, and Acts amending the  
same.

[MR. MACKAY;—16 November, 1899.]

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with  
the advice and consent of the Legislative Council and Legislative  
Assembly of New South Wales in Parliament assembled, and by the  
authority of the same, as follows:—

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*Fisheries.*

1. The definitions of "fish" and of "tidal waters" in section Definitions of fish  
two of the Fisheries Act, 1881, are hereby repealed, and the following and tidal waters.  
definitions substituted therefor—

10 "Fish"—All or any of the varieties of marine or fresh-water  
fish or of crustaceæ.

c 87—A

"Tidal



"Tidal waters"—All waters which ebb and flow over Crown lands or over lands in the possession or under the control of the Crown or the Commissioners within the territorial jurisdiction of the Crown in New South Wales, and every lake and lagoon in the said Colony ordinarily subject to the influence of the tides) although the communication with the sea may for the time be closed), the soil or bed whereof is the property of the Crown, or is in the possession or under the control of the Crown or the Commissioners, together with, in each case, the soil of such Crown lands or lands under the possession or control of the Crown or the Commissioners. 5 10

Close fisheries.

2. Section ten of the Fisheries Act, 1881, is hereby repealed and the following section substituted therefor—

The Governor on the recommendation of the Commissioners may by proclamation in the Gazette declare that any specified tidal waters shall be exempted from net-fishing, scoop-net fishing, and line-fishing during such months in every year as are specified in the proclamation. The fisheries in all such tidal waters so specified shall be termed "close fisheries," and the months during which the same are so exempt from such net-fishing, scoop-net fishing, and line-fishing "close months." 15 20

The Governor may, on the like recommendation and in like manner, alter or rescind any such proclamation.

Any person who, in or near any close fishery during any close month— 25

- (a) places, shoots, casts, hauls, stakes, fixes, or sets any fishing-net, scoop-net, or fishing-line for the purpose of catching, taking, or inclosing any fish, or in such manner that any fish might be caught or taken thereby; or 30
- (b) aids or assists in the placing, shooting, casting, hauling, staking, fixing, or setting of any such net or line for such purpose or in such manner; or
- (c) is in any boat from which any such net or line is placed, shot, cast, hauled, staked, fixed, or set for such purpose or in such manner; or 35

(d) is found in possession of any fish, shall be liable to a penalty not exceeding *twenty* pounds and not less than *two* pounds.

In any prosecution under this section for having fish in his possession the defendant shall not be convicted if he proves that the fish were not caught in the close fishery. 40

Penalty for using unlawful prawn nets.

3. Any person who (except in pursuance of the provisions of section one of the Fisheries Act Amendment Act, 1883) in any tidal waters catches or attempts to catch prawns with any net other than a *bonâ* 45



bonâ fide prawn net as defined by section eleven of the Fisheries Act, 1881, shall be liable to a penalty not exceeding *five* pounds and not less than *two* pounds.

4. (1) Any basket or other receptacle in which are any fish liable to forfeiture under the provisions of section fourteen of the Fisheries Act, 1881, may be seized with the fish and shall be forfeited and disposed of in accordance with the regulations.

Amendments of section 14 of Fisheries Act, 1881.

(2) The words "or to any person who may have in his possession fish not intended for sale" and the words "or being in possession of fish for his own consumption" in the said section are hereby repealed.

5. No wing of a bonâ fide garfish net as defined by section eleven of the Fisheries Act, 1881, shall exceed thirty fathoms in length.

Length of wings of garfish net.

6. In the prosecution of any person for any offence under section twenty-one of the Fisheries Act, 1881, the burden of proving that he was a person on an excursion or pleasure party fishing for purposes other than sale shall in all cases lie upon the defendant.

Burden of proof that persons are fishing not for sale.

7. Section seventeen of the Fisheries Act, 1881, is hereby repealed, and the following section substituted therefor—

Governor may close fishing-grounds against net-fishing.

The Governor may, on the recommendation of the Commissioners, by proclamation published in the Gazette, and in some newspaper circulating in the nearest police district, declare that the whole or any defined portion of any tidal waters shall be closed against the use of fishing-nets and scoop-nets for such term as the Governor shall think fit, and may, on like recommendation, and in like manner, alter or rescind such proclamation.

8. The words "enumerated in the First Schedule hereto" in section nineteen of the Fisheries Act, 1881, and the First Schedule to that Act are hereby repealed.

Amendment of section 19 of Fisheries Act, 1881.

9. Notwithstanding anything contained in the Fisheries Act, 1881, the Colonial Treasurer may, on the recommendation of the Commissioners, refuse to grant under the provisions of that Act a fisherman's license to or a license for any boat owned by any person who has been convicted of an offence against any of the provisions of the said Act or the Net-fishing in Port Hacking Prohibition Act of 1886, or any Act amending the said Acts, or of any regulation made under any of the Acts referred to in this section.

Fisherman's license may be refused to persons convicted of offences against Fisheries Acts.

10. In any prosecution under section twenty-two of the Fisheries Act, 1881, for exploding dynamite or any such substance under tidal or other waters or for placing a poisonous or noxious thing in such waters, the fact that immediately after any such explosion or placing the defendant was found in possession of dynamite or such substance or of a poisonous or noxious thing shall be prima facie evidence that he exploded the dynamite or substance under, or placed the poisonous or noxious thing in, such waters.

What is prima facie evidence of exploding dynamite.



Repeal of section 24  
of Fisheries Act.

11. Section twenty-four of the Fisheries Act, 1881, is hereby repealed and the following substituted therefor—

Every person found using a fishing-net, scoop-net, or line in any waters in New South Wales, and any person found offending against any of the provisions of the Fisheries Act, 1881, or any Acts amending the same or any regulations made thereunder, shall on demand give his true name and state his place of residence to any officer of the commissioners, justice, officer of police, constable, or to any owner or occupier of land bordering such waters, or over which they ebb and flow. And if any such person refuses or neglects to comply with such demand, or gives a false or fictitious name, or states a false or fictitious place of residence he shall be liable to a penalty not exceeding *five* pounds. 5

Governor may allow  
Commissioners to  
establish fisheries.

12. The Governor may by proclamation in the Gazette grant to the Commissioners the right to establish a fishery in or over such area of Crown lands, and on such terms and conditions as he may think fit and as are specified in the proclamation, and in like manner may alter or rescind any such grant. 15

Such grant shall have the same effect in respect of the Commissioners as the grant of a license to establish a private fishery has in respect of the grantee or licensee under the provisions of the Fisheries Act of 1881, and the said provisions (except the provision as to the payment of ten pounds upon the grant) shall apply in respect of any area specified in such proclamation as if it were an area in respect of which a license had been granted as aforesaid. 25

#### *Inland fisheries.*

Amendment of  
section 2 of Inland  
Waters Fisheries  
Act.

13. Subsection one of section two of the Inland Waters Fisheries Act of 1887 is hereby amended by inserting after the word "net," where last used in the subsection, the words "or using in inland waters any trap enclosed with wire or wire-netting with wings so attached as to impede the free passage of fish on either side of the trap. 30

Amendment of  
section 4 of Inland  
Waters Fisheries  
Act.

14. Subsection one of section four of the Inland Waters Fisheries Act of 1887 is hereby amended by substituting the word "thirty" for the word "sixty."

Close months in  
inland waters.

15. Section five of the Inland Waters Fisheries Act of 1887 is hereby repealed, and the following section is substituted therefor— 35

The Governor on the recommendation of the Commissioners may by proclamation in the Gazette declare that any inland waters therein specified shall be exempted from net-fishing, scoop-net fishing and line-fishing for such months (to be designated "Close months") in every year as are specified in the proclamation. And on like recommendation and in like manner may vary or rescind any such proclamation. 40

Any



Any person who, in or near any inland waters so exempted during any close months—

- (a) Places, shoots, casts, hauls, stakes, fixes, or sets any fishing-net, scoop-net, trap, device, implement, or fishing-line for the purpose of catching, taking, or enclosing any fish in any such waters, or in such manner that fish in such waters might be caught or taken thereby; or
- (b) aids or assists in the placing, shooting, casting, hauling, staking, fixing, or setting of any such net, trap, device, implement, or line for such purpose, or in such manner; or
- (c) is in any boat from which any such net, trap, device, implement, or line is placed, shot, cast, hauled, staked, fixed, or set for such purpose, or in such manner; or
- (d) is found in possession of any fish,

shall be liable to a penalty not exceeding *twenty* pounds, and not less than *two* pounds.

In any prosecution under this section for having fish in his possession the defendant shall not be convicted if he proves that the fish were not caught in inland waters so exempted.

- 20      **16.** The words "having a cod or purse attached and" in section two of the Sunk Nets Act, 1892, are hereby repealed.

#### *Oyster fisheries.*

**17.** Section fifteen of the Oyster Fisheries Act of 1884 is hereby repealed, and the following substituted therefor—

Repeal of section 15  
of Oyster Fisheries  
Act.

- 25      Nothing in this Act shall render liable to a penalty any person who takes oysters from the foreshore above low water-mark from Crown lands not leased under this Act if such oysters are consumed at or near the place from which they were taken.

- 18.** Oysters growing on land other than Crown land are hereby declared to be the property of the person in lawful possession of such land:

Property in oysters  
on private land.

Provided that no person who takes oysters on any such land and consumes them there shall be guilty of the offence of stealing such oysters.

- 35      **19.** Any officer of the Commissioners or of police or police constable may enter any boat to search for undersized oysters which he has reasonable cause to suspect are unlawfully taken, and all undersized oysters wherever found, and any basket or receptacle in which and any other oysters with which undersized oysters are found may be seized by any of the persons aforesaid, and shall be disposed of in accordance with the regulations.

Boat may be  
searched for under-  
sized oysters and  
oysters seized.



*Port Hacking fisheries.*

Seizure of nets in  
case of offences  
against Net-fishing  
in Port Hacking  
Prohibition Act.

20. Any officer of police or police constable, or any officer of the Commissioners of Fisheries for New South Wales, or of the Trustees of the National Park, or any servant of the said trustees by them authorised in writing in that behalf, or any person authorised in writing by any justice of the peace, or specially appointed by the Governor to enforce the observance of the Net-fishing in Port Hacking Prohibition Act of 1886 and any Act amending the same, and any regulations made thereunder, may at any time enter any premises or dwelling, or go on board any boat and search for and seize and take away any net which has been used, or which he has reasonable cause to suspect has been used, in contravention of the provisions of the said Acts, and all lines, leads, corks, and gear connected therewith. And if the justice before whom the offender is brought is satisfied that the net has been so used, the net and the said lines, leads, corks, and gear shall be forfeited to Her Majesty upon conviction of the offender.

Penalty for resisting  
officers.

21. Any person who assaults, resists, obstructs, or encourages any other person to assault, resist, or obstruct any officer, constable, servant, or person mentioned in the next preceding section in the execution of his duty under the Acts or regulations so mentioned shall be liable to a penalty not exceeding *fifty* pounds; and the adjudicating justices may in addition to imposing any such penalty order a sufficient sum to be paid by the offender to cover any damage or injury sustained by the person so assaulted, resisted, or obstructed, which sum shall be recoverable in the same manner as a penalty under the said Acts.

Section 62 of  
Fisheries Act  
extended to Port  
Hacking.

22. Any officer, constable, servant, or person mentioned in section twenty of this Act may exercise in respect of any persons offending against the Acts or regulations mentioned in that section, the powers of seizure and apprehension conferred on certain persons by section sixty-two of the Fisheries Act, 1881.

*General.*

Imprisonment in case  
of second conviction  
under Fisheries Acts.

23. If any person is convicted of any offence against the provisions of any of the Acts or regulations mentioned in this Act, after a previous conviction for any such offence he shall, notwithstanding anything contained in any of the said Acts, be liable to imprisonment for any term not exceeding *three* months and shall not be liable to a penalty.

Short title.

24. This Act may be cited as the "Fisheries Act, 1899."