

[CONFIDENTIAL.]

PART No. I.

DRAFT "FISHERIES AND OYSTER
FARMS BILL, 1926."

(Not yet revised by the Parliamentary Draftsman.)

Coastal and General Section.

NOTES

ON PART I, DRAFT " FISHERIES AND OYSTER FARMS BILL, 1926."

In this Part of the draft of this Bill there are several departures from the existing law.

It is considered that the possibilities of the fishing industry, with practically a virgin fishery along our coast, justifies a higher status being given to its administration than at present; it is also considered that the distribution and conservation phases should be made features of the activities.

It is considered that an Advisory Board, provided for under existing Statutes but never appointed, should be of great assistance in enabling Ministerial decisions in regard to contentious matters to be absolutely free from any bias which may possibly arise on the official side. Sec. 2 : p. 5.

The personnel of the Advisory Board is specifically provided for under the Bill. Sec. 2 : p. 5.

It is proposed to designate this sub-department the " State Fisheries Bureau," under the guidance of the present Officer-in-charge, as Director; to appoint a Superintendent of Distribution and an Economic Zoologist. Honorary Vigilance Committees will assist in conservation. Sec. 6 (a) : p. 6.

A marked feature is indicated in the definition terms " Fisherman " and " Linesman," the latter giving recognition to the amateur fishermen. The granting of fishermen's licenses ceases to be automatic—the Minister being given the power to refuse as well as to grant. Sec. 7 : pp. 8 and 9. Sec. 41 : p. 33.

The control of whaling operations, though briefly touched upon, is effective. Sec. 12 and 13 : p. 18.

Power is given the Minister to donate or sell to hospitals, surplus or seized oysters. Sec. 14 : p. 18.

On the conservation side it is made specific that the right of permanently closing waters against net-fishing lies in the hands of Parliament. Sec. 16 : p. 19.

The use of " set nets," the curse of the fisheries, through their being so often left unattended, is specially provided for. Sec. 17 : p. 19.

Shorter term closures of five years may be made by the Governor, and temporary closures of one year and under by the Minister. Sec. 20, subsec. 2 : p. 22.

The recognition of the rights of linesmen—the amateur fishermen—by close preserves in their interests, will fill a long outstanding want. Sec. 19 : p. 20. Sec. 20, subsec. 2 : p. 22.

The giving by Statute the right to fishermen to buy back nets forfeited for offences enables the restoration of " tools of trade " in a legitimate way after reasonably punishing an offender and at the same time obviates the necessity for that most objectionable section—No. 17, 1910. Sec. 24 : p. 24.

The protection of fishermen's rights against wanton destruction of their nets by bad or indifferent navigation, is a desirable feature. Sec. 33 : p. 28.

The section dealing with private fisheries within leasehold land will prevent the selfish exclusion of fishermen prepared to earn a living in a reasonable way. Sec. 36 : p. 30.

The special licensing of trawl boats, and the depletion of fishing grounds just outside the territorial limit are specially dealt with. Sec. 37 : p. 30, subsec. 2.

Conservation features are the rights of the Minister in the construction of hatcheries, races and spawning ponds, and in the compulsory provision of fish-ways over weirs, dams, &c. Sec. 38 : p. 31. Sec. 39 : p. 32.

The fact must not be overlooked that all fish within territorial limits are the property of the State, and those captured outside are foreign fish, available for the nets of any Japanese, as well as our own citizens.

As the property of the State, the Government has an absolute right, whilst authorising men to effect their capture, and in the doing thereof to make a reasonably decent living, to direct the manner and extent of their disposal.

The clauses dealing with trawled or imported fish landed on our shores will conserve the interests of our own catchers against foreigners. Sec. 43 : pp. 35 and 44.

Marketing is lightly touched upon in this Part, the main features in that regard being set out in Part II. Secs. 46, 47, and 48 : p. 36.

Provision is, however, here made in regard to the wholesale disposal of fish by auction and private treaty, also in regard to objectionable methods of sale.

NOTES *RE* EXPENDITURE.

The present expenditure in connection with the administration of this Part and Part IV, in relation to existing Statutes, is about £17,000 per annum, and the receipts from all sources are indicated in the "Statement of anticipated Receipts and Expenditure" herewith, by the sum of £14,426.

[CONFIDENTIAL.]

Draft Fisheries and Oyster Farms
Bill, 1926.

No. , 1926.

A BILL

To repeal the Fisheries Act, 1902, the Fisheries (Amendment) Act, 1910, and to remodel the law controlling the fisheries of New South Wales in so far as they relate to the territorial, estuarine, and inland waters; to fish nets, traps, and other instruments used for and in the capture of fish; the promotion of oyster culture, and to make better provision for the regulation and improvement of oyster farms; for the leasing of Crown lands in or abutting on tidal waters as oyster farms; for the establishment of private fish nurseries and hatcheries in inland waters; and of marine biological stations and control of the working of same generally; the definition of trout and other inland fish-acclimatisation districts; the issue and regulation of rod licenses; the regulation and control of the sale of fish, oysters, crustaceans, and crayfish, whether produced in New South Wales or imported; for regulating

regulating the weights or dimensions of marketable fishes including oysters, crayfish, prawns, crustacea, amphibious and marine animal and reptile life; the collecting of worm and other fish bait; the registration of nets owned by fishermen and linesmen; for the improvement of the handling and supply by wholesale of fish to consumers; by control of the sale and distribution of fish; the cutting of mangrove sticks and bushes below high-water mark; the registration and inspection of fish canning and fish fertilizer works and factories, the registration and inspection of wholesale fish and oyster dealers' establishments, retail fish shops and oyster saloons; the control of whaling within territorial limits and the landing of whale products; the promotion and development of the industry of fishing; and for other purposes connected with or incidental to the matters aforesaid.

BE it enacted by the King'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:—

PRELIMINARY.

PART I.

NEW SECTION.

1. This Act may be cited as the "Fisheries and Oyster Farms Act, 1926," and shall, with the exception of the provisions of Part II, commence on a date to be proclaimed, and the Fisheries Act, 1902, and the Fisheries (Amendment) Act, 1910, shall be repealed as from the date of the proclamation referred to, without prejudice to the past operation of or to any right lawfully acquired or penalty or forfeiture incurred under

under either of the said Acts or the regulations made thereunder, and the repeal herein enacted shall not operate to rescind, cancel, or repeal any proclamation, notice, notification, or regulation made under the authority of any Act repealed except as may be hereinafter provided: Provided that the provisions under Part II shall commence and be in force as and from the first day of July in the year one thousand nine hundred and twenty-seven.

2. The Governor may appoint a board of not more than five persons, to be known as the Advisory Board on Fisheries. Advisory Board on Fisheries, to advise the Minister on matters relating to sea, coast, and inland fisheries, the sale by wholesale of fish marketed and its distribution, and any other matters relating to fisheries generally upon which the Minister may desire their advice.

The Director of the State Fisheries Bureau shall be chairman of the board and the Superintendent of Distribution shall be deputy-chairman.

The other members of the board shall consist of a licensed fisherman, an oyster lessee who is actually engaged in oyster culture, and a representative of consumers of fish and fish products generally.

3. The term of office of every such member of the board shall be five years, but any such member shall be eligible for reappointment.

4. The chairman and his deputy shall be remunerated by an allowance in the nature of salary to be approved by the Minister and subject to confirmation by the Public Service Board, and the other members of the board shall be remunerated by fees to be prescribed by regulation, which may be made for that purpose under this Act.

5. The secretary to the Advisory Board shall be an officer of the staff of the Director of Fisheries nominated by him for such duties and shall be remunerated by an allowance to be approved by the Public Service Board for the special duties performed in that regard.

NEW SECTION.

6. (1) As soon after the passing of this Act as may be practicable the Governor may appoint a Director of State Fisheries, a Superintendent of Distribution, an Economic Zoologist, and such paid inspectors of fisheries and other persons as he may think necessary for the purpose of this Act or any Act amending same. Director and other officers.

(2) The Governor may upon the advice of the Minister appoint honorary vigilance committees in such places as constant supervision by paid inspectors of fisheries is considered to be unnecessary or impracticable, and every member of such committee shall exercise such restricted powers and authorities as will enable him to carry out the protective and preventive clauses of this Act relating to close fisheries generally and to public oyster reserves, also in the prevention of the use of any unlawful method of fishing or instrument used for the capture of fish. Vigilance committees.

The term of office of any committee shall not exceed five years, but any member shall be eligible for reappointment: Provided that the Governor may upon the advice of the Minister at any time cancel the appointment of any member or members of such committee should such course be considered necessary, and the Crown shall not be liable to pay compensation for any such annulment of office.

(3) As from the date of proclamation of the commencement of this Act, all existing honorary appointments of inspectors of fisheries or assistant inspectors of fisheries under any repealed Act shall be null and void.

(4) Every officer of police of or above the rank of senior constable and every officer for the time being in charge of police at all stations throughout the State holding the rank of constable first class or constable shall ex officio have the powers and authorities of an inspector of fisheries.

7. In the construction of this Act, and of all regulations made thereunder, the following expressions within inverted commas, or any others which the Governor may Interpretation of terms.

may hereafter define, shall, unless inconsistent with the context, bear the meanings and include the matters and things hereinafter respectively assigned to them, viz. :—

“Advisory Board” means a board appointed under this Act to advise the Minister.

“Authorised purpose” means any purpose indicated by the provisions of this Act.

“Boat” includes every steamer, launch, vessel or punt of any description or dimensions whatsoever, which is used for the purpose of catching fish for sale, or for collecting or carrying to land fish captured from other boats.

“Crown lands” means and includes any foreshore as well as any land under the sea, within territorial limits, or under any tidal or inland water, or under any river, lake, lagoon, or other water, or any training-wall, breakwater or guide-bank, in New South Wales, the property in which is by law vested in the Crown, or in any trustees for the purpose of public recreation, or for any other public purpose or purposes, but exclusive of lands held under lease under this Act or any Act hereby repealed.

“Catchment area” shall mean any foreshore or other portion of a leased area suitable only for the collection of spat on mangroves or other timber, shells, tiles, slates, shingles, or other cultch.

“Cultivation” shall mean any stone, sticks, timber, tiles, or any material artificially placed or laid out for the improvement of any area or oyster farm, or for the culture of oysters.

“Dredging bed” shall mean any portion of a leased area or oyster farm, the bottom of which is naturally sufficiently solid to carry loose oysters, or which has been artificially so solidified and the depth of water on which renders it necessary to raise such oysters by dredging.

“Director” means the Director of Fisheries appointed under this Act to be in charge of the State Fisheries Bureau.

“Fish”

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- “Fish” means and includes all or any of the varieties of marine or fresh-water fishes and crustacea, and also all amphibious and marine animal and reptile life.
- “Fisherman” means any person licensed under this Act to catch fish by any means whatever for the purpose of sale.
- “Fixed engine” shall mean and include any stake-net, bag-net, putts, putchers, night-lines, and all fixed implements or engines for catching or facilitating the catching of fish.
- “Gaff” means a metal hook fixed to either end of a rod or stake.
- “Governor” means the Governor with the advice of the Executive Council.
- “Hand-line” means any line to which not more than six fishing-hooks are attached, which shall be held by the person who uses or intends to use same for the capture of fish.
- “Hauling” includes casting and shooting any net with or without hauling lines.
- “Hauling ground” means any area upon which fishermen may haul and land their fishing nets. (See “Recognised hauling ground.”)
- “High-water mark” means the line between approximate high-water at spring tide and at neap tide.
- “Inland waters” means and includes all rivers and creeks for that portion of their course which is beyond the influence of the tides; also all fresh-water lakes, lagoons, and artificial dams, reservoirs, and ponds which have been naturally or artificially stocked with fish life.
- “Inspector” means and includes inspectors or assistant inspectors of fisheries, and inspectors of fisheries *ex officio* appointed and created respectively under this Act.
- “Justice” means any justice of the peace.
- “Lease” means any lease issued under this Act or under any Act hereby repealed, unless the context of any section of this Act or regulation thereunder shall indicate to the contrary.
- “Leased

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- “Leased area” means any portion of land or any farm leased under this Act or under any Act hereby repealed.
- “Leister” means an instrument made of metal prongs fixed to either end of a rod or stake.
- “Lessee” means any person holding a lease under this Act or under any Act hereby repealed.
- “Linesman” means any person who catches, or attempts to catch fish by any means whatever for purposes other than sale.
- “Long-line or bultow” means any line used or intended to be used for the purpose of catching fish, and which is fastened to any stake or boat, or is left unattended, and to which more than six fishing hooks are attached.
- “Maturing ground” means any portion of a leased area the bottom of which is naturally sufficiently solid to carry brood oysters to mature, or has been artificially so solidified.
- “Market” means any place or building where fish is sold chiefly by wholesale, and to which the public have access for the purpose of purchasing fish; or any market established under the Sydney Corporation (Fish Markets) Act, 1922, or any Act amending the same.
- “Meshing” means the shooting or casting, splashing and picking up of any net for the purpose of catching or attempting to catch fish.
- “Minister” means Minister of the Crown charged with the administration of this Act.
- “Oyster” means any bivalve mollusc of the family Ostreidæ, and includes an oyster without the shell, but not a canned product.
- “Oyster farm” means any foreshore or offshore area leased under this Act to any person for the purpose of oyster culture.
- “Prescribed” means prescribed by this Act or by any regulation or in any lease made thereunder.
- “Recognised hauling ground” means any area of Crown lands whereon fishermen haul and land their fishing nets, daily or intermittently throughout

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- throughout the year, but does not include areas of Crown lands only occasionally used for such purpose; nor any area which can be staked or cultivated by oyster farmers without prejudicing the hauling operations of fishermen. (See "Hauling ground.")
- "Regulations" means regulations made under the authority of this Act.
- "Salesman" means a person authorised under these regulations to act on behalf of any official auctioneer in any fish market, or employed for that purpose in any wholesale fish-dealer's establishment.
- "Salmon" includes all migratory fish of the genus *Salmo*, whether known by the names hereinafter mentioned, that is to say, salmon, grilse, sea trout, salmon trout, smolt, parr, or by any other local name.
- "Spat" means and includes the spat, brood, or ware of every kind of oyster below a size which may from time to time by regulation be declared to be marketable.
- "Set line" means any unattended line used for the purpose of catching fish.
- "Set net" means any net set in any waters for the purpose of catching fish and which is left unattended.
- "Setting" includes fixing, placing, and staking.
- "State Fisheries Bureau" means the sub-department of the Chief Secretary's Department dealing with the administration of the Fisheries Acts.
- "Strokehall or snatch" means and includes any instrument or device, whether used with a rod and line or otherwise, for the purpose of foul hooking any fish.
- "Superintendent of Distribution" means the officer appointed under this Act in charge of all market sales and distribution of fish.
- "Tidal waters" means all waters which ebb and flow over Crown lands or over lands in the possession or under the control of the Crown or
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the Minister, within the territorial jurisdiction of the Crown in New South Wales, and every lake and lagoon in the said State 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 Minister, together with, in each case, the soil of such Crown lands or lands under the possession or control of the Crown or the Minister.

- “ Trout ” includes all non-indigenous fish of the family Salmonidæ.
- “ Vigilance committee ” means any committee appointed under this Act for the purposes of carrying out the protective and preventive clauses of this Act.
- “ Wholesale fish dealer’s establishment ” means an establishment where fish is received for the purpose of being sold wholesale, and also means an establishment where the original owner sells his fish wholesale.

ADMINISTRATION.

8. The duty of protecting, developing, and regulating the fisheries of New South Wales shall be vested in the Colonial Secretary of the State who whether by himself or any other Minister deputed by him shall have powers and authority extending to the territorial limits of the State.

Duties, powers, and authority of the Minister.

The Minister may deal with all matters connected with or concerning the better regulation of the fisheries, or any class, group, or portion thereof; the closure or opening of any tidal or inland fisheries; the supervision and protection thereof; the determination of the weight or sizes of marketable fishes; the size of marketable oysters; the dimensions, meshes, and mode of hauling nets, and the employment of any other implements for the catching of fish; the hatching and acclimatisation of fish; the cultivation of fish and oysters; the development of the fishing industry; the control and regulation of

of the methods of trawling within territorial waters; the control and regulation of the sale of fish and oysters whether produced in New South Wales or imported; the protection of the interests of oyster farmers, fishermen, and linesmen; the definition of acclimatisation districts; the granting of rod licenses and the fixing by regulation of fees and charges not otherwise provided for in this Act, and generally on all matters pertaining to the development and regulation of the fisheries within the territorial limits of New South Wales, and may define the powers and duties and authority of the Director of State Fisheries, in regard to any of the matters hereinbefore or hereinafter set out under any of the four parts of this Act or regulations thereunder.

9. The Governor may make, revoke, or alter regulations. regulations. for the purpose of this Act mentioned, and also in so far as express provision has not been made by this Act and more particularly for—

- (a) defining the duties of officers and other persons upon whom any duty or authority is imposed or conferred under this Act;
- (b) prescribing the forms and conditions of all licenses, the persons by whom such licenses may be issued, and the mode of payment of license fees;
- (c) providing for the due transmission of and accounting for all moneys at the times and in the manner to be prescribed by regulations under this Act;
- (d) prescribing the mode of testing the length of nets, and the dimensions of the meshes of nets, and providing for the disposal of seized and forfeited nets;
- (e) prescribing, notwithstanding anything contained in this Act, the kinds and the minimum lengths, weights, or sizes of any species of fish which may lawfully be caught, sold, consigned, or exposed for sale;

(f)

- (f) providing for the sale or other disposal of any underweight or undersize fish or oysters seized or forfeited under this Act and of nets found in any waters without an owner or unclaimed ;
- (g) providing for the hauling, setting, or landing of any fishing nets, fish traps, or other implements in such manner as to prevent, as far as practicable, the destruction of underweight or undersize fish ;
- (h) the general regulation of net and line fishing, as well in regard to modes, places, and times of usage as in all other respects ;
- (i) determining all rights of priority in the hauling and setting of nets, or dredging for oysters, or cultivating, collecting, or gathering oysters as between fishermen, or fishermen and oyster farmers or their servants, or between oyster farmers only, netting or dredging, cultivating or gathering on the same ground, and for preserving good order amongst persons engaged in fishing or oystering, either between each other or in the public interests, or in any work in connection with the cultivation or the gathering of oysters or spat, or in any method of capture ;
- (j) regulating the collection and removal of oysters or spat from Crown lands and training-walls, under such limitations as to the number of authorised collectors or gatherers as the Minister shall deem fit, or as to the payment of any price per bag or other method of purchase, and for the seizure and disposal of oysters unlawfully removed from Crown lands or public oyster reserves whether in the possession of any collector or not ;
- (k) providing for the marking of the boundaries and the periodical inspection of public oyster reserves, leased areas and oyster farms, for vesting any such reserves in local trustees or in vigilance committees, and for the protection and regulation of all boundary pegs, posts, beacons, buoys, or other marks ;

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- (l) the allotment or sale of young or foreshore oysters or spat on public oyster reserves and Crown lands to the holders of leased areas and oyster farms, and of mature oysters from Crown lands and training-walls to public hospitals or other similar institutions;
 - (m) determining the size of marketable oysters, and for preventing the taking, consigning, selling, or exposing or offering for sale of marketable oysters or oysters not in a condition fit for food;
 - (n) disposing of or selling oysters or spat seized and forfeited under this Act;
 - (o) the protection and regulation of public oyster reserves and of oysters and spat on Crown lands, and for the limitation of collecting, gathering, and of dredging for oysters by divers on such reserves and Crown lands;
 - (p) compelling lessees to place and maintain on their leased areas stones, logs, sticks, stakes, and other material for catching spat, in and for the doing of which no action shall lie, or information be laid for any injury, damage, or nuisance caused by a compliance with regulations made under this paragraph, and providing for the cultivation of all leased areas and oyster farms to the satisfaction of the district inspector of fisheries, and for the return to the place of taking or other suitable spot, all spat and undersized oysters, and oysters not in a fit condition for food, together with all dead shell, cultch, and substances collected, gathered, or dredged up from beds in such a manner as may be most beneficial for the preservation of such beds;
 - (q) enforcing payment of rent or moneys overdue in respect of leased areas or oyster farms, or of areas in respect of which application for a lease or an oyster farm has been made;
 - (r) prescribing the terms and conditions under which leases for oyster culture, oyster farms, and transfers thereof may be granted;

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- (s) preventing the wanton or careless destruction of oysters or fish, and for preventing injury to fishing or oyster grounds by deposit of filth, refuse, or other deleterious matters, or by chemical or other discharges from mining works, sawmills, paper mills, gasworks, or other manufactories or boiling-down or wool-washing establishments, and for prohibiting such matters from being deposited in tidal or inland waters or into any watercourse whether dry or not leading into the same ;
 - (t) preventing lessees and other persons from disposing of cultch or any dredged refuse so as to impede the access by water to Crown or private land abutting on leased areas ;
 - (u) compelling lessees and fishermen to mark their boats, and prescribing the manner in which they shall be marked ;
 - (v) providing for the manner in which close months and seasons, during which the taking of any fresh-water or salt-water fish is prohibited, shall be observed by fishermen and linesmen ;
 - (w) providing for the method and means of consigning or conveying any fish or oysters to market or to any other destination for the purpose of sale ;
 - (x) providing for the method of sale of fish in any market or wholesale fish dealer's establishment, and the furnishing of returns setting out the particulars of such sales ;
 - (y) providing for the prohibition of objectionable methods of buying or selling or attempting to buy or sell any fish in any market or wholesale fish dealer's establishment ;
 - (z) providing for the constitution of vigilance committees, and the powers and authority of its members ;
 - (aa) providing for the times, seasons, and places at which the taking of trout shall commence and cease or be prohibited or permitted, also the limitation of the number of such fish which may be lawfully captured on any one day ;
- (bb)

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- (bb) providing for the means of setting apart trout acclimatisation districts, and the conditions which shall be observed by linesmen operating therein ;
- (cc) providing for the conditions under which private fresh-water fish hatcheries may be established and maintained, and for the species of fish which may be propagated therein ;
- (dd) any other matter or thing which shall in any manner relate to fisheries or oyster fisheries ;
- (ee) giving effect to the provisions of this Act as to all details whatsoever.

It shall be lawful in any such regulations to provide for their enforcement by the imposition of maximum and minimum penalties, provided that in no case shall any penalty exceed the sum of fifty pounds. And all such regulations shall on publication in the Government Gazette have the full force of law, and a copy thereof shall be laid before the Legislative Council and Legislative Assembly, within fourteen days after the making thereof if Parliament be then in session, and if not, then within fourteen days after the commencement of its then next ensuing session.

EXISTING LAW—SECTION 10, 1902.

10. For the purpose of giving effect to or carrying out any regulation made under the authority of the next preceding section, every inspector and every officer or person duly authorised in that behalf by the Minister shall have a right of entry on all lands whatsoever for purposes of seizure, inspection or survey, or of erecting and maintaining beacons or other marks for or in connection with the boundaries of leased areas, oyster farms, or public oyster reserves.

EXISTING LAW—SECTION 50 (MODIFIED).

11. (1) Every person selling oysters by retail shall take out an annual license. The Minister may grant or refuse any application made for such license.

(2) Every license shall be issued in the form to be prescribed by the regulations, and shall not be transferable without the endorsement prescribed under

under such regulations, and shall be subject to cancellation by the Minister in the case of the holder being twice convicted for offences against the provisions of this Act or any Act amending same.

(3) The fee for every such license and the manner of its payment shall be fixed and determined by regulation, provided that in any such regulation provision may be made for the fixation of a reduced fee for any such license issued after the month of June and before the month of December, and for determining the manner and payment of such reduced fee.

(4) Every such license shall be in force from the day on which same shall be issued until the thirty-first day of December then next ensuing and no longer, unless previously cancelled as aforesaid for offences:

Provided that every such license which shall be issued in the month of December in any year shall, subject to the condition as to cancellation as aforesaid, be in force until the thirty-first day of December of the year then next ensuing.

(5) Every such license shall entitle the holder thereof to sell and dispose of oysters on any premises specified in such license other than a wholesale oyster dealer's establishment licensed in accordance with Part II of this Act, and from any cart, stand, basket, or other receptacle.

(6) Every person who shall so deal in or sell oysters without holding a license under this section, other than in a wholesale oyster dealer's establishment, as aforesaid, shall be liable to a penalty not exceeding ten pounds:

Provided that any person may so sell oysters obtained from any area under lease to him without taking out such a license.

(7) Every person who holds such a license shall, on demand of an inspector, produce the same for inspection.

Any holder of such a license who, on the demand being made by an inspector, refuses to produce his license, shall be liable to a penalty not exceeding two pounds.

NEW SECTION.

12. No person shall capture or attempt to capture any whale or the calf of any whale within territorial waters, unless he is the holder of a license for that purpose granted under the provisions of this Act. Capture of whales.

The fee for such license and the manner and time for its payment shall be defined by regulation under this Act.

NEW SECTION.

13. No person shall land the carcass or part thereof of any whale or of the calf of any whale or the crude by-product of either of the same within the territorial boundaries of the State except in conformity with the conditions and stipulations set out in any regulation made under this Act in that regard. Landing of whale carcasses or their crude by-products.

NEW SECTION.

14. It shall be lawful for the Minister from time to time to sell oysters or spat from Crown lands, training-walls, or public oyster reserves to any lessee or oyster farmer under such conditions as he may see fit, or he may donate any seized oysters or fish to any hospital or public institution, or may donate or sell any oysters from Crown lands, training-walls, or public oyster reserves to any hospital or public institution, with the proviso that they may be sold, or resold by a responsible officer of such hospital or institution, and the proceeds thereof applied towards the maintenance of such hospital or institution without the Government being liable to subsidize the sum obtained through such sale or resale in any manner whatever. Sale of oysters to lessees or hospitals, &c.

NEW SECTION.

15. Any person who (whether as principal, agent, or servant, or by his agent or servant) at any time during the period between the first day of October and the thirtieth day of November, both inclusive, in any year, Illegal disposal of western water fish.

- (a) sells or attempts to sell, or
- (b) offers or exposes for sale, or
- (c) consigns to any person or corporation, or

(d)

(d) has in any premises or boat which is under his control for the purpose of sale, any fish of any of the following species, namely, Murray cod, trout cod, golden perch (yellow-belly), silver perch (or grunter), Macquarie (or mountain) perch, river blackfish, fresh-water catfish, or Murray lobster, shall be guilty of an offence, and shall be liable for every such offence to a penalty not exceeding fifteen pounds (£15): Provided that where proceedings are taken against any person for any such offence it shall be a sufficient defence to prove that the fish, the subject matter of the proceedings, were not captured during the period abovementioned. Proof of consignment shall be deemed to be sufficient evidence that any consignment was made.

NET AND LINE FISHING.

NEW SECTION.

16. No tidal or inland water other than those enumerated in Schedule A hereto, and in subsection two of section twenty of this Act, shall be permanently closed against net and line fishing or either of such methods of capture without special provision being made therefor by Parliament.

Permanent closures against net fishing to be made by Parliament only.

In no case shall the Governor by any proclamation under this Act, except as may be hereinafter prescribed, close any water against fishing generally, or any method of capture for any continuous period in excess of five years, nor shall the Minister by notification act in like manner for any period in excess of twelve months.

NEW SECTION.

17. No persons shall set any unattended net in the vicinity of any recognised hauling ground in such manner as will prevent fishermen from hauling any net on to such hauling ground for the purpose of capturing or landing captured fish, and any fisherman with a bona fide crew of two or more persons may under such circumstances

Procedure with regard to "set" or unattended nets.

circumstances remove any such unattended net in and during the absence of the person or persons who set same, and provided no damage is done to the unattended net, the fishermen so removing same shall not be liable to pay, and the person so setting shall not be entitled to claim any compensation or penalty in consequence of such act of removal.

NEW SECTION.

18. Any person who on being charged before a justice with having fish in his possession which may reasonably be suspected of being taken from close waters or unlawfully obtained, does not give an account to the satisfaction of such justice how he came to be in possession of the same, shall be liable to a penalty not exceeding ten pounds.

Persons unlawfully in possession of fish.

EXISTING LAW—SECTION 11, 1902, ADAPTED.

19. (1) The Minister may by notification in the Government Gazette from time to time declare that any specified tidal or inland water or portion thereof shall be closed against

Notification of close fisheries.

- (a) the taking of any named species of fish by any specified means whatever;
- (b) fishing generally and by any method of capture;
- (c) the use of fishing lines, fishing nets, and fish traps,

or of either or any of such methods of catching fish, during any specified period not exceeding twelve months: Provided that the Minister may in like manner rescind or vary any such notice.

(2) All water so specified shall be termed "close fisheries," and the months during which the same are so declared to be closed shall be termed "close months."

(3) If any person shall in any close fishery closed against fishing generally, during any close month, haul any net or fix or place or use any line, implement, weir or other structure or thing whatsoever, for the purpose of

of catching, taking or enclosing fish, or in such manner that fish might be caught, taken, or enclosed thereby, or is in possession of fish taken from such close fishery, such person and every person aiding or assisting him, or being in any boat with him during the commission of the offence, shall be liable to a penalty not exceeding fifteen pounds. And the like penalty shall be incurred by any person who, in any close fishery closed against the use of fishing nets, shall during any close month haul or set any net, or who in any close fishery closed against the use of fishing lines shall use any fishing line for the purpose of catching, taking, or enclosing fish, or in such manner that fish might be caught, taken, or enclosed thereby.

(4) If any person in any close fishery closed against the taking of any named species of fish by any specified means during any close month, takes or attempts to take in contravention of this section such named species of fish, such person and every person aiding or assisting him or being in a boat with him during the commission of the offence, shall be liable to a penalty not exceeding fifteen pounds.

EXISTING LAW—SECTION 12, 1902, ADAPTED.

20. (1) For the more effectual conservation of the fish supply, the protection of spawning fish, and the feeding grounds for immature fish, it shall be lawful for the Governor when so advised by the Minister to declare by proclamation to be published in the Government Gazette, and by notice to be published in some newspaper circulating in the police district nearest to the water mentioned in such notice, that the whole or any defined portion of any tidal or inland water shall be closed against the use of fishing nets, fishing lines, and fish traps or either or any of such methods of catching fish for such term or terms, not exceeding in the aggregate five continuous years, as the Governor shall think fit. Any such proclamation and notice may
at

Proclamation closing waters against use of fishing nets, &c.

at any time be rescinded or varied by a proclamation and notice published as aforesaid provided such maximum period of five years as aforesaid is not thereby exceeded.

NEW SUBSECTION.

(2) Provided further that for the sole benefit and in the interests of linesmen in tourist resorts and settled districts the Governor, with power to rescind such proclamation at any time, may when so advised by the Minister declare by proclamation and notice as is referred to in the next preceding section, that any defined portion of any tidal or inland water shall be closed against the use of all fishing nets other than scoop or dip nets (the dimensions, shape, and methods of using which shall be defined by proclamation) for a period of five years, at the expiration of which term he may upon the advice of the Minister and for the better conservation of such fishery close the whole or any amended part of such water against all methods of fishing for any period not exceeding twelve months, and further at the expiration of this later term he may from time to time by proclamation and published notice as aforesaid repeat the original term of the closure and such extended term without reference to Parliament as indicated in section sixteen of this Act, so that if desired by the Minister such closure shall continue as if it were made permanent.

Closure of waters in tourist resorts and settled districts in the interests of linesmen.

EXISTING LAW—SECTION 13, 1902, ADAPTED.

21. If any person shall in contravention of any proclamation under the next preceding section and its subsection, haul any net or set or hold any fishing line, or place any fish trap for the purpose of taking or capturing fish, or by means of which fish may be taken or captured within the limits of the waters or area defined or described in such proclamation, or is found on or leaving such defined waters or area with any fishing net, or line or trap, which may reasonably be suspected of having been recently used, or of being about to be used within the limits of such defined waters or area, such person shall be liable for the first offence to a penalty

Penalty for fishing in closed waters.

penalty not exceeding fifteen pounds, and for the second or subsequent offence to a penalty not exceeding twenty pounds, and every person aiding or assisting in the hauling or setting or otherwise fixing of such net, fishing line or fish trap, or being in any boat from which any net, fishing line or fish trap has been placed, set or otherwise fixed, or may reasonably be suspected of having been so placed, set or fixed, in contravention of any such proclamation, shall be liable to like penalties. Any inspector may, with or without warrant, apprehend and take before one or more justices any person found offending against the provisions of this section, to be dealt with as hereinafter provided.

EXISTING LAW—SECTION 19, 1910.

22. The Governor may by proclamation in the Government Gazette prohibit the use of any fishing net, fixed engine, fish trap, or other implement for the purpose of catching fish in any waters specified in such proclamation.

Prohibition of fixed engines, &c.

Any person acting in contravention of any such proclamation shall be liable to a penalty not exceeding fifteen pounds.

EXISTING LAW—SECTION 20, 1910, ADAPTED.

23. Any inspector or person duly authorised by the Minister may when any fishing nets, fixed engines, fish traps, fishing lines of any description, or other implements for the purpose of catching fish are being used in contravention of this Act, whether in charge of any person or not, seize the same, and upon conviction of the offender they shall be forfeited to the Crown, which forfeiture shall be in addition to any penalty imposed for using them: Provided further, that in any case where any magistrate has made no direction as to the disposal of any seized net, fixed engine, fish trap, fishing line, or other implement for catching fish, and in such cases as they are seized in prohibited waters without an owner, or unclaimed, they may be sold or otherwise dealt with as the Minister may see fit, and the proceeds of such sales shall be paid into consolidated revenue.

Seizure and forfeiture of nets and implements illegally used.

NEW

NEW SECTION.

24. Where any net or portion of a net has been forfeited any person who was the owner thereof at the time of forfeiture may, unless otherwise provided in this Act, apply to the Court by which the forfeiture has been directed, within thirty days following such forfeiture for sale to him of such net or portion thereof at a price to be fixed by the Court. It shall be a condition of such sale that the purchaser shall give a written undertaking that before using such net for the purpose of fishing he shall convert the net, or cause the same to be converted, into a lawful net or part of a lawful net: Provided further, that in no case shall any magistrate direct the sale to any person who was the owner thereof at the time of forfeiture, of any drum or hoop net unlawful in respect to the mesh on either the drum or wings.

Sale of forfeited nets to owner.

EXISTING LAW (ADJUSTED)—SECTION 18, 1910.

25. The Governor may by proclamation published in the Government Gazette prescribe the form or shape of any net and the size of its meshes that may be used for the capture of fish in territorial ocean waters and on sea beaches, but there shall be no restriction as to the length or depth of such net.

Nets for use in ocean waters and on sea beaches.

EXISTING LAW (ADJUSTED)—SECTION 18, 1902.

26. The Governor may from time to time by proclamation in the Government Gazette declare what length of net and size of mesh for the whole or any part of a fishing net shall, when used or intended to be used in any specified water or waters for catching any specified kind or kinds of fish, be a lawful net, and also the lengths of hauling lines which it shall be lawful to attach thereto, but notwithstanding anything to the contrary contained in this Act the Minister may permit the use of any net for the purpose of investigation and experiment for a limited number of times and in such manner as may be prescribed by regulation.

What nets shall be lawful.

EXISTING

EXISTING LAW—SECTION 19, 1902.

27. Nothing in the next preceding section shall apply to bona fide naturalists' nets or dredges, or other implements used for the purpose of catching specimens for scientific purposes provided that the person so fishing is the holder of a permit issued under the authority of the Minister.

Exemption of nets, &c., used for scientific purposes

EXISTING LAW—SECTION 20, 1902, ADAPTED.

28. If any person shall for the purpose of catching fish, use any net of a length greater or having meshes smaller than such as are specified by the Minister, or that have in and for any particular water, or for catching any specified kinds of fish, been declared lawful by proclamation, such person shall be deemed to be using an unlawful net, and shall for the first offence be liable to a penalty of not less than one pound and not exceeding five pounds, and for a subsequent offence to a penalty of not less than five pounds and not exceeding twenty pounds.

Penalties for using unlawful nets.

Any person aiding or assisting in the use of such unlawful net, or being in the same boat as the offender at the time of commission of any such offence as aforesaid, shall be liable to the like penalties.

EXISTING LAW—SECTION 21, 1902, ADAPTED.

29. It shall be unlawful to drag or draw ashore any net containing fish in such a way or to such a distance from the water as to prevent underweight or undersize fish from escaping through the meshes or by the wings of the net into the water, or to allow such undersize or underweight fish to remain on the shore, and any person so offending against the provisions of this section shall for every such offence be liable to a penalty of not less than one pound and not exceeding five pounds.

Method of dragging or drawing nets.

EXISTING LAW (ADJUSTED)—SECTION 22, 1902.

30. The setting of any net, netting, brushwood or other substance or material across or within any bay, inlet, river, or creek or across or around any flat, in tidal or inland waters in such manner that fish enclosed thereby

Waters not to be stalled.

thereby are, or may be blocked and left stranded, or that immature fish may be destroyed thereby, is hereby declared to be an offence under this Act.

It shall be unlawful to set or use in any inland waters any trap, structure or device enclosed with netting or net of any description, and with wings so attached as to impede or prevent or block the free passage of fish on one or either side of the trap, structure or device, and any person found offending against this section shall be liable to a penalty not exceeding two pounds, and such trap, structure or device and wings shall be forfeited.

EXISTING LAW (ADJUSTED)—SECTION 23, 1902.

31. (1) If any person shall without lawful authority have in his possession, or on his premises, or in his boat, or shall sell or consign for sale, any fish of any of the species mentioned in Schedule C hereto of a less weight or size than that set opposite the name of such fish in such schedule, or prescribed by any regulation, he shall be liable to a penalty not exceeding two pounds for the first offence, and for the second or any subsequent offence to a penalty not exceeding five pounds.

Penalties for
having under-
weight or
undersize fish
in possession,
Schedule
No.

(2) All such underweight and undersize fish shall be forfeited and be disposed of in accordance with the regulations.

(3) Any inspector may seize any fish which are liable to forfeiture under this section, and take the same before any justice, or any officer or person authorised by the Minister in that behalf who, upon test thereof, shall declare whether or not such fish are underweight or undersize, and if he declare them to be so shall order them to be forfeited and to be disposed of in accordance with the regulations.

(4) The provisions of this section shall not apply to any curator of a museum or zoological collector holding a permit under the authority of the Minister, or to a member of the Advisory Board, or any inspector, or to any aboriginal taking or being in possession of fish for his own consumption.

(5) If any person shall at any time retain after capture for the purpose of sale, consign to any person, market, or wholesale fish dealer's establishment for the purpose

purpose of sale, or shall sell or cause to be sold, or shall offer or expose for sale, or shall have in his possession or control for the purpose of sale, any fish known as or called the "crayfish" of a size less than that prescribed in Schedule C hereto, or by any regulation; or during the spawning months of September, October, November, and December of every year, any female of such species of whatsoever size whether having eggs or spawn attached beneath its body or not, he shall upon conviction forfeit and pay for every such offence a penalty not exceeding ten pounds.

(6) It shall be unlawful for any person to retain after capture, take, receive or have in his possession, or to buy or sell or cause to be bought or sold, or to offer or expose for sale any crayfish when soft-shelled, and any person so offending shall be liable to a penalty not exceeding five pounds.

EXISTING LAW—SECTION 24, 1902.

32. (1) It shall not be lawful by the explosion of dynamite or any explosive substance, or by means of any poisonous or noxious thing, to destroy or take fish in any tidal or inland waters. And if any person shall explode any dynamite or any explosive substance in or under such waters or place or cause to flow thereinto any poisonous or noxious thing, chemical or waste product injurious to fish and oyster life, such person and all other persons assisting or being at the time in company of such person shall for every such offence be liable to a penalty not exceeding fifty pounds and not less than ten pounds. But nothing herein contained shall apply to any person duly authorised by the persons and in the manner to be prescribed by regulations to explode torpedoes, mines, or dynamite in any such waters.

Dynamite,
&c., not to
be used.

(2) If any person is found in possession of or has in his boat any dynamite or other explosive substance immediately after such explosion or immediately thereafter is found in possession of fish injured or destroyed by or in consequence thereof, it shall be prima facie evidence that such person caused such explosion.

NEW

NEW SECTION—EMBODYING SECTION 25, 1902.

33. (1) No person shall in any tidal water carelessly, wilfully, or maliciously propel, steer, or drive any boat, steamer, or launch, or drive or place any stake, log, stone, or other thing whatsoever likely to damage a fishing net if propelled, steered, driven, or placed or dragged over or against it or so near it that damage shall result thereto.

Penalty for wilfully damaging lawful nets by certain means.

If through the act of any person as aforesaid any damage shall be sustained by any lawful fishing net during the time it shall be in lawful use through coming into contact with or too close proximity to such boat, steamer, launch, stake, log, stone, or thing, such person shall be liable to a penalty not exceeding ten pounds, and in addition shall pay such compensation to the owner of such net as may be awarded by the adjudicating justices.

(2) Any person who shall place or moor a boat or buoy, or shall maliciously place any stake, post, or thing on any recognised hauling ground, in such a position as to obstruct any fisherman from hauling a lawful net to shore, and who on being requested by such fisherman to remove or discontinue such obstruction, shall without reasonable or lawful excuse refuse or neglect so to do, shall be guilty of an offence under this Act.

EXISTING LAW—SECTION 26, 1902.

34. Every person who shall be found using a fishing net, hand line or long line or bultow in any prohibited water shall, on demand, give his true name and place of residence to any inspector or justice or to any owner or occupier of land bordering such water, or over which it ebbs and flows, and if any person shall refuse or neglect to comply with such demand or shall give a false or fictitious name or place of residence, he shall be liable to a penalty not exceeding ten pounds.

Netters, &c., to give name and residence when demanded, &c.

EXISTING

EXISTING LAW—SECTION 27, 1902, MUCH ALTERED.

35. (1) Notwithstanding anything in this Act it shall not be lawful for any person to haul or set any net of any kind whatsoever in any of the waters of Brisbane Water or its tributaries north of a line drawn from Box or Hawk Head to Green Point, or in any of the waters of Narrabeen Lake, and those portions of Wallis Lake, Lake Macquarie, Tuggerah Lake, and Illawarra Lake more particularly described in Schedule A hereto, for the purpose of catching or adapted to catch, or capable of catching fish, and whether within these waters or their tributaries subject to or beyond the influence of the tide, but subject to the provision that the Governor may on the advice of the Minister declare by proclamation that the use of a net to be defined therein for the capture of sea garfish only during the months of January, February, and March in any year shall be lawful in those portions of the waters hereby closed as are described in Schedule B hereto.

Net fishing in parts of Brisbane Water, Tuggerah Lake, Illawarra Lake, Wallis Lake, and Narrabeen Lake.

Any person who hauls or sets a net contrary to the provisions of this section and of this Act, or is found in possession of a net on such waters other than as therein prescribed shall incur a penalty not exceeding ten pounds for the first offence, and for a second or subsequent offence a penalty not exceeding twenty pounds, and every such net, and all lines, leads, corks, and gear connected therewith shall be liable to be forfeited to His Majesty upon conviction of the offender, with no right of repurchase as set out in section sixteen of this Act.

Penalty

(2) Any person who takes a fishing net to, or is in a boat containing a fishing net in any of the waters specified in that portion of Brisbane Water above described or in the Lake waters referred to in Schedule A other than as provided for the capture of sea garfish during the months of January, February, and March as aforesaid, shall be liable to a penalty of not less than five pounds nor more than ten pounds, unless he shall hold a permit in writing under the authority of the district inspector of fisheries, to take such boat and net through such close waters to other waters adjoining :

Provided

Provided that notwithstanding anything contained in this section the Governor may approve of the use of a dip or scoop net of dimensions to be fixed by proclamation for the capture of prawns during the whole or any portion of any year or term of years in any of the waters specified in Schedule A.

NEW SECTION.

36. If the waters of any tidal or inland creek, river, lagoon, or lake, the right to which waters is by law vested in the Crown, are enclosed within the boundaries of any pastoral holding, occupation license, or lease granted by the Crown, and the person or persons holding the rights of such holding, license, or lease is or are unwilling to grant both fishermen and linesmen, or either, the right of access to such waters, the Governor may upon the advice of the Minister, in such cases as it can be shown that such waters are carrying fish life, declare the whole or any portion of such waters to be a private fishery and may demand payment of such sum, to be fixed by the Minister, as shall be equitable for the recognition of the exclusive rights of such fishery, such sum to be paid to the Minister annually, in advance, by the person or persons holding the rights of such pastoral holding, occupation license, or lease as aforesaid, as may be prescribed by regulation.

Private fishery within a pastoral holding.

NEW SECTION.

37. (1) All fish captured in ocean waters abutting on or in the vicinity of the territorial waters of the State, shall immediately upon being brought within the territorial limits be subject to all the conditions, restrictions, and provisions of this Act, and the Governor may by proclamation in the Government Gazette prevent the entry within such waters, and the landing, of any spawn-carrying fish captured by any fisherman or linesman or any trawl master, his crew or any member thereof, whilst such fish is in spawn; and further he may by proclamation as aforesaid restrict the entry of captured fish of any species, or limit the quantity of same which may be landed from any specified trawling or fishing ground abutting on territorial waters during any specified month or months

Landing of fish captured outside territorial waters may under certain circumstances be prohibited.

months of any year, and any person who shall cause to be brought or shall bring either by himself or his servant or servants within such territorial limits, or shall land or cause to be landed by the means aforesaid, any spawning or other specified fish during the period or month in which such entry is prohibited, or acts in any way contrary to this section or to any proclamation made in that behalf shall be liable to a penalty of not less than ten pounds and not exceeding fifty pounds for each and every such offence.

(2) No trawl master or any member or members of his crew shall by means of any trawl boat or net or both, capture or attempt to capture any fish within territorial limits, except of such species, and with such nets or by such means, and in such places as may from time to time be declared by proclamation to be lawful nets, means or places for the capture of such fish, and any trawl master or any member or members of his crew, who shall capture or attempt to capture any fish within territorial limits contrary to this section or any proclamation thereunder shall be liable to a like penalty as aforesaid.

NEW SECTION.

38. The Minister may approve of the erection of fish hatcheries, races, and spawning ponds, on any tidal or inland water, and may authorise any person, society, or association to carry out the practical operations in connection with the hatching of any named species of fishes, and to do and perform all manner of things necessary for the successful propagation of such named species of fishes; and notwithstanding anything in this Act the Minister may authorise the capture and stripping, by such person, or any member or members of such society and association, of any named species of fish during spawning or close season provided that after stripping the spent fish shall be returned to the waters from which same were taken, but no eggs nor fry of any species of fish whatsoever shall be artificially deposited or liberated in any waters without the consent or by the direction of the Minister, under a penalty not exceeding ten pounds for every such offence. Any fry or fish the product

Erection of fish hatcheries, races, and spawning ponds.

c

product of any private hatchery may be sold and the proceeds thereof retained by the person authorised in that behalf, subject to any regulation dealing with same.

NEW SECTION.

39. It shall not be lawful to construct or erect over or upon any tidal or inland river or creek, or over any flowing water, any dam, weir or reservoir in which suitable provision is not made to enable the upward passage of fish, and any person or persons constructing or erecting any such structure without making or causing to be made such provision at his or their own expense shall be liable to a penalty of not less than ten pounds and not more than fifty pounds, and in addition to such penalty shall, if the Minister so direct, effect and complete such requirements within such time as may be prescribed by regulation; or the Minister may cause such work to be carried out at the expense of such person or persons as aforesaid.

Fishways to be provided in the construction of dams, weirs, &c.

EXISTING LAW—SECTION 14, 1902 (ADAPTED).

40. (1) Every boat used or intended to be used in territorial, tidal, or inland waters for the purpose of catching fish for sale, by any method whatsoever, or as an accessory in the capture of fish for sale, shall be licensed, and the Minister may grant or refuse any application for the licensing of any boat.

Boats used for capture of fish must be licensed.

(2) Any person who uses a boat for catching fish for sale which has not been licensed shall be liable to a penalty not exceeding two pounds.

(3) Such license shall be issued in the form to be prescribed by the regulations.

(4) The fee for every such license and the manner of its payment shall be fixed and determined by regulation, provided that in any such regulation provision may be made for the fixation of a reduced fee for any such license issued after the month of June and before the month of December; and for determining the manner of payment of such reduced fee.

(5)

(5) Every such license shall be in force from the day on which same shall be issued until the thirty-first day of December then next ensuing and no longer :

Provided that every such license which shall be issued in the month of December in any year shall be in force until the thirty-first day of December of the year then next ensuing.

(6) Every boat licensed under this section shall have painted legibly thereon and in such manner such particulars for identification as may be prescribed by regulation.

EXISTING LAW—SECTION 15, 1902, EMBODIED AND ADAPTED.

41. (1) Every person catching or attempting to catch any of the varieties of fish for the purpose of sale, by any method whatsoever, in or upon any territorial, tidal, or inland waters, shall hold a license to be issued in his name in the prescribed form : Provided that the Minister may grant or refuse any application for such license or may suspend the operation of such license as hereinafter provided, and that in no case shall any person twice convicted of fishing in close waters after the coming into force of this Act be eligible for the granting or holding of any such license for the twelve months ensuing upon the thirty-first day of December of the year in which such second conviction eventuated.

Fishermen to be licensed.

(2) No such license shall be transferable without the endorsement prescribed by regulation.

(3) The fee for every such license and the manner of its payment shall be fixed and determined by regulation, provided that in any such regulation provision may be made for the fixation of a reduced fee for any such license issued after the month of June and before the month of December, and for determining the manner of payment of such reduced fee.

(4) Every such license shall, subject to the proviso as to suspension aforesaid, be in force from the day on which same shall be issued until the thirty-first day of December then ensuing and no longer :

Provided that every such license which shall be issued in the month of December shall, subject to the proviso as to suspension aforesaid, be in force until the thirty-first day of December of the year then next ensuing.

(5)

(5) If any person, without lawful authority, shall catch or attempt to catch for sale, by any method whatever, any of the varieties of fish in any such waters without having first obtained such license, or shall on demand of any inspector or other duly authorised person fail to produce such license, he shall be liable for every such offence to a penalty not exceeding two pounds, or the Minister may suspend the operation of the license as provided by regulation.

(6) Any fisherman's license issued under any Act hereby repealed shall have, and be in, force until the thirty-first day of December of the year of issue.

NEW SECTION.

42. (1) No linesman shall use any fishing net for the capture of fish for sale, and any net used by him ^{Nets to be registered.} for the capture of fish for purposes other than sale shall be registered in the form prescribed by regulation, and shall not be transferable other than in the manner prescribed therein :

Provided that a fee of ten shillings per annum shall be chargeable for the registration of such net, and in no case shall such net exceed the length, or its meshes be less than are prescribed by regulation ; and such registered net shall be used only in the manner or for the purposes therein set out. The provisions of this section do not apply to any dip or scoop net used for the capture of prawns not intended for sale.

(2) Any linesman using an unregistered net, or using a net the length of which exceeds, or the mesh of which is less than prescribed by regulation, or the manner or purpose of use prescribed by regulation has been departed from, shall be liable to a penalty not exceeding two pounds, and in addition to such penalty such net may be seized and forfeited and dealt with in the manner prescribed under section twenty-four of this Act :

Provided also that the Minister may extend the operation of this section to nets used by any licensed fisherman in accordance with regulations hereinafter to be made.

NEW

NEW SECTION.

43. No fish captured by any power boat or any trawler by means of any net hauled or drawn by same in ocean waters abutting on or in the vicinity of the territorial waters of the State shall be brought within the territorial limits, and landed for the purpose of sale, unless the power boat or trawler is licensed as provided in the regulations hereto. The fee for such license shall be prescribed by regulation but shall in no case exceed the sum of twenty-five pounds for every such power boat or trawler, and any person bringing such fish captured in the manner aforesaid within the territorial limits for the purpose of sale contrary to this section shall be liable to a penalty of not less than ten pounds and not exceeding fifty pounds for every such offence :

Trawlers and power boats to be licensed.

Provided further that the licensing of such boat shall not entitle the owner of any power boat or trawler, either by himself or his servants, to bring within territorial limits, or land, any fish for the purpose of sale contrary to the provisions of any proclamation issued in conformity with subsection one of section thirty-seven of this Act.

NEW SECTION—EMBODYING SECTION 16, 1902.

44. (1) All persons selling or exposing any varieties of fish for sale by wholesale in any place outside the area defined under Schedule D hereinafter set out or in any wholesale fish dealer's establishment shall if so requested furnish in writing to the Minister a weekly statement of all fish sold by wholesale or consigned to or received by them for that purpose and shall state the quantity of each species, and the source of that supply or any other particulars which may be prescribed by regulation. The word "fish" in this section includes green or cooked prawns, or crayfish, or both.

Person selling fish by wholesale to furnish weekly statements.

(2) The owner of every power boat or any trawler landing or causing to be landed for the purpose of sale any of the varieties of fish whether captured within territorial waters or in the ocean waters abutting on or in the vicinity of same, shall if so requested furnish in writing to the Minister the quantity of each species so landed, and the locality in which they were captured.

Owners of power boats and trawlers to furnish weekly statements.

Any

Any person failing to furnish such statement every week shall be liable to a penalty not exceeding two pounds.

EXISTING LAW—SECTION 17, 1902 (ADAPTED).

45. All persons other than those specified in the preceding section and subsection who receive fish for sale from fishermen, or from the waters they are taken from, and do not sell them through a fish market or wholesale fish dealer's establishment shall if so requested comply with the requirements of the preceding section, and shall be liable to a similar penalty if such requirements are not complied with. The provisions of this section shall be applicable to all persons selling green or cooked prawns in any shop, street, or lane.

Other persons to supply weekly statements.

NEW SECTION.

46. As far as may be practicable all sales of fish by wholesale shall be by auction provided that the official auctioneer may in the interests of the consignor sell any fish by private treaty, but in every case he shall keep a true record of the method of selling any fish and the prices obtained for same.

Methods of sale.

NEW SECTION.

47. Any person buying or any official auctioneer or salesman selling, or attempting to buy or sell, any fresh fish in any fish market by either of the methods commonly termed or known as "forestalling" or "whispering sale" shall be liable to a penalty not exceeding fifty pounds.

Forestalling and whispering sales prohibited.

NEW SECTION.

48. No official auctioneer shall, whether by himself or by his salesmen, or any other person, repack, or cause to be repacked, any fresh fish consigned to him for the purpose of sale in such a way as to make up a greater number of baskets, boxes, or other receptacles than the consignment originally contained, except it shall be in the interest of the consignor, but in such cases full particulars shall be kept by the official auctioneer responsible for such repacking.

Repacking permissible in certain cases.

NEW

NEW SECTION.

49. It shall be unlawful to consign to any market or person for the purpose of sale, Murray cod, golden perch (yellow-belly), or catfish, the gills and gut of which have not been previously removed.

Consignment of Murray cod, &c., ungutted and ungilled.

EXISTING LAW—SECTION 63, 1902, ADAPTED.

50. (1) It shall be lawful for the Minister from time to time to direct the institution and carrying out of experiments in methods of catching fish and in the culture and propagation of fish and oysters, and to take steps for the study and investigation of the life history of fishes and crustaceans, and as to the prevalence of plankton in ocean and estuarine waters, and to establish and maintain biological stations where such investigations and studies may be carried out. For the purposes of this section the Minister may by notification in the Government Gazette declare any Crown land to be reserved for experiments in the culture and propagation of fish and oysters. Crown lands so reserved shall be vested in the Minister, who shall have and exercise over it all the powers and authorities which by this Act are conferred on an oyster farmer or a lessee.

Minister to institute experiments.

(2) Upon the publication of such notification as aforesaid it shall be deemed to vest in the Minister the exclusive right during the period to be named therein :—

Of stocking such area with fish, oysters, whelks, cockles, mussels, and any other varieties of crustaceans or molluscs, and of taking therefrom any such fish and their shells.

Of vesting the property (at law or equity) in any such fish and molluscs, while the same are within the limits of such area, in the Minister, any rule or law to the contrary notwithstanding.

Of vesting in the Minister the right to the influx and efflux of the tide into and over the aforesaid area by cutting the trench or passage through, or laying one or more pipes under the shore; also the right to construct a sluice so as to permit the tide to ebb and flow into and from such area.

Of

Of vesting in the Minister the right to sell or otherwise dispose of fish, oysters, or any molluscs from such area, provided that the proceeds of any sale of such fish, oysters, or other molluscs is paid into Consolidated Revenue.

LEGAL PROCEEDINGS.

EXISTING LAW—SECTION 52, 1902.

51. All penalties and forfeitures imposed and incurred by or under this Act, or by or under any regulation, may be recovered and enforced before a police or stipendiary magistrate or any two justices in petty sessions :

Recovery of penalties and forfeitures.

Provided that any person aggrieved by any conviction or order given or made under this section may appeal therefrom in the manner provided by the Justices Act of 1902.

EXISTING LAW—SECTION 54, 1902.

52. In all cases where the defendant or person charged with any offence under this Act shall plead any of the exemptions therein contained, the proof thereof shall be upon such defendant or person charged.

Exemption to be proved by person pleading same.

EXISTING LAW—SECTION 55, 1902.

53. It shall be lawful for any police or stipendiary magistrate, or for any justices before whom any proceedings may be taken in respect of any offence against the provisions of this Act or any regulation, for which a pecuniary penalty only is imposed, to impose in lieu of any such pecuniary penalty a term of imprisonment not exceeding thirty days.

Imprisonment may be imposed in lieu of pecuniary penalty.

EXISTING LAW—ADAPTED SECTION 56, 1902.

54. Every person committing any act hereinbefore declared to be an "offence under this Act," or committing a breach of this Act or of any regulation, whether by wilful act or by refusal or neglect to act or otherwise, shall when no specific penalty has been provided for such offence, be liable to a penalty not exceeding ten pounds, and to the forfeitures prescribed by section twenty-three

General penalty.

twenty-three hereof: Provided always that, for the purposes of this section, the word fish shall, where necessary, be deemed to include fresh, cooked, preserved, salted, smoked fish, prawns, crayfish, and also fresh oysters and the spat of oysters, but not canned products of same.

EXISTING LAW—SECTION 57, 1902.

55. All rents and fees due and payable under this Act may be sued for and recovered by and in the name of the Minister on behalf of the Crown. Recovery of rents and fees.

EXISTING LAW—SECTION 58, 1902, ADAPTED.

56. The production of any of the undermentioned documents, writings, or publications shall be conclusive evidence in all Courts as to the several matters contained therein, and in the case of a lease or license, that the same was duly issued, namely:— What instruments, &c., to be evidence.

- (1) A receipt under the hand of an officer duly authorised to issue same and showing that the rent on any lease has been paid as prescribed by regulation.
- (2) A lease signed by the Governor or the Minister or a copy thereof under the hand of the Under Secretary, or the Director of Fisheries.
- (3) Any license or copy thereof issued in pursuance of this Act or the regulations, in each case under the hand of the Minister, the Under Secretary, or the Director of Fisheries.
- (4) A copy of the Gazette containing any notice, regulation, or proclamation purporting to be made under this Act.

NEW SECTION.

57. The holder of any oyster culture lease granted under any Act hereby repealed, or of the lease of any oyster farm granted under this Act may transfer same to any qualified person; but no transfer of any lease granted under any repealed Act will be recognised by the Governor, and no transfer of any lease of an oyster farm Transfer of leases.

farm will be recognised by the Minister until it has been recommended to the Governor by the Minister or approved by him as the case may be.

- The fee for such transfer shall be fixed by regulation, and, together with the necessary stamp duty, must accompany each notice of transfer.

EXISTING LAW—SECTION 60, 1902.

58. All fish and oysters of which the taking possession, exposure for sale, consignment or purchase for sale is prohibited by this Act may be searched for, seized, condemned, and dealt with, according to law by any inspector or by any person holding the written authority of any justice, or any search warrant under the hand and seal of any justice, or by any person authorised by any regulation.

Search for and seizure of fish.

EXISTING LAW—SECTION 59, 1902, ADAPTED.

59. Any person who shall impersonate an inspector of fisheries, or shall assault, resist, or obstruct or encourage any other person to assault, resist, or obstruct, or shall use abusive language to any inspector, or other person whomsoever in the execution of his duty or authority under this Act, or at a later time or day in direct consequence of any act performed whilst in the execution of such duty, shall be liable to a penalty not exceeding ten pounds or to imprisonment for a term not exceeding six months. And the adjudicating magistrate or justices may in addition to such penalty, order a sum of money sufficient to cover any damage or injury sustained by the person so assaulted, resisted, or obstructed to be paid by the offender to such person, which sum shall be recoverable by and in the name of such person in the same manner as a penalty under this Act may be recovered.

Assaulting, impersonating, &c., inspectors and others in the execution of their duty.

EXISTING LAW—SECTION 61, 1902.

60. Any person convicted a second time of an offence against any of the provisions of Parts I and IV of this Act shall be liable to be disqualified from leasing any area for oyster culture.

Disqualifications of twice convicted persons.

EXISTING

EXISTING LAW—MODIFIED SECTION 62, 1902.

61. (1) Any net used in contravention of the provisions of Parts I and III of this Act shall on conviction by any Court under this Act of the person so using it, be liable to forfeiture. Forfeiture of nets illegally used.

(2) Where, in the opinion of any inspector, a net has been or is being used in contravention of any of the said provisions, such inspector may seize the net, and, upon conviction of the offender under any section or sections relating thereto, such net may be forfeited at the discretion of the Court.

(3) Any net forfeited under this section may be destroyed or otherwise disposed of in such manner as the Court by whom the same was forfeited may direct.

EXISTING LAW—ADAPTED SECTION 64, 1902.

62. The Minister shall as soon as possible after the thirtieth day of June in every year, cause a report to be prepared by the Director of State Fisheries for submission to the Governor as to the condition of the fisheries of the State, and such report shall be laid before both Houses of Parliament. Report by] Director.

EXISTING LAW—SECTION 49, 1902.

63. Every person who shall gather or burn live oysters for the purpose of converting their shells into lime, whether he be the holder of a leased area or not, shall for every such offence be liable to a penalty not exceeding fifty pounds. Penalty for burning live oysters for lime.

EXISTING LAW—SECTION 51, 1902.

64. Any inspector may enter any fish market, premises, place, or dwelling, or go on board any boat, and seize and take away any unmarketable oysters, or any parcel, box, or bag of oysters in which unmarketable oysters or oysters diseased or out of condition may be found: Provided always that the Minister may, in his discretion, order the restoration to the owner thereof of any or all of the oysters so seized. Inspector may enter premises and boats and seize unmarketable oysters.

EXISTING

EXISTING LAW—SECTION 23, 1910.

65. Every person who may reasonably be suspected of committing a breach of the provisions of Parts I, II, III, and IV of this Act, or of the Net Fishing (Port Hacking) Act, 1901, shall on demand give his true name and address to any inspector or justice.

Certain
persons to
give name
and
addresses.

Any person refusing or neglecting to comply with such demand, or giving a false or fictitious name or address, shall be liable to a penalty not exceeding ten pounds.

PART No. II.

DRAFT "FISHERIES AND OYSTER
FARMS BILL, 1926."

Market Sale and Distribution Section.

NOTES

ON PART II, DRAFT "FISHERIES AND OYSTER FARMS BILL, 1926."

This Part of the draft Bill is entirely new. The principal feature lies in the fact that it is designed to delicense fish agents operating, and to sell all fish marketed through official auctioneers. Sec. 63 : p. 45.

So as to give the retiring agent time to adjust his business arrangements, this Part of the Bill will not come into force until 1st July, 1927. Sec. 68 : p. 45.

The agents' tenure is merely an annual one, power existing at the present time for the Minister to refuse any application for a license. The question of compensation does not necessarily enter into the matter.

Fishermen will be compelled to properly ice and pack their fish. Sec. 69 : p. 45.

The Minister may make provision for the erection of canning and fertilizer plants and factories, but will not compete with private enterprise in this regard, being content with leasing the plant and factories. Sec. 75 : p. 48.

Wholesale oyster dealing establishments will be registered and inspected, and a royalty will be charged upon bags and packages of oysters sold. Sec. 78 : p. 49.
Sec. 77 : p. 48.

Fishermen must grade their fish when marketing. Sec. 80 : p. 49.

Power is reserved to the Minister to prescribe standard size boxes for consigning fish to market. Sec. 82 : p. 50.

The procedure of fishermen, in regard to sales, has led to promiscuous selling both outside and inside the market. Fish are consigned anywhere—and in a number of instances with cancerous growths. Secs. 84 to 90 : pp. 51 to 55.

This Part of this Act provides for all fish, estuarine and trawled, to pass through the market for inspection, with special exemption with regard to trawl fish, provided the owner pays costs covering inspection and also sale, other than by Government representatives.

Provision is made to prevent fish being sent to Sydney and back again to the coastal towns as at present, to the detriment of the locality of origin—a percentage must be sold locally. Sec. 84 : p. 51.

The catcher may sell his catch along the coast other than by wholesale, but if sent to a Sydney market, or to a market along the coast, disposal wholesale by Government representatives is imperative.

"Foreign" fish, or fish caught outside the three mile limit must be inspected in a market before sale.

Inland fish mostly goes to Victoria or adjacent States; under this Part, one-fifth of it must be retained for consumption within the State. Sec. 85 : p. 52.

Fish marketed cannot be returned to cold storage after once being removed therefrom, without authority. Sec. 92 : p. 56.

Consignors under certain conditions may place a reserve price on their catch. Sec. 94 : p. 56.

Combines of buyers will be unlawful under certain conditions, and their machinations to some extent frustrated by fixation of reserve prices and conversion of the market from wholesale to retail. Sec. 94 : p. 56.

Of the total catch marketed, one-third will be earmarked three days per week, for country distribution practically freight free, so that country residents may obtain fish almost at Sydney prices. Sec. 95 : p. 57.

Reasonable complaints as to losses accruing by country sale to be referred to the Sec. 95 : p. 57. Advisory Board, as also all decisions in regard to compulsory quota of fish for local consumption.

Offal and condemned fish to be the property of the Minister, and sold for oil and Sec. 99 : p. 59. fertilizer production.

There will be no interference with retail trade in any way whatever, although Sec. 100 : p. 59. the wholesale disposal price per pound (at present unknown) will form a basis upon which the Government may, if it so desires, legislate to control the retail prices.

Ten per cent. commission will be charged by the Government—the present rate Sec. 101 : p. 59. fixed by agents—and portion of the revenue thus obtained will be used in reimbursement to the Railway Department of a percentage of the freight charges. Agents will receive 2 per cent. on all sales effected by them, not salaries, as the percentage will be the incentive to the realisation of the best market prices.

NOTES ON EXPENDITURE.

In connection with the operations under this Part of this Bill, it is anticipated that the commission on the sale of fish will be about £38,000, and from cartage from wharves and rail-head to market will return about £8,000 ; but it should be borne in mind that should the quantity of fish sold not realise the sum anticipated in commission, the expenses in regard to auctioneers' fees, freight-reimbursement, &c., become correspondingly reduced so that the whole cost of operations cannot result in financial loss to the State, in the carrying out of the general scheme of fisheries expansion.

PART II.—MARKET SALE AND DISTRIBUTION.

PRELIMINARY.

NEW SECTION.

66. The marketing and control of the disposal and distribution of all fish by wholesale shall be a duty imposed upon the Superintendent of Distribution, who shall be responsible to the Director of State Fisheries for the proper conduct of business and staff discipline of those employees immediately under his control when carrying out the various requirements under this Part of this Act. Market sales and distribution to be under the control of the Superintendent of Distribution.

NEW SECTION.

67. Such officers, inspectors, and servants as may be considered necessary for the due administration of this Part of this Act whose employment shall be other than at daily or weekly wages, may after approval by the Minister be appointed by the Public Service Board at such salaries as may be determined by the Board. Necessary officers may be appointed by Public Service Board.

NEW SECTION.

68. The provisions of this Part—No. II—of this Act shall be and come into force on the first day of July in the year one thousand nine hundred and twenty-seven (1927), as and from which date all existing fish agents' licenses shall be null and void, and thereafter all sales by wholesale in any public market established under the powers and provisions of the Sydney Corporation (Fish Markets) Act No. 39, 1922, shall be conducted and made by authorised Government auctioneers and their salesmen. Provisions of Part II of this Act to be in force as from 1st July, 1927.

NEW SECTION.

69. Every fisherman shall be responsible for the proper packing, icing, and handling of any fish captured by him, and shall be liable to the cancellation, suspension, or non-renewal of his license for deliberate carelessness in handling, packing, or icing of any fish sold by him or consigned to market for sale. Fish shall be properly packed, iced, and handled.

NEW SECTION.

70. Every fisherman at the time of consigning his fish for sale shall consign them under their lawful standard trade names as prescribed under this Act, and shall set out distinctly on labels, which may be obtained for that purpose free of charge from the nearest District Inspector of Fisheries, and securely attached to the container, the standard trade name or names of the fish enclosed, the grade or quality of such fish, the christian name, surname, and address of the person by whom the fish were consigned for sale, together with the name of the place of consignment.

Fish to be consigned under standard trade names. Containers shall be properly addressed.

A second offence against the provisions of this section shall render any fisherman liable to suspension of his license for a period of one month, and a third or subsequent offence to a penalty of not less than two pounds upon conviction;

Provided further that the Governor may make regulations providing for the serving of fish in restaurants, eating-houses, and hotels as a meal or part of a meal under their standard trade names and the fixing of penalties for the violation of the provisions of any such regulations.

NEW SECTION.

71. The appointments at daily or weekly wages of all market clerks, lifters, graders, sorters, packers, carters, motor drivers, and others employed in connection with the market sale and handling of fish under this Part of this Act shall lie solely with the Superintendent of Distribution.

Appointments at daily or weekly wages.

NEW SECTION.

72. The revenue of the State Fisheries Bureau under this Part of this Act shall consist of—

Classification of revenue

- (i) all license and other fees and all royalties payable under this Part; and
- (ii) the proceeds arising from the sale of market offal; the sale of obsolete or disused plant; the rental from the leasing of all fertilizer, oil, and fish canning works and plant erected under the powers conferred under this Part of this Act; and
- (iii) all other moneys received by the Director of State Fisheries under this Part.

NEW

NEW SECTION.

73. All moneys paid to the official fish market auctioneers or salesmen or to the market accountant authorised to receive the same, for the disposal of fish of all kinds and oysters by wholesale under this Part shall be paid to the credit of a trust account in such bank as may be approved by the Colonial Treasurer and the Minister for the time being administering this Act, and such account shall be operated on only by cheque signed by the Director of State Fisheries and the Superintendent of Distribution or some other officer of the bureau authorised in that behalf :

Trust
account to
be opened
at approved
bank.

Provided that it shall be lawful to deduct from such moneys after receipt at such times as may be determined by regulation in that behalf a sum calculated at a rate not exceeding ten per centum by way of commission for the act of selling by wholesale all fish—including fresh, salted, smoked, or preserved fish—and all oysters consigned to any public market for disposal by wholesale and thereafter actually sold by the official auctioneers or salesmen:

Provided also that there may be deducted from such moneys for expenditure incurred on behalf of the owner or consignor charges for market dues, rent of packages, railway and steamer freight, cartage, telegrams, post office orders, ice and packing, freight on ice, deductions, wharfage, cold storage, and wash cases, and all such other charges legitimately incurred on their behalf:

NEW SECTION.

74. The revenue thus received shall be applied and disposed of as follows :—

Application
of revenue.

- (a) The residue of the total sales receipts less the deductions referred to shall be paid to the consignor as the original owner of such fish, oysters, or fish products in the manner prescribed by regulation in that behalf; and
- (b) the remaining revenue shall be retained and applied by the Minister for the purpose of administering and carrying out the provisions of this Part, and more particularly in connection with the

the payment of commission to the official auctioneers, and the wages and salaries of market hands and officers, in addition to the cost of distributing a percentage of the catch to the country and suburban districts decided upon; the purchase and upkeep of plant, and for payment of market dues and other charges to the municipal council or shire within whose market the fish and fish products have been sold by wholesale. Residue revenue shall be paid into a separate account, to be operated on only by cheque signed as provided.

NEW SECTION.

75. The Minister may upon the recommendation of the Advisory Board cause to be erected and leased to approved persons buildings and plant for the manufacture of fertilizer, oils, and other by-products and for fish canning, and pay the cost of same from the revenue received under this Part of this Act, and may make additions thereto, and repair and renew such buildings and plant from such revenue, including the sums received for rental of same.

Erection and leasing of fish canneries and fertilizer works.

NEW SECTION.

76. The Director of Fisheries shall on or before the thirty-first day of January and the thirty-first day of July in each year cause to be prepared and delivered to the Minister for transmission to the Colonial Treasurer an account of all revenue received by the State Fisheries Bureau and the manner of its disbursement in relation to the operation of this Part of this Act.

Half-yearly statements of receipts and expenditure to be prepared for the Colonial Treasurer.

NEW SECTION.

77. Every lessee who sells oysters from his leases shall pay to the accountant, State Fisheries Bureau, in such manner as may be prescribed by regulation, a royalty at the rate of one shilling for each standard three-bushel bag of oysters, and at the rate of sixpence per packet for each receptacle other than a standard bag containing less than three bushels, and any person convicted of a violation of this section shall be liable to a penalty of not less than two pounds.

Royalty chargeable on every bag of oysters disposed of.

NEW

NEW SECTION.

78. Every wholesale oyster dealer's establishment shall be licensed, and any person receiving oysters for sale in standard three-bushel bags, to be sold as a single bag or in larger quantities, on any unlicensed premises shall be liable to a penalty of not less than five pounds.

Wholesale oyster dealer's establishment shall be licensed.

Provided that any license issued under the provisions of this section shall be transferable in the event of removal from such premises, or the sale of the dealer's business.

Licenses are transferable.

The fee for such license shall be fixed by regulation, but in no case shall the sum fixed therefor be less than five pounds per annum, and shall be paid to the accountant, State Fisheries Bureau, at the times and in the manner prescribed by regulation. Two convictions against the provisions of this Act render any such license liable to cancellation.

License fee.

NEW SECTION.

79. Except in such cases as may be prescribed by regulation all sales by wholesale effected by any official auctioneer, salesman, or distributing agent shall as far as practicable be for cash only, provided that no regulation shall be made which provides for the time for payment for any fish so sold exceeding one month.

Cash sales.

NEW SECTION.

80. All fish consigned to market for disposal by wholesale shall be graded, as far as may be practicable, so that each box contains not more than two species of fish in the higher grades—that is to say "first quality" and "average quality." The third quality shall be known as "mixed" and may contain more than two species:

Fish to be graded at time of consignment to market.

Provided that if two or more species of fish are enclosed in the one container, they may be separated into grades by means of layers of crushed ice, or ferns or by other suitable methods:

Method of separating the grades.

Provided also that if any fisherman neglects or declines to so grade his fish at the time of packing either in ship's boxes, or other smaller receptacles such as benzine boxes or containers of a similar nature, it shall be lawful for

Ungraded fish may be sold as lower grade fish.

the

the official auctioneers or salesmen to treat and dispose of such ungraded fish as being "average" or "mixed," and no fisherman shall be entitled to claim, nor shall the Government be liable to pay any compensation for any claim that may be made by reason of the fact that any ungraded fish were not sold as being of "first" or "average" quality.

NEW SECTION.

81. Notwithstanding anything contained in the preceding sections any official auctioneer or salesman may cause any fish to be regraded upon arrival at any public market to a higher or lower grade than that which is indicated upon the consignor's label attached to any box or other receptacle when delivery is taken at any wharf, rail-head, or market.

Fish may be regraded by official auctioneers or salesmen.

NEW SECTION.

82. It shall be lawful for the Minister upon the advice of the Advisory Board to direct that any or all species of fish shall be consigned to market in standard containers, the dimensions of which shall be defined by regulation, and so soon thereafter as may be practicable, no box, receptacle, or other container shall be used by any fisherman in consigning his fish to any wharf, rail-head, or market, under a penalty of two pounds.

Minister may prescribe standard containers.

NEW SECTION.

83. Any fisherman consigning his fish for sale by wholesale in any public market may at the time of consignment request that a reserve price be placed thereon, under which such fish shall not be sold on the first day of offering: Provided that if such fish be placed in cold storage the original owner shall pay the charges therefor, and if on the next day of offering such fish fails to realise the reserve price placed thereon, the Government shall not be liable to pay the difference between the reserve price and the price realised by such sale.

Conditions under which a reserve price may be placed upon any fish by the owner.

NEW

NEW SECTION.

84. For the purpose of assisting in the prevention of market gluts, and to provide for an adequate local supply of fish, it shall be lawful for the Minister, upon the advice of the Advisory Board, to decide that—of the total number of boxes of fish captured within the territorial or estuarine waters adjacent to any settled district, for sale—a percentage to be determined by him, shall on not less than two days in any or every week, be made available for sale and distribution within the district adjacent to such place of capture, or in lieu thereof shall be consigned to the Government distributing agent operating nearest to that district, and such decision shall be binding upon all fishermen concerned immediately upon publication of a notice to that effect in any newspaper circulating in the police district nearest to the place of capture of the fish as aforesaid:

Provision to be made to prevent market gluts and for adequate local supply by compulsory sale and distribution of percentage of the coastal catch.

Provided that the decision as to who amongst the fishermen operating shall contribute to such sale and distribution shall lie with the Inspector of Fisheries in charge of the district adjacent to such place of capture, and the Government shall not be liable to pay, nor shall any fisherman be entitled to claim any compensation by reason of the fact that it may be alleged, or shown, that such compulsory sale and distribution has prevented the realisation of a price as high as that which may have been obtained had such fish been consigned to the metropolitan markets or elsewhere for the purpose of sale or distribution on their behalf. In no case shall the percentage of catch taken for local distribution from any one man be greater than one case of fish in every three captured by him:

Provided further that any fisherman who without reasonable cause refuses to catch or make available for sale or distribution his usual quota of the total supply required for sale and distribution as aforesaid, when called upon so to do, shall be liable to have his license suspended for a period not exceeding two months after each such refusal.

NEW

NEW SECTION.

85. For the purpose of providing for an adequate local supply of fish, it shall be lawful for the Minister, upon the advice of the Advisory Board, to decide that of the total quantity—either in weight or number as the circumstances may require—of fish captured or taken from the inland waters of the State for the purpose of sale, a percentage to be determined by him shall on any or each day of the week be made available for sale and distribution within the boundaries of the State, and the Minister may cause to be consigned to the Government distributing agent or other person duly authorised in that behalf nearest to the place of capture, such percentage of the catch or part thereof as has been or may be determined by him as aforesaid, not exceeding in any individual case a quantity in excess of one-fifth of the capture made by any fisherman for that day's sale or distribution :

Provision to be made for adequate local supply by prevention of consignment of more than a fixed percentage of inland river fish to places outside of the State.

Provided that the decision as to who among the fishermen operating in any police district shall contribute to such sale and distribution, shall lie with the officer in charge of such district, or such other officer as he may authorise so to decide, and the Government shall not be liable to pay, nor shall any fisherman be entitled to claim any compensation by reason of the fact that it may be alleged or shown that such compulsory sale and distribution has prevented the realisation of a price as high as that which may have been obtained had such fish been consigned to the metropolitan markets or any other place within or without the boundaries of the State for the purpose of sale or distribution on their behalf:

Provided further that any fisherman who without reasonable cause refuses to catch or make available for sale or distribution his usual quota of the total supply required for sale and distribution as aforesaid, when called upon so to do, shall be liable to have his license suspended for a period not exceeding two months after each such refusal.

NEW

NEW SECTION.

86. No person shall sell fish which has been captured within territorial limits—or cause such fish to be sold—by wholesale within the boundaries of the area defined in the Schedule set out in the Sydney Corporation (Fish Markets) Act, No. 39, 1922, or within such amended boundaries as may hereafter be prescribed, except in a public market established in accordance with the provisions of such Act, or in any wholesale fish dealer's establishment licensed under the provisions of this Act, nor shall any fish be consigned for sale or distribution to any part of the State, nor to any place outside the State, unless it has been first inspected by an officer duly authorised by the Minister in that behalf, in a public market or wholesale fish dealer's establishment, or at some place to be determined by the Minister upon the recommendation of the Advisory Board :

Prescribed places for the sale and inspection of fish proposed to be sold by wholesale after capture within territorial limits.

Provided further that no fish which has been captured within territorial limits shall be distributed from any licensed wholesale fish dealer's establishment unless it has previously been sold and purchased in one of the public markets established in accordance with the provisions of the Sydney Corporation (Fish Markets) Act, No. 39, 1922, aforesaid, or a market provided and controlled by the council of a municipality or shire.

NEW SECTION.

87. All fish received in any public market within the area defined in Schedule D, previously referred to, which is intended for sale by wholesale and has been captured within the territorial waters of the State shall be so sold on commission as hereinafter provided in such market, only by auctioneers or other salesmen appointed by the Minister, and no such fish shall be resold in any wholesale fish dealer's establishment unless it has been originally sold by the auctioneers or other salesmen referred to.

All fish marketed and intended for sale by wholesale shall be sold on commission by Government salesmen if captured within territorial waters.

The onus of proving that fish found in any wholesale fish dealer's establishment has been originally so sold shall lie upon the person selling the fish by wholesale.

NEW

NEW SECTION.

88. All fish captured outside the territorial boundaries of the State shall, if intended for sale by wholesale, as soon after landing as may be practicable, be first inspected within a public market—established under the Sydney Corporation (Fish Markets) Act, 1922, or provided and controlled by the council of a municipality or shire—which is nearest to the place of landing, and shall thereafter be sold by an auctioneer or other salesman appointed by the Minister for that purpose in any manner in which the original owner may direct, and if so sold he shall be entitled to benefit under any scheme of country distribution which the Minister may authorise by the deduction from the percentage charged for such sale aforesaid of a similar freight concession as is granted in terms of this Act to those original owners whose fish were captured within territorial waters as hereinafter referred to:

Fish capture outside territorial waters must pass through the market for inspection and sale unless specially exempted.

Provided that the Minister may upon sufficient reason being shown by the original owner of any fish, exempt such fish from passing through the market for sale as aforesaid, subject to his payment by way of exemption of one-half the authorised percentage which would have been chargeable had the fish been sold by an official auctioneer or salesman:

Provided further that in all cases where such exemption is granted the fish must not be sold until inspected and passed by an officer authorised in that behalf as fit for consumption, and the original owner shall not be entitled to claim any benefit under any process of official distribution, nor shall the Minister be responsible for the handling of his fish other than by way of inspection.

NEW SECTION.

89. No fish which has been captured within the territorial waters of the State, which has after capture, been smoked, salted, or preserved, and no prawns or crayfish so captured which have thereafter been cooked or preserved shall be submitted for sale by wholesale in any public market or wholesale fish dealer's establishment as smoked, salted, preserved, or cooked products, unless they have been previously sold in the fresh state in a public market by an official auctioneer or salesman or were originally received in a public market as a smoked, cooked, or preserved product, or have been specially exempted from such procedure by regulation.

Smoked, preserved, or salted fish, or cooked prawns or crayfish not to be sold by wholesale in any market or wholesale fish dealer's establishment unless previously sold in the fresh state in public market if captured within the territorial limits.

NEW SECTION.

90. No fish captured outside the territorial boundaries of the State which after capture has been smoked, salted, or preserved shall be sold by wholesale in any part of the area defined under Schedule D hereinbefore referred to, in any market or wholesale fish dealer's establishment unless it has been previously inspected in the public market nearest to the place of landing or at some place to be determined by the Minister by an officer duly authorised in that behalf under this Act, and the owner of such fish shall pay such fees as may be prescribed by regulation under the Act for such inspection and for the right to sell such imported fish by wholesale.

Imported fish to be inspected before sale by wholesale.

NEW SECTION.

91. It shall be unlawful to consign fish—including prawns and crayfish—if captured within the territorial boundaries of this State to places beyond the State unless the fees prescribed by regulation under this Act for exemption from passing through a public market and for inspection have previously been paid or guaranteed.

Conditions under which fish, prawns, and crayfish may be exported.

NEW SECTION.

92. When any fish which has been consigned to any wharf, rail-head or market, for the purpose of disposal by wholesale, has been placed in cold storage or refrigeration and is released therefrom for the purpose of placing the same on the market for sale by wholesale, it shall be unlawful for any official auctioneer or his salesman to again place such fish in cold storage or refrigeration without the consent of the Superintendent of Distribution or some other officer duly authorised by the Minister in that behalf.

Fish taken from cold storage not to be again placed there.

NEW SECTION.

93. No official auctioneer or his salesman, nor any proprietor of a wholesale fish dealer's establishment, shall sell any fish by wholesale which has been kept in cold storage or refrigeration without representing the same to have been so kept. Any such proprietor shall upon conviction of an offence against this section be liable to a fine of two pounds for each such offence.

Cold storage fish shall be sold as such.

NEW SECTION.

94. It shall be unlawful for two or more persons when any fish is being disposed of by wholesale, to so knowingly combine or conspire as buyers to defeat or attempt to defeat the efforts of any official auctioneer to sell fish by auction at its true market value, and each and every person so combining or conspiring shall upon conviction be liable to a penalty of five pounds :

Combine of buyers unlawful under certain circumstances.

Provided that in order to defeat any such combine or conspiracy any official auctioneer may place a reserve price upon any parcel of fish under which it may not be sold, and such fish shall not be purchasable at auction at less than the price so fixed :

Reserve price may be fixed.

Provided further that the Superintendent of Distribution may under the circumstances hereinbefore set out or for any reason he may deem sufficient, declare that any wholesale public fish market shall after the hour of eight o'clock ante meridian upon that or any ensuing day or days, be converted into a retail fish market at which fish may

may be purchased retail, or by private treaty by all persons desirous of purchasing fish by that method in large or small quantities.

NEW SECTION.

95. It shall be lawful for the Minister to determine that on any day or days in any week a proportion of the total market supply of fish, not exceeding in any case a quantity greater than one-third of the whole, may be withdrawn from sale by wholesale within the area described in Schedule hereinbefore referred to, and may be utilised in connection with any approved scheme of country distribution, with a view to its disposal by wholesale at prices to be determined upon the basis of those realised by the sales effected upon the same day in the public market established by the City Council, in addition to freight charges equal to one-eighth or three-eighths—as the case may be—of the whole, the payment of which has not been exempted under the next ensuing section :

Proportion of total market supply may be utilised for country distribution.

Provided that the fixation of the prices at which such fish shall be distributed and sold—in accordance with the basis hereinbefore referred to—shall lie with the Superintendent of Distribution, and no fisherman who consigned any fish so sold shall be entitled to claim, nor shall the Government be liable to pay, any compensation in consequence of any such decision :

Provided further that any consignor having reasonable cause to be dissatisfied with the prices obtained may complain in writing to the Minister, who shall refer such complaint to the Advisory Board for recommendation as to the course to be pursued to alleviate any loss which has been shown to have accrued.

Reasonable complaints as to losses accruing by country sale to be referred to the Advisory Board.

NEW SECTION.

96. The Minister may approve of any scheme of country distribution, to be carried out by the State Fisheries Bureau, which provides for the utilisation of portion of the moneys charged as commission for the sale of fish by wholesale, towards the payment of freight charges on all fish distributed to the country under such scheme whereby the original owner of the fish shall be relieved of the payment of not more than seven-eighths of

Approved scheme of country distribution and rebate of portion of freight charges.

of the freight charges incurred in the case of fish consigned by rail, and not more than five-eighths of the freight charges incurred by other means of transport authorised by any official distributing agent to whom the fish were consigned for disposal and distribution.

NEW SECTION.

97. It shall be lawful for the Minister to determine that no distributing agent shall sell fish by wholesale in any country district to persons unwilling to guarantee that such fish shall not be resold at a percentage above the purchase price paid at the time of its disposal by such distributing agent :

Persons to whom fish may be sold by distributing agents.

Provided that the percentage referred to shall be fixed by regulation, to permit of a reasonable profit accruing after all expenses incurred in handling have been allowed for.

NEW SECTION.

98. All fish received at any wharf, rail-head, or market which upon receipt, or in consequence of non-sale after such receipt, are found to be in such state as to render them unfit or unsuitable for human consumption may be seized and condemned by an officer of the State Fisheries Bureau duly authorised in that behalf, and shall thereupon be forfeited to the Crown, provided that in all cases a notification of such condemnation shall be furnished to the consignor, and that in any instance where such condemnation is shown to be not due to carelessness in handling, packing, or icing by the original owner of the fish or any person acting under his direction or control, the whole or portion of the proceeds realised by the sale of such fish as offal may be paid to him after deducting all reasonable charges incurred by the State Fisheries Bureau in his behalf in connection with the handling of same :

Fish may be condemned as unfit for human consumption.

Provided that no municipal or shire council shall make any by-law which shall provide any market charges in connection with any cases or other receptacles containing fish which have been condemned after delivery in any public market.

Condemned fish not to be charged for under market dues.

NEW

NEW SECTION.

99. All fish offal, the product of any fish consigned to the official auctioneer in any public market, shall be the property of the Crown and may, in addition to any condemned fish referred to in the preceding section, be disposed of as prescribed by regulation under this Act.

Fish offal to be the property of the Crown.

NEW SECTION.

100. With a view to determining whether the retail price at which fish is being sold in any city, suburb, or town of the State is fair and reasonable, the Director of State Fisheries shall report to the Minister, as soon after the first day of July in the year one thousand nine hundred and twenty-eight as may be practicable, the average wholesale price realised in the City Council's public fish market for each day, week, and month in the year commencing the first day of July, one thousand nine hundred and twenty-seven, in regard to each and every species of fish therein sold during that period, with such recommendations as he may consider might reasonably be adopted to ensure the retail sale of any species of fish at a fair and equitable rate.

Director of Fisheries to report the wholesale price of fish, to enable equitable retail prices to be insisted upon.

NEW SECTION.

101. All auctioneers selling fish by wholesale in any public market within the area defined under Schedule D hereinbefore referred to shall be appointed by the Minister, and shall be remunerated at a rate of commission to be determined by regulation, and such commission shall be payable to each auctioneer in regard to the total sum realised by the sales actually effected by him :

Auctioneers to be appointed by the Minister, and to be remunerated by commission on sales.

Provided that the Minister may terminate the services of any auctioneer in the manner and for the reasons defined under regulation hereafter to be made.

PART No. III.

DRAFT "FISHERIES AND OYSTER
FARMS BILL, 1926."

Inland Fisheries Section.

NOTES

ON PART III, DRAFT "FISHERIES AND OYSTER FARMS BILL, 1926."

This Part of this Bill relates to trout fishing. When the 1902 Fisheries Act was passed our trout streams were very poorly stocked, and even up to the year 1914 the liberation of trout fry did not exceed 66,250.

From 1918 intensive stocking of our streams has been carried out, and has reached a liberation of between 200,000 and 400,000 annually, whilst two new country hatcheries have been constructed, and are in operation.

It is now considered that the institution of a rod license for the capture of trout only, is justifiable, and will be welcomed by rod fishermen.

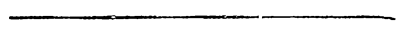
The proposal under the Bill is the charge of 15s. per year for men ; the reduced charge of 2s. 6d. per year for women and children should be welcomed as reasonable. Sec. 106 (g) : p. 65

It is anticipated that at the outset the revenue from this source would reach about £2,500 per annum, the whole of which would be disbursed in connection with the expansion and preservation of our trout fisheries.

Generally speaking, the provisions are set out on similar lines to those in operation in other parts of the world.

Care has been taken to maintain all the existing rights of landowners within whose property trout streams are located. ec. 112 : p. 68.

The recognition of Acclimatisation Societies, and the appointment of honorary or paid rangers should permit of the facile working of this Part of this Bill. ec. 113 (3) : p. 68.



PART III.—INLAND FISHERIES.

TROUT FISHERIES AND ACCLIMATISATION DISTRICTS.

In accordance with the provisions of this Part of this Act— Interpretation of terms.

- “Acclimatisation district” means any district in which trout fry or young or mature trout have been liberated, placed or transplanted, the boundaries of which have been defined by notification in the Government Gazette.
- “Private waters” means any waters wholly contained within the land of one private owner, but does not include the water of any permanent river or stream or lake which passes or extends from the land of one owner to that of another, nor any water not wholly contained within the land of one private owner.
- “Take” and all references thereto include taking, catching, killing, or pursuing by any means or device and include also the attempt to take.
- “Use” includes “attempt to use” or “assist in the use of.”
- “Waters” means any brackish or fresh waters, including artificial waters, within any acclimatisation district in New South Wales, but does not include private waters.

NEW SECTION.

102. (1) The Governor may from time to time appoint such officers, servants, and other persons as appear to him to be necessary for the effective administration of this Part of this Act so far as it relates to the trout fisheries within any acclimatisation district, and all persons so appointed shall be deemed to be officers under this Part of this Act. Appointments and powers of officers, &c.

(2) It shall be the duty of all such officers to see that the provisions of this Part of this Act are duly carried into effect, and for that purpose they severally shall have and may exercise all the powers in that behalf granted under this Part of this Act.

NEW

NEW SECTION.

103. (1) Every such officer is hereby empowered for the enforcement of the provisions of this Part of this Act and of the regulations thereunder, to exercise the powers and authorities of a constable within any acclimatisation district for which he is appointed, and may at all times and seasons, without let or hindrance, enter upon and pass along the banks or borders of any river, stream, or lake with boats or otherwise, and enter upon and examine all tributaries, sluices, mill or mining pools, mill or mining dams, mill or mining races and watercourses communicating therewith within such district, and pass along the same, and enter any boat or boats engaged in fishing and examine all nets, engines, instruments and devices that are being used, and may seize same if unlawfully used and do all such other acts and things as he is required to do by any such regulations as aforesaid.

Right of
entry of
authorised
officers.

(2) The production of his appointment hereunder or of the Gazette notice of his appointment shall be sufficient warrant for such officer so acting in any of the cases aforesaid.

(3) Nothing herein shall be construed to empower any such officer, unless authorised by the warrant of a justice as herein provided, to enter any enclosed lands or dwelling except where the ordinary passage of such river, stream, lake, or tributary or to any sluice, mill pool, mill dam, mill race or watercourse is through any such enclosed lands or dwelling aforesaid.

NEW SECTION.

104. (1) Any justice upon information that there is probable cause to suspect that any breach of this Part of this Act or of such regulations as aforesaid has been or is being committed within any of the hereinbefore exempted enclosed lands or dwelling, may by warrant under his hand empower any such officer as aforesaid to enter the said excepted premises for the purpose of detecting such offence at such time or times in the day or night as are mentioned in the said warrant.

Entry of
enclosed lands
in certain
cases under
warrant.

(2)

(2) No such warrant shall continue in force for more than fourteen days from the date thereof.

(3) In the execution of his powers and functions under this Part of this Act, any such officer may call to his assistance any constable or other person.

NEW SECTION.

105. Every person is liable to a fine not exceeding ten pounds who assaults, resists, obstructs, or impersonates any such officer, or assaults, resists, or obstructs any person acting by his order or in his aid, in the execution of any of the powers conferred on such officer by this Part of this Act or by any regulation thereunder.

Penalty for resisting or obstructing officers in the execution of their duty.

NEW SECTION.

106. The Governor may from time to time make regulations under this Part of this Act providing :—

Power to make regulations for specified purposes.

- (a) for the prohibition or regulation of the export from New South Wales of trout ;
- (b) for the payment to any registered acclimatisation society of any fines or license fees for the purpose of the distribution, rearing, cultivation or protection of trout in the district of such society ;
- (c) for the establishment, management, and control of trout hatcheries under this Part of the Act ;
- (d) for the preservation and propagation of young trout, trout fry, and spawn ;
- (e) for the imposition or prescribing conditions and restrictions in connection with trout fishing ;
- (f) for fixing the maximum catch or bag limit of trout which may be taken by any one person on any one day ;
- (g) for the issue of uniform licenses to fish for trout at the following rates for the whole season :—

Licenses for men available throughout all acclimatisation districts in New South Wales, fifteen shillings.

Licenses

Licenses for women, and for boys attending school or under the age of sixteen years, available throughout all acclimatisation districts in New South Wales, two shillings and sixpence.

Half season licenses, single river, and day licenses available only in some one acclimatisation district, such sums as the Governor upon the recommendation of the Minister may prescribe.

- (h) for fixing the places at which rod licenses and the persons by whom such licenses may be issued;
- (i) for the definition of the limits of any trout acclimatisation district;
- (j) for the prevention of the pollution of any river, stream, creek, or waters in which trout spawn, trout fry exist or have been liberated, such pollution being caused by casting or allowing to flow into or placing on or near the bank or margin of any such river, stream, creek, or waters sawdust or sawmill refuse, lime, sheep-dip, or mill refuse, or any other matter or liquid poisonous or harmful to trout;
- (k) for any other purpose for which regulations are contemplated or required under this Part of this Act;
- (l) for the imposition of fines not exceeding fifty pounds, and appointing the minimum fine for the breach of any such regulations.

NEW SECTION.

107. All trout unlawfully taken, and the baskets or other receptacles thereof, and also all nets, gear, tackle, or other apparatus used in any unlawful trout fishing, wheresoever found, shall be forfeited, and shall be disposed of as prescribed by regulations.

Unlawful implements of capture may be seized and disposed of.

NEW SECTION.

108. (1) As regards any species of trout to be affected thereby all regulations under the Part of this Act shall on their coming into operation in any waters or place supersede

Existing regulations superseded.

supersede therein all enactments at variance with such regulations, so far as such variance extends, but not further.

(2) All such regulations shall upon the gazetting thereof be binding and conclusive upon all persons as if the same had been contained in this Part of this Act.

NEW SECTION.

109. Nothing in this Part of this Act shall be deemed to allow the taking of trout in any waters during any close season except for the purpose of pisciculture under the authority of the Minister. Trout may be taken during close season with Minister's consent for pisciculture.

NEW SECTION.

110. Nothing in this Part of this Act or the regulations thereunder shall apply to—

- (a) any person using a landing net to secure trout lawfully caught with a rod and line; or
- (b) any person with the written permission of any person duly authorised by regulation hereunder to grant such permission taking trout or ova for the bona fide purpose of ascertaining and verifying the existence or increase of such trout or of removing them to stock other waters; or
- (c) any nets, tackle, or boats used or trout taken by any person acting with such permission as aforesaid; or
- (d) any person taking trout in private waters of which he is the owner; or
- (e) any person taking trout in such waters when authorised by such owner; or
- (f) any person who, having unintentionally taken any trout contrary to the provisions of this Part of this Act, immediately returns the same with as little injury as possible to the waters.

Exemptions in certain cases relating to the methods of taking trout or trout ova.

NEW SECTION.

111. It shall not be lawful for any person to sell or let the right to fish for trout in any waters.

Right to take trout cannot be sold by any private person.

NEW

NEW SECTION.

112. Any person in lawful occupation of any land may fish for trout without license or payment of fee in or upon any waters included within the boundaries of such land during the period and upon the conditions allowed by regulations under this Part of this Act, without being liable to any fine for so doing.

Right to fish without license by persons in lawful occupation of land.

NEW SECTION.

113. (1) Where in the opinion of the Minister it is necessary or desirable in the public interest to acquire any land for the establishment of trout hatcheries or breeding ponds, he may advise the Governor to take such land subject to the payment of compensation therefor, and the Governor may by the exercise of such powers and authorities as thereunto him enable, take such land not exceeding twenty acres for any one hatchery accordingly, and compensation shall be ascertained and paid accordingly.

Minister may acquire land for hatcheries and breeding ponds, and set apart waters for hatching purposes.

(2) The Governor may from time to time by publishing a notice to that effect in the Government Gazette set apart any streams, waters, or springs for the purpose of trout breeding or hatching, subject to any regulations made under this Part of this Act.

(3) The control of any lands acquired under this section may be transferred to or vested in any duly registered acclimatisation society upon such terms or conditions as the Governor upon the advice of the Minister may see fit to impose.

Control of acquired lands may be vested in acclimatisation societies.

(4) Nothing in this section shall apply to any navigable river.

NEW SECTION.

114. Subject to the approval of the Governor, it shall be lawful for any acclimatisation society to expend moneys in the purchase of land for camping grounds for anglers, and in the erection thereon or on any lands vested in such society of necessary buildings for their accommodation, and in otherwise providing for their convenience.

Acclimatisation societies may purchase land and erect buildings thereon for certain purposes.

NEW

NEW SECTION.

115. The close season for trout throughout the State of New South Wales, during which the taking of trout by any means whatever shall be prohibited, shall commence on the fourteenth day of April and shall end on the thirty-first day of October both days inclusive in every year, provided that in any year in which Easter shall be later than the thirteenth day of April, the close season shall commence from and including the first Wednesday following Easter Monday of that year :

Close season for trout.

Provided that upon the written application of any duly registered acclimatisation society it shall be lawful for the Governor, by notice in the Government Gazette, to further extend such season in any particular district or portion thereof.

EXISTING LAW—SECTION 28.

116. No person shall buy, sell, or expose for sale or have in his possession any salmon or trout during any period in which the taking of salmon or trout is prohibited, and any person acting in contravention of this section, shall forfeit any fish so bought, sold, or exposed for sale or in his possession, and shall incur a penalty not exceeding two pounds, but this section shall not apply to any person buying, selling, or exposing for sale, or having in his possession salmon cured, pickled, or dried.

Penalty for buying, selling, &c., salmon or trout during prohibited periods.

EXISTING LAW—SECTION 29.

117. No person shall catch or attempt to catch salmon or trout except by rod and line in any inland waters, and any person catching or attempting to catch salmon or trout by any other means, shall incur a penalty not exceeding two pounds for each offence, and shall forfeit all salmon or trout caught in contravention of this section, and all nets or other instruments used or placed for catching such salmon or trout.

Penalty for catching salmon or trout other than by rod or line.

EXISTING

EXISTING LAW—SECTION 30.

118. No person shall do the following things or any of them, that is to say,—

- (1) Use any light for the purpose of catching salmon or trout.
- (2) Use any spear, leister, gaff, strokehall, snatch, or other like instrument for catching salmon or trout.
- (3) Have in his possession a light or any of the foregoing instruments under such circumstances as to satisfy the Court before whom he is tried, that he intended at the time to catch salmon or trout by means thereof, and any person acting in contravention of this section shall incur a penalty not exceeding five pounds and shall forfeit any instrument used by him or found in his possession in contravention of this section; but this section shall not apply to any person using a gaff or hand net as an auxiliary to angling with a rod and line.

Penalty for doing certain things for the purpose of catching salmon or trout.

EXISTING LAW—SECTION 31.

119. No person shall buy, sell, or expose for sale, or have in his possession, any salmon or trout roe, and any person acting in contravention of this section shall incur a penalty not exceeding two pounds, and shall forfeit all roe found in his possession, but this section shall not apply to any person who uses or has in his possession roe for artificial propagation or other scientific purposes, or gives any reason satisfactory to the Court by whom he is tried for having the same in his possession,

Penalty for buying, selling, &c., or having in possession any salmon or trout roe.

EXISTING LAW—SECTION 32.

120. No fixed engine of any description shall be placed or used for catching salmon or trout in any inland or tidal waters: and any engine placed or used in contravention of this section may be taken possession of or destroyed; and any engine so placed or used, and any salmon or trout taken by such engine, shall be forfeited, and in addition thereto the owner of any engine

No fixed engine shall be placed or used for catching salmon or trout.

engine placed or used in contravention of this section shall for each day of so placing or using the same incur a penalty not exceeding ten pounds; and for the purpose of this section a net that is secured by anchors or otherwise temporarily fixed to the soil shall be deemed to be a fixed engine.

It shall be unlawful for any person to do any of the following things:— Penalty for doing certain things.

- (1) Wilfully take or attempt to take any unclean or unseasonable salmon or trout, or the young of salmon or trout;
- (2) buy, sell, or expose for sale, or have in his possession any unclean or unseasonable salmon or trout, or the young of salmon or trout;
- (3) place any device or implement in any river for the purpose of obstructing the passage of salmon or trout;
- (4) wilfully destroy any spawning bed, or any bank or shallow on which the spawn of salmon or trout may be deposited;
- (5) wilfully disturb or attempt to catch salmon or trout when spawning, or when on or near their spawning beds,

and any person acting in contravention of this section shall be liable to a penalty of five pounds, and all nets, rods, lines, devices, and instruments used in committing any of the above offences shall be forfeited. But nothing herein contained shall apply to any person who, holding the written authority of the Minister, may have obtained such young of salmon or trout, or salmon or trout when spawning, or when on or near their spawn beds for artificial propagation or other scientific purposes.

NEW SECTION.

121. Any officer or constable may require any person found fishing for salmon or trout, or any other species of fish for the taking of which a license is required, or using any instrument for the use of which License to be produced on demand.

a license is required, to produce his license, and such person shall, upon such demand forthwith produce his license for inspection. If he fail—

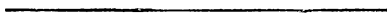
- (a) to produce his license or to give a reasonable excuse for the non-production thereof; or
- (b) if required, to give his correct name and address,

he shall be guilty of an offence against these regulations, and shall be liable to a penalty of two pounds.

NEW SECTION.

122. It shall be lawful for the Minister to direct that any or all of the fees or moneys paid for rod licenses, ova, fry, or any right of private fishery may be disbursed in connection with the creation and maintenance of trout hatcheries, the importance of trout streams, the supervision thereof, and the transplanta-
tion of trout fry, or young or mature trout, in such manner as may be prescribed by regulation.

Minister may authorise the disbursement of fees for certain purposes.



PART No. IV.

DRAFT "FISHERIES AND OYSTER
FARMS BILL, 1926."

Leases and Oyster Farms Section.

NOTES

ON PART IV, DRAFT " FISHERIES AND OYSTER FARMS BILL, 1926."

This Part deals entirely with the oyster leasing section of the Fisheries industry, which is the main source of revenue enabling administration of the Department to proceed.

There is no doubt that oyster culture is a lucrative investment, notwithstanding the efforts of the lessees to conceal that fact. The prices asked and obtained when leases change hands is indicative of a much more solid return than is generally acknowledged; and notwithstanding the increased charge per bag made, the Government has not to any extent increased the rental.

The present Bill in designating leases as " Oyster Farms " gives a recognition to the industry which will be far-reaching. People who pilfer from " leases " will hesitate from taking the same liberties with a recognised " farm."

The cumbersome method of obtaining the Governor's approval and signature to Sec. 127 : p. 76. every lease is abolished by following the practice adopted by other Departments whereby the Minister grants the lease of the farm.

Three concessions under the Bill which will be highly appreciated by lessees are Sec. 129 : p. 77. the right of the Minister to permit the removal of oysters from inferior lands' farms Sec. 136 : p. 79. during the first year of currency of the lease; the right to surrender a lease at the end Sec. 151 : p. 87. of one year instead of two; and the right of the lessee to mortgage his lease with official recognition.

The payment of compensation is not provided for in regard to leases granted Sec. 131 : p. 77. under the Fisheries Act, 1902, except by conversion of the lease under the clauses of the Sec. 140 : p. 81. present Bill.

In a number of cases the cultivation of an oyster lease causes the flat to Sec. 132 : p. 78. " silt up," so that an accretion of land ensues abutting on the lease. This is a frequent bone of contention, and a preferent right is given the lessee to acquire this accretion land against all-comers.

Lessees have complained for years at the unfairness of resumption of leases Secs. 139 & 140 : without compensation. Under this Bill compensation will be paid in those few cases pp. 80 & 81. which are likely to arise. Since the operation of the 1902 Act commenced, there have been more than six forcible resumptions of leases in terms of the Fisheries Acts. It is hardly probable that compensation in excess of, say, £2,000 would be incurred during the next twenty years.

The taking of disease-infected oysters from prohibited areas has not been Sec. 145 : p. 84. prevented by means of fines, and the present Bill makes a second offence punishable by six months imprisonment.

This should safeguard the public from this very dangerous practice.

Mangrove sticks form a very important factor in oyster culture. The Forestry Sec. 150 : p. 86. Department handed over the control of mangroves below high-water mark to this Department, but without the law behind the procedure it has been difficult to regulate the cutting, hence special provision has been made in the Bill for legal control by the Chief Secretary.

The receipts from the Oyster Culture Section under existing Statutes provide most of the present revenue of State Fisheries, being about £11,000 out of about £15,000.

PART IV.

LEASES OF CROWN LANDS AS OYSTER FARMS.

NEW SECTION—EMBODYING EXISTING SECTION 14, 1910

123. If any lessee of any oyster culture lease granted under any Act hereby repealed, or any lessee of any oyster farm granted under this Act shall be convicted of stealing oysters from Crown or leased lands or oyster farms, the Governor may cancel any oyster culture lease or leases and oyster farm or farms held by such lessee.

Penalty for oyster stealing by lessee.

EXISTING LAW—SECTION 21, 1910.

124. When it is necessary for the purposes of this Act, every inspector and every person duly authorised in that behalf by the Minister shall have the right of entry on all lands for the purposes of inspection or survey, and for generally carrying out the duties imposed upon him under this Act.

Right of entry for purposes of inspection.

EXISTING LAW—SECTION 22, 1910.

125. Any person who on being charged before a justice with having oysters in his possession which may reasonably be suspected of being stolen or unlawfully obtained, does not give an account to the satisfaction of such justice how he came by the same, shall be liable to a penalty not exceeding ten pounds.

Persons unlawfully in possession of oysters.

NEW SECTION.

126. Any oyster culture lease or oyster farm granted over and including any training-wall, breakwater or guide bank, shall be granted and held subject to any covenants, conditions, and stipulations which may be imposed by the Minister for Works, and such lease or oyster farm may be granted, cancelled, resumed, or renewed only with the approval of the Minister for Works, and in the event of such cancellation or resumption, the Crown shall not be liable to pay any compensation on account of same.

Leasing of training-walls.

NEW

NEW SECTION—EMBODYING EXISTING SECTIONS 12, 33,
1910.

127. (1) The Minister may lease Crown lands for oyster farming with outer boundaries extending from an approximate high-water mark into the water for a distance to be approved by him. Oyster culture farms.

The lands so granted under lease shall be termed "Oyster Farms," and the yearly rentals payable thereon shall be determined by the Minister for every hundred yards of frontage along an approximate high water mark: Provided that such boundaries shall in no case extend beyond midstream, nor shall they include any recognised hauling ground.

(2) The term of such leases of oyster farms shall not exceed fifteen years; but on the application of the lessee during the last year but one of the currency of any such lease, the Minister may renew the term for a like period at the same rental and with such limitations in other respects as he may approve. Oyster farms granted under this section shall be classified as "Average Lands." "Average Lands" farms.

(3) No area upon which an aggregate rental of less than five pounds a year is payable shall be so leased to any person who is not already an oyster lessee or the holder of a permit or license under any Act hereby repealed, or is not the holder of a lease of any oyster farm granted under this Act.

NEW SECTION—EMBODYING EXISTING SECTIONS 12, 33A,
1910.

128. The Minister may lease for oyster farming any specified area or areas of Crown lands, which may be determined as of special value, after such land has been offered by auction or tender. "Special Lands" farms.

Such leases shall be subject to the same conditions as a lease of average lands under this Act provided that they need not necessarily be measured with a frontage along the approximate high-water mark. Oyster farms granted under this section shall be classified as "Special Lands" and they shall not include any recognised hauling ground.

NEW

NEW SECTION—EMBODYING EXISTING SECTIONS 12, 33B,
1910.

129. (1) The Minister may lease for oyster farming inferior Crown lands at rentals to be determined by him for a term or terms not exceeding ten years, provided that he may revalue such lands during the ninth year of occupation, and may renew such lease or leases for a further period of five years, after the tenth year of currency of the lease, at any rental approved by him, for such extended term of five years. Such leases shall not necessarily be measured with a frontage along the approximate high-water mark, and no oysters shall be removed from such areas during the first year of the term of the lease without the written authority of the Minister, who may grant or refuse any request for such removal, and such leases shall not include any recognised hauling ground. “Inferior
Lands” farms]

(2) No areas upon which an aggregate rental of less than five pounds a year is payable shall be so leased to any person who is not already an oyster lessee or the holder of a permit or license under any Act hereby repealed or is not the holder of a lease of any oyster farm granted under this Act.

NEW SECTION—EMBODYING EXISTING SECTIONS 12, 33c,
1910.

130. Any person who proves to the satisfaction of the Minister that he has discovered a natural oyster bed shall have a prior right to a lease under either of the preceding sections dealing with average or inferior lands farms. Natural
oyster bed.

NEW SECTION.

131. No oyster lease granted under permit or license under any Act hereby repealed shall be converted into a lease of an oyster farm unless such lease shall have expired or shall be surrendered, cancelled, or forfeited, and application be made therefor under the provisions of this Act. Conversion of
existing
oyster culture
leases.

NEW

NEW SECTION.

132. In such cases as it can be shown by any lessee to the satisfaction of the Minister that any area of Crown lands, abutting on any oyster farm or farms leased by him which has or have been measured with a frontage to an approximate high-water mark as hereinbefore set out, has through any misconception or misunderstanding on his part been cultivated by such lessee, he shall, with the approval of the Minister, be entitled to priority of application and granting of a lease of same, provided that application is made by him therefor during the first or second year of the currency of the lease upon which such Crown lands abut.

Abutting
off-shore
land may be
leased.

EXISTING LAW—SECTION 35, 1902.

133. Every lease of an oyster farm issued under the provisions of this Act shall vest in the lessee, his executors, administrators, and assigns, all oysters within the area leased, and the exclusive right during the currency of the lease or any renewal thereof, of laying and planting oysters on and of dredging and taking oysters from the area leased, but subject always to the several provisions of this Act and of any regulations, and the right of any inspector or authorised officer to enter upon such area.

Property
and rights
conferred by
lease.

EXISTING LAW—SECTION 36, 1902.

134. Occupation under any such lease shall not give any right to the lessee to occupy or to use any portion of Crown lands abutting on but not included in his lease, except for such purposes and during such times as may be prescribed.

Abutting
Crown lands
not included
in lease.

EXISTING LAW—SECTION 37, 1902.

135. Any leased area or oyster farm may be described in the lease by reference to posts, stakes, buoys, marks, connections, or natural features showing the limits of such leased area or oyster farm in a manner sufficient to allow of their identification.

Leased area
or farm—how
described.

NEW

NEW SECTION—EMBODYING EXISTING SECTION 38, 1902.

136. The Minister may accept a surrender of any such lease, after the first year of its currency, in any case where it shall appear to him that oyster farming cannot be carried on upon the leased area with any reasonable hope of success, or where for any other reason he should consider such surrender may be accepted. Surrender of leases.

EXISTING LAW—SECTIONS 13, 38A, 1910.

137. (1) The lessee of a leased area or oyster farm or the owner or occupier of any land adjoining such area or farm, may apply in the prescribed manner to the Minister to determine a way of access to such adjoining land over a part of the foreshore comprised in such area. Way of access may be determined by Minister.

The Minister on serving notice of any such application on the owner or occupier or on the lessee, as the case may be, may, if he thinks fit, determine a way of access as aforesaid, and may, in such determination, prescribe what notice thereof shall be given; and may further impose such conditions on the lessee, and direct him to do such work for facilitating access by such way, as he thinks reasonable.

(2) The Minister may also, without any such application, on giving notice to the lessee and the owner of the adjoining land, make any determination and impose any conditions and give any directions as aforesaid.

(3) On such way being so determined, it may be used as a way of access to the land adjoining such area, and any person who uses the foreshore for access as aforesaid otherwise than by the said way shall be liable to a penalty not exceeding ten pounds: Provided that it shall be a defence to any proceeding for such penalty if it is proved that notice has not been given by the Minister as prescribed or that the conditions imposed on or directions given to the lessee under this section have not been complied with.

NEW

NEW SECTION—EMBODYING SECTION 39, 1902.

138. Every leased area and every oyster farm shall be subject to all reclamation rights conferred by the Crown Lands Consolidation Act, 1913, or any Act amending the same, and to such conditions, provisions, and limitations as may from time to time be prescribed by the regulations or approved by the Minister, and subject to the right of the Crown to carrying out public works upon the leased area or farm or its immediate vicinity without being liable to pay or the lessee being entitled to claim any compensation therefor: Provided that every care shall be taken by any dredge master to minimise any damage which may be done to the leased area by the deposit of silt, sand, or other refuse upon the leased area or oyster farm or its immediate vicinity, and that reasonable notice shall be given to the lessee to remove any cultivation which might be destroyed in carrying out any public works: Provided further, that in cases where such reasonable notice cannot be given the Minister may decide what compensation, if any, shall be paid by the Crown.

Reclamation rights under Crown Lands Acts preserved.

NEW SECTION.

139. The Minister may resume wholly or in part any oyster farm, a lease of which has been granted by him, but subject to the payment by the Crown to the lessee thereof of compensation for the loss of such area or part thereof.

Compensation to be paid for resumption of oyster farms.

The sum to be paid as compensation shall be determined by the Minister upon the basis—

- (a) of the number and current market value of three-bushel bags of oysters grown upon and marketed from such area, between the date of granting the lease and the date of its resumption;
- (b) the unexpired term of the lease; and
- (c) the total sum expended by the oyster farmer in cultivating such oyster farm to the date of serving upon him a notification of intention to resume such farm, or part thereof.

The onus of proving that any specified sum was expended in cultivating the area shall be upon the oyster farmer.

EXISTING

EXISTING LAW—SLIGHTLY MODIFIED SECTION 40, 1902.

140. The Governor may on the recommendation of the Minister resume wholly or in part any area a lease whereof was granted under the Oyster Fisheries Act, 1884, or a renewal thereof has been granted under section 34 of the Fisheries (Amendment) Act, 1910, but subject to the payment by the Crown to the lessee thereof of compensation for the loss of such area or part thereof: Provided that should the lessee of any area so resumed be dissatisfied with the amount of compensation offered to him he shall have the right to require the matter of compensation to be determined by arbitration pursuant to the Act fifty-fifth Victoria number thirty-two, and the award thereunder shall be conclusive on all parties:

Resumption of leases under.

Provided that the Crown shall not be liable to pay compensation for the resumption of any lease that has been issued with a provision relieving the Government from liability for any damage or injury that might be done to the area leased or to the oysters thereon, by the carrying out of public works, or any lease granted under the provisions of the Fisheries Act, 1902, and the Fisheries (Amendment) Act, 1910, hereby repealed.

Cases in which compensation need not be paid by the Crown.

EXISTING LAW—SECTION 41, 1902.

141. Any lessee who shall at any time be in arrear with the rent on any one or more leased areas shall not be entitled to take oysters from any such area, or to lease a further area until such overdue rent shall have been paid, and such lease shall be liable to forfeiture if the rent is not paid within the time prescribed.

Lessees in arrear with rent not to take oysters or be granted further areas.

EXISTING LAW—SLIGHTLY MODIFIED SECTION 42, 1902.

142. If it shall appear to the Minister that any lessee or oyster farmer has not within a period of one year from the date of his lease taken proper measures to carry out the conditions of his lease and cultivate the area or oyster farm leased, he may recommend the Governor to cancel any lease granted under the Fisheries Acts hereby repealed or the Minister may cancel any lease of an oyster farm granted under the provisions of this

Minister may recommend cancellation of leases in certain cases granted under repealed Acts or this Act.

this Act without reference to the Governor for any breach of conditions as aforesaid. And the Governor or the Minister as the case may be shall have power to cancel the same accordingly by notification in the Government Gazette, and upon the publication of such notification all rights and privileges granted by such lease or leases and the unexpired term or terms thereof shall cease and determine: Provided always that before making any such recommendation the Minister shall cause a notice in writing, stating the intention to make such recommendation, to be served on the lessee, or in case the lessee cannot be found, shall cause such notice to be inserted at least three times in a newspaper circulating in the police district nearest to the area leased, and also to be published once in the Gazette: Provided further that no such recommendation shall be made until after the expiration of one month from the service or publication of such notice as aforesaid.

EXISTING LAW—SECTION 43, 1902, ADAPTED.

143. Upon receipt of a report from any inspector that any area leased under any Act hereby repealed, or any lease of an oyster farm granted under this Act is being so stripped of oysters or otherwise mismanaged by the lessee thereof or by the oyster farmer, that the production of oysters thereon has been so reduced as to threaten its partial or total destruction as an oyster-bearing area, or that proper steps for cultivation have not after the first year been taken, the Minister may by notice served or published as aforesaid, prohibit the further dredging of, or removal of oysters from such leased area or oyster farm, and may by the same or a like notice call upon the lessee or oyster farmer to show cause why the lease of any such area or oyster farm should not be cancelled.

Cancellation
for mis-
management.

And the Governor may on the recommendation of the Minister cancel the lease of such area, and the Minister without reference to the Governor may cancel the lease of the oyster farm, by notification in the Government Gazette,

Gazette, and upon the publication of either such notification all rights and privileges granted by either of such leases and the unexpired term or terms thereof, shall cease and determine :

Provided that no such recommendation shall be made until the expiration of one month from the service or publication of such last-mentioned notice.

EXISTING LAW - SECTION 44, 1902, ADAPTED.

144. Whenever the Minister shall upon the report of any inspector, or by his own inspection, be satisfied that the whole or any part of an oyster-bearing area, granted under lease by any Act hereby repealed, or leased under this Act, has by overdredging, or from any other cause been reduced to such a state that the taking of oysters therefrom ought to be suspended, or that the oysters are in such a condition as to be not fit for consumption as food, he may recommend the Governor to prohibit the taking of oysters from any such area, granted under any repealed Act, and the Minister may so prohibit in regard to any lease granted under this Act, and thereupon may by notification in the Government Gazette prohibit for any term not exceeding three successive years, the taking of oysters from such area.

When leased areas or farms may be closed.

If any person shall without lawful authority, at any time during the period mentioned in such notification take or attempt to take oysters from any area described in such notification, such person shall incur a penalty not exceeding twenty pounds. And all oysters and the bags and packages containing them found in possession of any person so offending may be seized and upon conviction of the offender shall be forfeited to His Majesty. And the Governor may, in like manner, rescind, wholly or in part, any such notification relating to any lease granted under any repealed Act, and the Minister may in like manner take similar action with regard to any lease granted under this Act: Provided always that when on areas under lease for oyster culture granted under any Act hereby repealed, or on oyster farm leases granted under this Act, such reduction has in the opinion of the Minister resulted from natural causes only, such as

as floods or disease, the Governor or the Minister as the case may be may release the lessees of such areas or oyster farms from payment of rent for the period of such suspension.

NEW SECTION.

145. The Governor may upon the recommendation of the Minister declare by notification in the Government Gazette, that any area of Crown lands or any public oyster reserve is infected or likely to be infected by sewage matter or other contamination or from any other cause to such an extent as to render the oysters thereon unfit for human consumption and dangerous to human life, and upon the publication of such notification the taking of oysters therefrom for any purpose whatsoever shall be prohibited.

When Crown lands or public oyster reserves may be closed.

If any person shall at any time during the period mentioned take or attempt to take oysters from any area or public oyster reserve described in such notification, he shall be liable for the first offence to a penalty of ten pounds, and for any second or subsequent offence to imprisonment for a term of six months.

EXISTING LAW—SECTION 45, 1902.

146. The Governor may by notification in the Government Gazette declare any Crown land to be a public oyster reserve, and to be exempt from any power of leasing conferred by this Act, and on the recommendation of the Minister, may in like manner cancel any such notification wholly or in part.

Portions of Crown land may be exempt from leasing or be declared public oyster reserves.

EXISTING LAW—SECTION 46, 1902.

147. All oysters on every public oyster reserve, or on Crown lands, or on any area from which the taking of oysters shall be prohibited under this Act, and all oysters taken therefrom without lawful authority, shall be the property of His Majesty; and, if any person, without lawful authority, shall dredge for or otherwise take any oysters from any such reserve, Crown lands, or area, or shall be found dredging for or taking or attempting to take oysters within the limits of any such reserve,

Penalty for unlawful dredging or taking of oysters.

reserve, Crown lands, or area, he shall be liable to a penalty not exceeding twenty pounds, and all oysters found in his possession shall be deemed to be oysters unlawfully taken by him, and shall be seized, and, on his conviction, be forfeited to the use of His Majesty.

EXISTING LAW—SECTION 47, 1902.

148. Nothing in this Act shall render liable to a penalty any person who takes oysters from any public oyster reserve or any Crown land from which the taking of oysters has not been prohibited owing to their being unfit for human consumption, or dangerous to human life, for his own personal consumption in the immediate vicinity of the place where they have been gathered, provided that if such oysters shall be in a spawning condition, or shall have spat attached to them, it shall be lawful for any inspector to prohibit the taking of oysters from any such public oyster reserve or Crown land; and every person who shall take oysters therefrom shall be liable to a penalty of not more than five pounds.

Persons may take oysters from reserves and Crown lands for their own consumption.

EXISTING LAW—SECTION 48, 1902, MODIFIED.

149. It shall not be lawful for any person other than the lessee, his agents or servants, to do any of the following acts, namely:—

Protection of leased areas.

- (1) To take, with intent to damage or steal, to remove or in any way disturb or interfere with any stone, stick, stake, or other material whatsoever used in the cultivation of oysters; or any oysters upon any leased area or oyster farm without the consent of the lessee or oyster farmer.
- (2) To cut or lop or remove mangroves or any timber from any leased area, or oyster farm.
- (3) To deposit upon any leased area or oyster farm any stone, ballast, rubbish, or substance, or to dredge or drag upon any leased area or oyster farm with any implement, unless by direction or authority of the lessee, oyster farmer, or by the Minister or some duly authorised officer in the service or employment of the State.

(4)

Fisheries and Oyster Farms.

- (4) To place upon any leased area or oyster farm, any implement or thing likely to injure oysters, except for a lawful purpose of navigation or anchorage.

Every person who does any act in contravention of this section shall be liable for the first offence to a penalty not exceeding five pounds, and for the second offence to a penalty not exceeding ten pounds, and for the third and any subsequent offence to a penalty not exceeding twenty pounds; and every such person shall be liable to make compensation to the lessee for all damage sustained by such lessee by reason of the unlawful act of such person, and in default of payment the same may be recovered by the lessee in any Court of competent jurisdiction. And in case of any lawful act under subsection three reasonable compensations shall be made therefor, subject however to the provisions of section one hundred and thirty-eight of this Act.

NEW SECTION.

150. The control of the cutting of any mangrove or other timber growing below high-water mark on any Crown lands for the purpose of oyster culture is hereby vested in the Minister who may prescribe by regulation the persons who may cut such mangrove or other timber below high-water mark, the manner and times of cutting and the form of permit authorising any person to cut and remove same, or any other matter or thing relating thereto:

Persons may cut mangrove below high-water mark under authority.

Provided that the Minister may upon the recommendation of any inspector of fisheries reserve any area of Crown lands below high-water mark from the cutting of mangrove or any other timber below such mark used for the cultivation of oysters, and any person who shall cut, or attempt to cut, remove or attempt to remove any such mangrove or other timber from such reserved area or areas shall be liable to a penalty not exceeding two pounds, and the Minister may in addition to such penalty cancel any permit issued under his authority, and retain any fee paid therefor.

NEW

NEW SECTION.

151. Every mortgage executed in connection with any oyster culture lease, or any lease of an oyster farm shall be recorded in the State Fisheries Bureau, and no mortgage which is not so recorded shall be recognised by the Minister:

Mortgage does not relieve any lessee from observing conditions of his lease.

Provided that the execution of any such mortgage, shall not relieve the lessee from any of the conditions, covenants, and stipulations contained in his lease or the regulations governing same, and the Government shall not be liable to pay, nor shall the mortgagor or the mortgagee be liable to claim, any damage for the cancellation or forfeiture of any lease which is the subject of such mortgage on account of any breaches of the conditions, covenants, stipulations, and regulations aforesaid.

NEW SECTION.

152. The Minister may upon the recommendation of the Director of State Fisheries determine what proportion of cost in advertising or otherwise dealing with oyster lease or other applications shall be contributed by the person so applying, and he may request payment before granting any such applications.

Contribution in connection with oyster lease and other applications.

DRAFT "FISHERIES AND OYSTER
FARMS BILL, 1926."

Schedules.

SCHEDULES.

SCHEDULE A—"FISHERIES AND OYSTER FARMS
BILL, 1926."

BRISBANE WATER.

County of Northumberland: The whole of the waters of that part of Brisbane Water and its inlets and tributaries north of a line drawn from Box or Hawk Head to Green Point.

NARRABEEN LAKE.

County of Cumberland: The whole of the waters of Narrabeen Lake and its tributaries including Deep Creek, Middle Creek, South Creek, and Mullet Creek together with their affluents and tributaries.

WALLIS LAKE.

County of Gloucester, parishes of Tuncurry and Forster at Wallis Lake. The whole of the tidal waters within the following boundaries: Commencing at the entrance to Wallis Lake at the eastern extremity of the northern breakwater and bounded thence by that breakwater and a part of the foreshores of the village of Tuncurry generally southerly to the prolongation of the western side of Wharf-street; thence by a line bearing south 10 degrees east across the water to the south-western corner of Oyster Lease No. 9,545 on Godwin Island; thence by the northern foreshore of that island north-easterly to its most northern point; thence by a line bearing north 60 degrees east to the foreshore of the village of Forster at the prolongation of the southern boundary of section 27; thence by that foreshore generally northerly to the southern breakwater, by that breakwater north-easterly to its eastern extremity and by a line across the entrance to the point of commencement.

LAKE MACQUARIE (INCLUDING BLACK NED'S BAY).

County of Northumberland, parishes of Kahibah and Wallarah. The whole of the waters of that part of Lake Macquarie and the channel entrance included within the following boundaries: Commencing at the north-eastern extremity of the southern breakwater at the channel entrance to Lake Macquarie and bounded thence by the northern side of that breakwater and by the southern and western shores of the channel entrance aforesaid to the eastern shore of Lake Macquarie; thence by part of that shore bearing southerly 50 chains; thence by a line bearing westerly into the waters of the aforesaid lake 40 chains; thence by a line bearing northerly to a point 40 chains west of Kahibah or Mark's Point; thence by a line east to that point and thence by part of the eastern shore of Lake Macquarie aforesaid, and by the eastern and northern shores of the channel entrance abovementioned to the north-eastern extremity of the northern breakwater and thence by a line crossing the channel entrance to the point of commencement.

Also

Also county of Northumberland, parish of Wallarah at Lake Macquarie. The whole of the tidal waters of Black Ned's Bay, an inlet of the southern bank of the channel entrance to Lake Macquarie.

TUGGERAH LAKE AND OCEAN WATERS ADJOINING.

County of Northumberland. The tidal waters of that part of Tuggerah Lake, its channel entrance and ocean waters included within the following boundaries : Commencing on the shore of the South Pacific Ocean at high-water mark on the southern extremity of Karagai, the headland on the northern side of the channel entrance, and bounded thence by high-water mark on the eastern shore of the channel entrance aforesaid north-westerly to Tuggerah Lake, and by the line of high-water mark of that lake north-easterly to a point distant about 10 chains south-westerly from the north-west corner of E. H. Hargraves' portion No. 39 of 22 acres, parish of Wallarah ; thence by a line bearing north 60 degrees west 80 chains into the waters of Tuggerah Lake aforesaid ; thence by a line bearing south 30 degrees west 160 chains ; thence by a line bearing south 60 degrees east 80 chains to a point at high-water mark on the eastern shore of the lake distant about 40 chains southerly from Taylor's Point ; thence along part of that shore to Taylor's Point, by the south-western shore of the channel entrance south-easterly to the South Pacific Ocean ; thence by a line bearing south 45 degrees east 22 chains into the waters of the ocean ; thence by a line northerly to a point due east of and distant 22 chains from the point of commencement, and thence by a line bearing west 22 chains to that point.

LAKE ILLAWARRA.

County of Camden. That portion of the ocean and the whole of the tidal waters of the channel entrance into Lake Illawarra, and also that portion of the lake included within the following boundaries : Commencing at a post on the ocean beach bearing north $62\frac{1}{4}$ degrees west from the Trigonometrical Station on Windang Island and running thence southerly to the lake entrance by the north eastern side of that entrance and part of the eastern shore of the lake to a point distant 10 chains north-easterly from the south-west corner of the Bank of New South Wales' portion No. 42 of 48 acres in the parish of Wollongong ; thence by lines running into the lake waters and bearing respectively north 70 degrees west 15 chains south 57 degrees west 24 chains south 46 degrees west 48 chains and south 2 degrees east about 51 chains to the west point of entrance to Forster's Creek, parish of Terragong ; thence by part of the southern shore of the lake and by the southern shore of the lake entrance to the ocean beach ; thence by part of that beach southerly to a post bearing south 80 degrees west from the Trigonometrical Station at Windang Island ; thence by a line bearing north 80 degrees east to the southern side of that island by part of the southern side, the whole of the western and part of the northern side of that island to a point bearing south $62\frac{1}{4}$ degrees east from the point of commencement, and thence by a line to that point.

SCHEDULE

SCHEDULE B.

LAKE MACQUARIE ENTRANCE.

All that portion of the channel entrance to Lake Macquarie lying easterly of a line drawn approximately north 30 degrees west from the pilot boat-shed on the southern shore to a point on the northern shore 100 yards westerly of the first leading beacon.

SCHEDULE C—"DRAFT FISHERIES AND OYSTER FARMS BILL, 1926."

SHOWING the lawful lengths for Fishes and Crustaceans.

(1) *Fishes—Marine or Fluvio-Marine.*

Common Name.	Species.	Length in inches.
Common Eel	<i>Anguilla reinhardtii</i> ...	12
Sergeant Baker	<i>Aulopus purpurissatus</i> ...	10
Slender Long Tom	<i>Tylosurus ferox</i> ...	12
Stout Long Tom	<i>Tylosurus macleayana</i> ...	12
Sea Garfish	<i>Hemirhampus intermedius</i> ..	8½
River Garfish	<i>Hemirhampus regularis</i> ...	7½
Short-beaked Garfish	<i>Arrhampus sclerolepis</i> ...	7½
Sea Mullet (including Hardgut and "Bully").	<i>Mugil dobula</i>	10
Flat-tail (or Fan-tail) Mullet...	<i>Mugil peronii</i>	9
Sand Mullet (Tallegalane or "Lano").	<i>Myxus elongatus</i>	9
Silver Mullet (Silver Flat) ...	<i>Mugil georgii</i>	8
Yellow-eye Mullet	<i>Agonostomus forsteri</i> ...	9
Short-finned Pike	<i>Sphyræna novæ hollandiæ</i> ...	9
Striped Pike	<i>Sphyræna lineata</i>	9
Blackfish	<i>Girella tricuspidata</i> ...	9
Rock Blackfish	<i>Girella elevata</i>	9
Estuary Perch	<i>Percalates colonorum</i> ...	9
Black Rock Cod	<i>Epinephelus dæmelii</i> ...	13
Long-finned Pike	<i>Dinolestes lewini</i>	9
Sand Whiting... ..	<i>Sillago ciliata</i>	9½
Trumpeter Whiting	<i>Sillago maculata</i>	8
School (Red Spotted) Whiting	<i>Sillago bassensis</i>	8
Spotted Whiting	<i>Sillago punctata</i>	9½
Jewfish	<i>Sciana antarctica</i>	15
Teraglin	<i>Cynoscion atelodus</i>	13
Australian Salmon ("Buck" (including so-called Salmon Trout) or "New Fish").	<i>Arripis trutta</i>	9

SCHEDULE C—continued.

(1) *Fishes—Marine or Fluvio-Marine—continued.*

Common Name.	Species.	Length in Inches.
Red Morwong or Sea Carp ...	Cheilodactylus fuscus ...	9
Snapper (including "Cockneys," Red Bream and Squire).	Pagrosomus auratus ...	9
Black Bream	Chrysophrys australis ...	9
Tarwhine	Chrysophrys sarba ...	8
Butterfish	Ephippus multifasciatus ...	7
Blue Groper	Acharodus gouldii ...	12
Red or Brown Groper ...	Acharodus badius ...	12
Kingfish	Seriola lalandii ...	14
Trevally	Caranx georgianus ...	9
Tailer	Pomatomus saltatrix ...	9
Common Mackerel	Scomber colias ...	6
Horse Mackerel	Sarda chilensis ...	9
Large-toothed Flounder ...	Paralichthys arsius ...	9
Small-toothed Flounder ...	Paralichthys novæ cambria	9
Long-snouted Flounder ...	Ammotretis rostratus ...	8
Black Sole	Synaptura nigra ...	8
Red Rock Cod	Scopæna cruenta ...	9
Common or Dusky Flathead...	Platycephalus fuscus ...	13
Sand Flathead	Platycephalus bassensis ...	13
Tiger Flathead	Platycephalus macrodon ...	13
Long-spined (Spikey) Flathead	Platycephalus longispinis	9
Kumu (Red) Gurnard	Chelidonichthys kumu ...	8
Sharp-beaked Gurnard	Pterygotrigla polyommata	9

(2) *Fishes—Fresh-water.*

Common Name.	Species.	Length in Inches.
Fresh-water Herring	Potamo'osa novæ hollandiæ	5
Bony Bream or Hair-backed Herring.	Dorosoma erebi	6
Fresh-water Catfish	Copidoglanis tendanus ...	8
Australian Grayling	Prototroctes maræna ...	9
Fresh-water Mullet "Streamer" or "Pink-eye."	Trachystoma petardi ...	9
Australian Bass (Eastern "Fresh-water" Perch).	Percalates fluviatilis ...	9
Golden Perch or Yellow Belly	Plectroplites ambiguus ...	9
Macquarie (or Mountain) Perch	Macquaria australasica ...	8
Murray Cod	Oligorus macquariensis ...	15

SCHEDULE C—continued.

(2) *Fishes—Fresh-water.*

Common Name.	Species.	Length in inches.
Trout Cod	<i>Oligorous mitchelli</i> ...	10
Silver Perch ("Grunter") ...	<i>Terapon ellipticus</i> ...	8
River Blackfish (Slippery) ...	<i>Gadopsis marmoratus</i> ...	7
Brown Trout	<i>Salmo fario</i>	10
Salmon Trout	<i>Salmo trutta</i>	10
Rainbow Trout	<i>Salmo irideus</i>	10
Brook Charr (American Brook Trout).	<i>Salvelinus fontinalis</i> ...	10

(3) *Crustaceans.*

Common Name.	Species.	Length in inches.
Marine—		
Common Crayfish	<i>Palinurus hugelii</i>	10
Southern Crayfish	<i>Palinurus edwardsii</i> ...	10
School Prawn	<i>Penæus macleayi</i>	2½
King Prawn	<i>Penæus canaliculatus</i> ...	2½
Tiger Prawn	<i>Penæus monodon</i>	2½
Fresh-water—		
Murrumbidgee Crayfish, (Murray River Lobster, Fresh-water Crayfish).	<i>Astacopsis spinifera</i> ...	8

NOTE AS TO MEASUREMENT.—Marine and fresh-water crayfishes are measured along the body from the rostrum (or beak) to the tip of the tail. Prawns are measured along the body from the base of the eye to the tip of the tail.

SCHEDULE D.

Defined under the Sydney Corporation (Fish Markets) Act,
No. 39, 1922.

Within the county of Cumberland as follows: Commencing at high water mark on the east coastline of the State of New South Wales at Barrenjoey; and bounded thence by a line bearing generally westerly to the northern extremity of Hawkesbury River railway bridge; thence by the Great Northern Railway line south-westerly to Pennant Hills railway station; thence by a line south-westerly to Parramatta railway station; thence south-easterly to Loftus Junction railway station; thence easterly to Hacking Point; and thence by the east coastline aforesaid, and lines crossing the entrances to Bate Bay, Botany Bay, and Port Jackson, generally north to the point of commencement.

SCHEDULE E.

STANDARD TRADE NAMES OF FISHES.

Standard Trade Name.	Other Common Names.	Scientific Name.
Eel... ..	.....	<i>Anguilla reinhardtii.</i>
Sergeant Baker ...	.....	<i>Aulopus purpurissatus.</i>
Long Tom—		
Slender ...	.....	<i>Tylosurus ferox.</i>
Stout... ..	.....	<i>Tylosurus macleayana.</i>
Garfish—		
Sea	“Beakey”	<i>Hermirhampus intermedus.</i>
River... ..	“Scaley”	<i>Hermirhampus regularis.</i>
Short-beaked... ..	“No-Bill”	<i>Arrhampus sclerolepis.</i>
Mullet—		
Sea	“Hard-gut” and “Bully.”	<i>Mugil dobula.</i>
Flat-tail	“Fantail”	<i>Mugil peronii.</i>
Sand	“Lano”	<i>Myxus elongatus.</i>
Silver... ..	“Silver Flat”	<i>Mugil georgii.</i>
Yellow-eye	“Pink-eye”... ..	<i>Agonostomus forsteri.</i>
Pike—		
Short-finned ... ..	.....	<i>Sphyræna novæ hollandiæ.</i>
Striped ... ..	.....	<i>Sphyræna lineata.</i>
Long-finned ... ..	.....	<i>Dinolestes lewini.</i>
Blackfish	“Nigger”	<i>Girella tricuspidata.</i>
Rock Blackfish ... ..	.....	<i>Girella elevata.</i>

SCHEDULE E—continued.

STANDARD TRADE NAMES OF FISHES—continued.

Standard Trade Name.	Other Common Names.	Scientific Name.
Perch—Estuary ...	.....	Percolates colonorum.
Black Rock Cod ...	.....	Epinephelus dæmedii.
Whiting—		
Sand ...	“Blue-nose” ...	Sillago ciliata.
Trumpeter ...	“Hard shells” ...	Sillago maculata.
School ...	.....	Sillago bassensis.
Spotted ...	.....	Sillago punctata.
Jewfish ...	“Jewey” ...	Sciæna antarctica.
Teraglin ...	.....	Cynoscion atelodus.
Australian Salmon...	“Buck,” “Salmon Trout,” “Newfish.”	Arripis trutta.
Morwong (Red) ...	“Sea Carp” ...	Cheilodactylus fuscus.
Snapper ...	“Cockney,” “Red Bream,” “Squire.”	Pagrosomus auratus.
Bream (Black) ...	“Darkey” ...	Chrysophrys australis.
Tarwhine ...	.....	Chrysophrys sarba.
Butterfish ...	.....	Ephippus multifasciatus.
Groper—		
Blue ...	.....	Achærodes gouldii.
Brown ...	.....	Achærodes badius.
Kingfish ...	“Kingies” ...	Seriola lalandii.
Trevally ...	.....	Caranx georgianus.
Tailer ...	“Chopper” ...	Pomatomus saltatrix.
Mackerel—		
Common ...	.....	Scomber colias.
Horse... ..	.....	Sarda chilensis.
Flounder—		
Large-toothed... ..	.....	Paralichthys arsius.
Small-toothed... ..	.....	Paralichthys novæcambræ.
Long-snouted ...	.....	Ammotretis rostratus.
Sole (Black) ...	.....	Synaptura nigra.
Red Rock Cod ...	“Soldier” ...	Scopæna cruenta.
Flathead—		
Common or dusky.	“Goanna” “Yang”	Platycephalus fuscus.
Sand ...	.....	Platycephalus bassensis.
Tiger ...	.....	Platycephalus macrodon.
Long-spined ...	“Spikey” ...	Platycephalus longispinis.
Gurnard—		
Kumu (Red)... ..	.....	Chelidonichthys kumu.
Sharp-beaked... ..	.....	Pterygotrigla polyommata.
Mullet, Fresh-water	“Steamer” or “Pink-eye.”	Trachystoma petardi.

SCHEDULE E—*continued.*

STANDARD TRADE NAMES OF FISHES—*continued.*

Standard Trade Name.	Other Common Names.	Scientific Name.
Australian Bass ...	Eastern " Fresh-water."	<i>Percalates fluviatilis.</i>
Golden Perch ...	" Yellow-belly " ...	<i>Plectroplites ambiguus.</i>
Macquarie Perch ...	" Mountain Perch "	<i>Macquaria australasica.</i>
Murray Cod ...	.....	<i>Oligorus macquariensis.</i>
Silver Perch ...	" Grunter " ...	<i>Terapon ellipticus.</i>
River Blackfish ...	" Slippery " ...	<i>Gadopsis marmoratus.</i>
Trout—		
Brown ...	.....	<i>Salmo fario.</i>
Salmon ...	.....	<i>Salmo trutta.</i>
Rainbow ...	.....	<i>Salmo irideus.</i>
Crayfish—		
Common ...	" Cray " ...	<i>Palinurus hugelii.</i>
Southern ...	.....	<i>Palinurus edwardsii.</i>
Prawns—		
School ...	.....	<i>Penæus macleayi.</i>
King ...	.....	<i>Penæus canaliculatus.</i>
Tiger ...	.....	<i>Penæus monodon.</i>

DRAFT " FISHERIES AND OYSTER
FARMS BILL, 1926."

Statement of Anticipated Receipts and
Expenditure, also Staff Requirements.

CHIEF SECRETARY'S DEPARTMENT.
SUB-DEPARTMENT—STATE FISHERIES BUREAU.

Minister.

Advisory Board
(5 Members).

Under Secretary.

1. Chairman (Director)	Director—Fisheries Bureau. (Present salary, £800 p.a. as Officer-in-Charge)	Salary	£1,150
(Representative Inland Fisheries)	{ Allowance, £150 p.a. { All lines railway pass		150
			166
2. Representative of Distribution.	Superintendent of Distribution (Deputy Director)	Salary	900
	{ Allowance, £100 p.a. { All lines railway pass		100
3. Representative of Consumers — Fees, £3 3s. per sitting.			166
4. Representative of Fishermen		Max.	164
5. Representative of Oyster Lessees		"	164
		"	164
	Allowance to Director's stenographer as secretary to Advisory Board		80
	Accountant (salary)		500
	Clerks (4)		1,160
	Typistes (2)		360
	Economic Zoologist		650
	Scientific investigation work and publication of reports, documents, etc. (expenses)		500

Market Staff, Plant, etc.

Present Receipts	£14,426		
Anticipated receipts (commission on sale of fish and receipts for cartage, etc.)	46,500	Auctioneers (2) 2 per cent. commission on sales	4,000
Registration of nets	600	Market hands (50) market clerks, lifters, graders, sorters, packers, carters, chauffeurs, etc.	10,000
Royalty on oysters in bags	1,500	Country distributors (7) at £410 per annum each	2,912
Increase in fisherman's license fees	1,500	Travelling expenses of distributors	1,000
		Freight reimbursement to Railway Department on one-third catch over three days per week to country	2,500
		Plant—Motor lorries, 7 at £400 each	2,800
		Motor-car, use of Director, Superintendent, and Board (Nash Sedan)	550
Total receipts	£64,526	Anticipated additional expenditure (new scheme)	£30,136
		Present expenditure	17,328
		Total expenditure	£47,464

ANTICIPATED UNEXPENDED BALANCE £17,062

NOTE.—Revenue expected from trout rod license £2,500
Anticipated expenditure hatcheries, rangers, and collection of fees, etc. ... £2,500