11 & 12 Vict. c. 49.

'another Statute passed in the said Twelfth Year of Her Majesty, "for regulating the 'Sale of Beer and other Liquors on the Lord's Day," repeals certain Provisions and 'Penalties, a Moiety of which Penalties might under former Acts have been directed to be 'paid for the Benefit of the said Superannuation Fund, and substitutes other Provisions 'and Penalties for the Provisions and Penalties so repealed, but contains no Direction for 'the Payment of such substituted Penalties to any Person or Persons:' Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That a Moiety of any Penalty imposed on summary Conviction under the said lastly-recited Act may be directed, by the Justice imposing the Penalty, to be paid for the Benefit of the Superannuation Fund herein-before mentioned, and shall be invested and otherwise dealt with accordingly.

Justices may direct Portions of Penalties under 11 & 12 Vict. c. 49. to be paid to Superannuation Fund.

CAP. LXXXVIII.

An Act to amend the Law relating to Engines used in the Rivers and on the Sea Coasts of *Ireland* for the taking of Fish. [14th *August* 1850.]

'WHEREAS it is expedient to amend and explain the several Acts relating to Engines 'used in the Fisheries of *Ireland*:' Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act the several Interpretation Clauses in the said recited Acts contained shall be and are hereby repealed; and that in the Construction and for the Purposes of the said recited Acts and of this Act, unless there be something in the Subject or Context repugnant to such Construction, the Words "Person," "Owner," and "Proprietor" shall mean and include any Body Corporate, Aggregate, or Sole, as well as an Individual, and also any Company or Partnership; and any Word importing the Singular Number only shall mean and include several Persons or Parties as well as one Person or Party, and several Things as well as one Thing respectively, and the converse; and any Word importing the Masculine Gender only shall mean and include a Female as well as a Male; and the Word "Lands" shall mean and include all Messuages, Lands, Tenements, and Hereditaments; and the Word "Waste" shall include and extend to any and to all uncultivated or unprofitable Lands; and the Word "County" shall include and extend to a County of any City or Town; and the Words "Estuary" and "Bay" shall include and extend to any Harbour or Roadstead; and the Word "Rivers" shall include and extend to Tributaries of Rivers, and to all other Streams and Watercourses; and the Word "Vessel" shall mean and include any Ship, Boat, Cot, Coble, or Curragh; and the Word "Fish" shall extend to and include Oysters and Oyster Brood; and the Word "Salmon" shall extend to and include Grilse, Peall, Sea Trout, Samlets, Par, and all other Fish of the Salmon Kind, and the Spawn and Fry thereof; and the Word "Trout" shall extend to and include Pollen or Fresh-water Herring, and all Fish of the Trout Kind, and the Spawn and Fry thereof; and the Word "Net" shall mean and include all Descriptions of Tackle, Trawl, Trammel, Stake, Bag, Coghill, Eel, Haul, Draft, and Seine Nets, and all other Engines or Devices, of whatsoever Construction or Materials, or howsoever known or styled, which shall be used for the like Purposes as those in this Act or in the said recited Acts referred to; and the Words "Fixed Net" or "Fixed Engine" shall extend to and include Weirs, Stake, Bag, Stop, and Still Nets, and all other Engines or Devices used for the like Purposes, of whatsoever Construction or Materials the same may be, or however known or styled, and whether fixed to the Soil or held by Hand, or made stationary in any other Way; and the Words "Close Time" or "Close Season" shall mean and include any Time or Season within which it is or shall be prohibited to fish for, take, or destroy any Salmon, Trout, Oysters, or any Fish of any of the Kinds in this Act or in the said recited Acts

Construction of Terms of recited Acts and of this Act.

Acts referred to, or the Brood, Spawn, or Fry thereof; and the Word "Fisheries" shall mean and include all Fisheries, whether several or public; and the Words "Several Fisheries" shall mean and include all Fisheries lawfully possessed and enjoyed as such under any Title whatsoever, being a good and valid Title at Law, exclusively of the Public, by any Person or Persons, whether in navigable Waters or in Waters not navigable, and whether the Soil covered by such Waters be vested in such Person or Persons, or in any other Person or Persons; and the Words "Owner" or "Proprietor" shall mean and include every Person who shall be in the actual Possession or Use and Enjoyment, or Receipt of the Rents or Profits, of any Lands or Fisheries (as the Case may be), save that in every Case in which any Person shall be in possession or receipt of the Rents or Profits of any Fisheries or Lands under any Sequestration, Extent, Elegit, or other Writ of Execution, or as a Receiver under any Order of a Court of Equity, the Person against whom such Writ shall have issued, or who but for such Order would have been in possession, shall, jointly with the Person in possession by virtue of such Writ or Order, be deemed for the Purposes of this Act to be the Owner of such Fisheries or Lands; and the Words "Judge of Assize" shall, as to Cases arising or to be determined in the County of *Dublin* or County of the City of *Dublin*, mean and include a Judge of any of the Law Courts of Record in *Dublin* at Nisi Prius at the First Sittings after the pronouncing or making of any Order or Decision appealed from or complained of, or if such First Sittings shall commence within Twenty-one Days after the pronouncing or making such Order or Decision, then at the Sittings next immediately after such First Sittings.

In case of Lands and Fisheries vested in one Person, how he may act.

II. And be it enacted, That where any Person shall be the Owner of any Lands, and also the Owner of or interested in some Question as to any Fisheries adjoining to such Lands, or carried on or exercised upon the same, such Person for the Purposes of this Act or the said recited Acts may act and be dealt with in both or either of the several Characters so borne by him as aforesaid.

In case the Owner is under legal Disability, who to act.

III. And be it enacted, That wherever the Owner of any Lands or Fisheries to which the Provisions of this Act or the said recited Acts are intended to apply, or any Person interested in any Question as to any Fisheries, shall be a Minor, Idiot, Lunatic, Feme Covert, beyond the Seas, or under any other legal Disability, the Guardian, Trustee, Committee of the Estate, or Husband of such Person or Owner, or his or her Attorney or Agent respectively, and whom they are hereby empowered to nominate under their Hands and Seal, shall for the Purposes of this Act and the said recited Acts be substituted in the Place of such Owner or Person so interested.

Acts may be done by Agents duly authorized.

IV. And be it enacted, That it shall be lawful for any Land Owner or Fishery Owner, by a Power of Attorney given in Writing under his Hand, to appoint an Agent to act for him in carrying into execution the Provisions of this Act or the said recited Acts; and all Things which by this Act or the said recited Acts are directed to be done by or with relation to any Person may be lawfully done by or with relation to the Agent so duly authorized of such Person; and every such Agent may be dealt with in all respects as such Person himself might have been dealt with under this Act or the said recited Acts; and every such Agent shall have full Power, in the Name and on behalf of his Principal, to take part in or act upon any Inquiry, or prosecute, oppose, or defend any Complaint, Appeal, Action, Writ, Suit, or other Proceeding, or attend, vote at, and take part in any Meeting, or do or suffer any other Act for the Purposes of this Act or the said recited Acts; and every Person shall be bound by the Acts of any such Agent, according to the Authority committed to him, as fully as if the Principal of such Agent had so acted; and the Power of Attorney under which the Agent shall have acted shall be produced, inspected, or registered, and Copies or Extracts thereof made, at such Times and Places and in such Manner as the Commissioners appointed for the Execution of the said recited Acts shall direct; and any such Power of Attorney may be in the Form following:

Power of Attorney.

'I *A.B.* of [*&c.*] do hereby appoint *C.D.* of [*&c.*] to be my lawful Attorney to act for me in all respects as if I myself were present and acting; and I make this Appointment under and by virtue of an Act passed in the Year of Her present Majesty, intituled [*here insert the Title of this Act*].

(Signed) '*A.B.*'

V. 'And

Conservators empowered at General Meetings to depute Conservators for Electoral Divisions to act for such Electoral Divisions. 11 & 12 Vict. c. 92.

V. 'And whereas by an Act passed in the Twelfth Year of Her present Majesty's Reign, 'intituled *An Act for the Protection and Improvement of the Salmon, Trout, and other Inland 'Fisheries of* Ireland, it was amongst other things enacted, that the said Commissioners for 'the Execution of the said Act should divide *Ireland* and the Sea Coast and Islands thereof 'into Districts, and should subdivide each such District into Two or more Electoral Divisions, 'and that Conservators of Fisheries should be elected and returned for each such Electoral 'Division, to represent the same; and it was further enacted by the said recited Act, that 'the Board of Conservators of each District should fix and determine and duly publish Notice 'of the Times and Places for the General Meetings of such Board, and that it should be 'lawful for the Board of Conservators for each such District, at some Meeting specially 'appointed by them, to nominate and appoint a Clerk or Clerks, with reasonable Salaries, 'and to appoint some Bank to act as Treasurer, and as many Inspectors and Water Bailiffs 'as might be necessary; and it was further provided by the said recited Act, that all Sums 'of Money received for Licence Duties and Rates, and for Forfeitures and Penalties, for 'each such District, should be paid over to and received by such Treasurer, and applied to 'the Purposes of such District, under the Provisions of the said Act, and that such Treasurer 'should pay such Sums of Money as should be required for the Purposes of the District 'from Time to Time, upon a Draft signed by the Chairman at any General Meeting of the 'Board of Conservators, and by Two other Conservators: And whereas by reason of the 'large Extent of some of the Districts formed under the Provisions of the said Act it is 'expedient, for the better Administration thereof, to make further Provisions:' Be it therefore enacted, That it shall and may be lawful for the Conservators of Fisheries assembled at any General Meeting for any District under the Provisions of the said Act, if they shall think fit so to do, to make an Order under their Hands and Seals authorizing the Conservators of any Electoral Division or Divisions to hold Meetings within the Division or Divisions for which they may have been elected, and to appoint a Bank to be Treasurer, and to appoint a Clerk, Inspector, and Water Bailiffs to act for such Division or Divisions, with reasonable Salaries: Provided always, that the fixing and duly publishing Notice of the Times and Places for the Meetings of Conservators in such Electoral Divisions, and the Appointment of a Bank to act as Treasurer, and the Appointments of Clerks, Inspectors, and Water Bailiffs, as herein provided, pursuant to such Order, shall be subject to the same Provisions and Regulations as are provided and required by the said recited Act to be observed and done by Boards of Conservators assembled at General District Meetings, with respect to the Premises; and that after any such Order shall have been made the holding of such Meetings and such Appointments shall be good and valid in Law, and it shall and may be lawful for the Conservators assembled at any General District Meeting as aforesaid to apply and appropriate any Portion of the Money received for Licence Duties and Rates, and for Forfeitures and Penalties, for any District, as they shall consider expedient, to and for the Purposes of any such Electoral Division or Divisions, and cause the same to be lodged to the Credit of the Conservators for such Electoral Division or Divisions in the Bank which such Conservators shall as herein provided appoint to act as Treasurer, and such Treasurer shall pay such Sums of Money as shall be required for the Purposes of such Electoral Division or Divisions, from Time to Time, upon a Draft or Order signed by the Chairman at any Meeting of such Conservators for such Electoral Division or Divisions, and by Two other such Conservators: Provided always, that such Conservators acting for any Electoral Division or Divisions as herein provided shall furnish such Accounts of the Disbursements of such Money as may be lodged to their Credit in the Manner aforesaid as the Conservators for any District making such Order as aforesaid shall from Time to Time require.

Existing Fishery Districts, &c. may be altered from Time to Time by the Commissioners.

VI. 'And whereas the Commissioners appointed under the said recited Acts respectively 'for the Execution of the same, have, for the Purpose of regulating the Use of certain 'Engines, and generally for the Purposes of the said recited Acts, made sundry Divisions 'and Subdivisions of Fishery Districts, and have duly published the same respectively, and 'Boards of Conservators have been elected for such Districts respectively, which said 'Divisions and Subdivisions respectively it may be desirable to revise and alter from Time 'to Time for the Purposes of the said recited Act and of this Act:' Be it therefore enacted,

enacted, That the said Commissioners for the Execution of the said recited Acts may for the Purposes aforesaid, upon the written Application of and signed by at least One Third Part in Number of the Board of Conservators for any Fishery District, whether now subsisting or which may have been altered, subdivided, united, or made by the said Commissioners under the Authority of this Act, alter or subdivide such District or any Electoral Division thereof, and may fix other Boundaries for the same, or unite any Two or more Electoral Divisions of One District, or make any new or additional or substituted Electoral Division in any District, and to determine the Number of Conservators to be elected for each such Electoral Division: Provided always, that every such Alteration or Subdivision Union, or Addition, or Substitution shall be duly published and described, with the Boundaries of the same, in such Manner as is in and by an Act passed in the Twelfth Year of Her present Majesty, intituled *An Act for the Protection and Improvement of the Salmon, Trout, and other Inland Fisheries of* Ireland, required to be done in the Case of Divisions and Subdivisions of Fishery Districts made under that Act. 11 & 12 Vict. c. 92.

VII. 'And whereas by the said recited Act of the Twelfth Year of the Queen it is 'provided, that in the Case of certain fixed and established Fisheries which are designated 'Several Fisheries the same are liable, in addition to the Licence Duty provided by the said 'Act to be paid for the Engines used in fishing such Fishery, to such Sum as an annual 'Rate as shall be equal to the Amount of the Difference between the Sums paid by such 'respective Persons for such Licence Duty or Duties as aforesaid and the annual Sum of 'Ten *per Cent.* upon the Poor Law Valuation of such Fishery, subject to such Alteration 'of such Per-centage as may from Time to Time be made by the Board of Conservators of 'the District under the Provisions of the said Act: And whereas it is expedient that the 'said Liability should be extended to all productive Fisheries which may be rated for the 'Relief of the Poor at any Time:' Be it therefore enacted, That all Salmon, Trout, and Eel Fisheries whatsoever so rated for the Relief of the Poor, whether possessed as Several Fisheries, as so designated in an Act of the Sixth Year of Her present Majesty's Reign, intituled *An Act to regulate the* Irish *Fisheries*, or this Act, or otherwise, shall be liable to the same annual Sum or Rate as aforesaid on the Poor Law Valuation as those Fisheries designated Several Fisheries: Provided always, that such rating shall not confer a Right or Title to any such Fisheries as Several Fisheries, or any other Right or Title which the Persons possessing them would not have possessed if this Act had not passed: Provided also, that such Rate shall be recoverable in like Manner as the same Rate on Several Fisheries. All Fisheries rated under Poor Law Valuation to pay the same Rate, in addition to Licence Duty, as Several Fisheries. 5 & 6 Vict. c. 106.

VIII. And be it enacted, That where any Monies shall be received by the Treasurer of any District in respect of Licence Duties or Rates for the Period or Term in which the then next Election of Conservators is to take place, such Monies shall, until such Election, be carefully retained by such Treasurer, and shall after such Election be paid over by him to or to the Order of the new Board of Conservators, to be applied by them according to the Provisions of the said recited Acts and of this Act. District Funds to be applied by the Conservators elected for the Year.

IX. And be it enacted, That any Party who shall conceive himself or any other Person to be unduly or unequally or insufficiently charged by any such Board of Conservators with any Licence Duty as aforesaid, may present his Appeal therefrom, either to the Assistant Barrister for the District or to the going Judges of Assizes at the then or then next Assizes holden for the County or Jurisdiction wherein his Fishery District is situate; and such Assistant Barrister or Judges, as the Case may be, shall hear and examine into such Appeal, and adjudicate thereon, and such their Adjudication shall be final: Provided always, that until and unless any Charge shall be reduced or disallowed by such Assistant Barrister or Judges (as the Case may be), the Party charged shall be deemed liable to the full Amount of Licence Duty wherewith he shall have so been charged: Provided also, that if such Charge shall be so reduced or disallowed as aforesaid such Reduction or Disallowance (as the Case may be) shall relate back to the Time of making such Charge, and shall operate either by way of further Charge or of Discharge in full, or *pro tanto*, as the Case may be; and if it shall operate by way of Discharge as aforesaid, and the Party so discharged shall have theretofore actually paid the Amount of such Charge, he shall immediately upon such Adjudication be entitled to recover back from the said Board of Conservators for such District Appeal against Amount of Licence Duty.

District the full Amount of such Charge, or (as the Case may be) the Excess beyond or over the true Amount of such Charge, in conformity with the said Adjudication: Provided always, that due Notice of the Party's Intention to present such Appeal shall be by him served upon the said Board of Conservators within Ten Days after the making of such Charge: Provided always, that no such Appeal shall lie in respect of any Licence Duties specified in the Schedule annexed to the said Act of the Twelfth Year of Her present Majesty.

Provisions in case of Vacancies in the Board of Conservators.

X. And be it enacted, That in case any Conservator shall die, or become incapable to act, during the Period for which he is elected, the other Conservators elected for the same District (notwithstanding such his Death or Incapacity, and whether any Person shall or not be elected in his Room,) shall immediately summon another General Meeting of the Persons in his Electoral Division so entitled to meet as in the said Act of the Twelfth Year of Her present Majesty is mentioned, for the Purpose of electing a Conservator in his Room, and such Meeting shall be so summoned and held as is therein provided with respect to the annual General Meetings, and the Person elected at such Meeting shall be and continue and act as a Conservator for such Electoral Division and District during the Residue of the said Period: Provided nevertheless, that in the meantime and until such new Election the said other Conservators shall act for such District in all respects as they might have done but for such Death or Incapacity.

Justices of the Peace being Conservators not disqualified from sitting at the Trial of Offences against this Act.

XI. And be it enacted, That no elected or other Conservator, being also a Justice of the Peace for the County or Counties or other Jurisdiction within which his District or Electoral Division is situate, shall be thereby disqualified to sit and adjudicate as such Justice of the Peace, or at any Quarter or Petty Sessions within the same, upon any Complaint made or Prosecution instituted by or on the Behalf of the Board of Conservators of which he is such Member, in respect of any Offence against this Act or the said recited Acts: Provided always, that no elected or other Conservator shall be qualified, so long as he holds such Office, to receive or hold any Office or Appointment under this Act to which any Salary, Allowance, or Remuneration is incident.

Penalty for fishing without Licence increased.

XII. And be it enacted, That any Persons using or erecting any Engine, Net, Instrument, or Device whatsoever, without being duly licensed under the Provisions of the before-recited Act of the Twelfth Year of Her Majesty, or this Act, shall be liable to pay such Penalty, not less than double nor more than treble the Licence Duty which the Engine, Net, Instrument, or Device he shall have been so using or erecting would for the Time being be subject to under the said Act or this Act, in addition to the Forfeiture of the Engine so used, anything in the said recited Act to the contrary notwithstanding.

Elections of Conservators to be triennial instead of annual. 11 & 12 Vict. c. 92.

XIII. 'And whereas it is enacted by the before-recited Act of the Twelfth Year of Her 'present Majesty's Reign, intituled *An Act for the Protection and Improvement of the Salmon, 'Trout, and other Inland Fisheries of* Ireland, that for the several Districts, as fixed by the 'Commissioners, Conservators shall be annually elected and appointed as therein provided; 'and it is expedient that such Elections should not too frequently take place:' Be it therefore enacted, That after the passing of this Act all Conservators appointed at the next Elections for Conservators, and at all future Elections, shall continue to hold Office for Three Years from the Time of their Elections, anything in the said Act to the contrary notwithstanding: Provided always, that if any Board of Conservators shall neglect to give Notice and appoint Times and Places for holding Meetings for Elections, it shall be lawful for the said Commissioners to appoint such Times and Places for such Purpose; and in such Cases the Election of Conservators shall be as good and valid in Law as if the Meeting had been called by the Conservators.

Commissioners may adjudicate on Complaints of illegal Fishing, and order Weirs to be abated. 9 & 10 Vict. c. 114.

XIV. And be it enacted, That when any Party complaining of the erecting, maintaining, or of using any Weir, fixed Net or Engine, shall exhibit to the said Commissioners his Complaint in that Behalf in Writing signed by him, and setting forth such Particulars of his said Complaint as are in the like Case required by an Act passed in the Ninth Year of the Reign of Her present Majesty, intituled *An Act for the further Amendment of an Act passed in the Sixth Year of Her present Majesty, for regulating the* Irish *Fisheries*, the said Commissioners

Commissioners shall thereupon summon before them the Party or Parties (if he or they can be found) erecting, maintaining, or using such Weir, fixed Net or Engine, or if he or they are absent or dead, or under Incapacity, then the Occupier or Occupiers (if any) of the Land whereon the same is so erected, or the Owner or Owners of such Land, if the same shall not be occupied, to attend at some convenient Place within the County or Jurisdiction in which or on the Shore or Boundary of which any such Weir, fixed Net or Engine, or any Part thereof, may be so erected, constructed, maintained, or used; and the said Commissioners shall accordingly, at the Time and Place mentioned in any such Summons, upon Proof of the personal Service of such Summons, or upon Proof of such Summons having been left at or on board the Vessel or at or posted on the known Residence of the Party or Parties so summoned, proceed to hear all such pertinent Evidence as may be adduced before them, whether at the Instance of them the said Commissioners, or on behalf of the Party (if any) making such Complaint, or on behalf of the Party or Parties summoned; and if, after hearing all such Evidence, the said Commissioners shall so think fit and right, it shall be lawful for the said Commissioners (whether the Party or Parties so summoned shall have appeared or not at such Hearing) to make an Order or Decision in Writing under their Hands and Seals, declaring that such Weir, fixed Net or Engine, or any Part thereof, is a Nuisance, and shall be abated and removed; and the said Commissioners shall thereupon, by Warrant under their Hands and Seals, direct or authorize some proper Person to abate and remove such Weir, fixed Net or Engine, or Part thereof, at the Expense of the Party or Parties summoned, or such of them as shall appear to the said Commissioners to have erected, constructed, maintained, or used the same, or suffered such Erection, Construction, Maintenance, or User, or any of them, and thereupon the same shall be abated and removed accordingly; and, subject to the Appeal herein-after provided for, it shall be lawful for the said Commissioners to order and direct that the Materials of any such Weir, fixed Net or Engine, or any Part thereof, be forfeited and sold, and the Produce arising from such Sale applied in such Manner as is in the said recited Acts provided in Cases of illegal Nets used or legal Nets illegally used for fishing.

Appeals from such Adjudications.

XV. Provided always, and be it enacted, That if any Person, whether Complainant or Defendant, shall think himself aggrieved by any such Order or Decision of the said Commissioners, such Person may appeal to the next going Judges of Assize at the Assizes to be held for the County, County of the City or Town, in which or on the Shore or Boundary of which any such Weir, fixed Net or Engine, shall have been so erected, constructed, maintained, or used, provided such Assizes shall be held at any Time not less than Thirty-one Days after the Time the said Commissioners shall have made any such Order or Decision; and in case such Assizes shall be held within Thirty-one Days from the Time of such Order or Decision, such Appeal shall be made to the Assizes to be held in and for such County, County of a City or Town, next after such first Assizes; and that no such Appeal shall be allowed, received, heard, or determined unless the Party appealing shall, within Twenty-one Days from the Date of such Order or Decision, give Notice in Writing to the said Commissioners of his Intention to try such Appeal, and decide whether the Party against whom such Complaint was made had a Right to erect, construct, maintain, or use such Weir, fixed Net or Engine, or any Part thereof, or suffer such Erection, Construction, Maintenance, or User, at the Time or in the Place where the same may have been so erected, constructed, maintained, or used: Provided always, that in case of such Appeal being made against any Order or Decision for the Abatement or Removal of any such Weir, fixed Net or Engine, or Part thereof, as aforesaid, and Notice given as aforesaid, the Materials of such Weir, fixed Net or Engine, or Part thereof, as the Case may be, shall be deposited in the Custody of such Officer or Men of Coast Guard or Constabulary, or with such other Party or Person as the said Commissioners may direct or appoint for the Purpose, there to remain and be kept until the Matter of such Appeal shall be decided as aforesaid, or until the Time for prosecuting the same shall have expired; and if such Decision shall be in favour of the Appellant, such Materials shall thereupon be returned, and the Amount of his Expenses (if any) incident to such Abatement, Removal, and Deposit as aforesaid respectively repaid to such Appellant.

Penalties for erecting or using Weirs contrary to this Act.

XVI. And be it enacted, That no Person or Persons, other than the Person or Persons entitled to exercise such Right as in the said recited Acts or this Act mentioned, shall place, erect, maintain, or use any Weir, fixed Net, or other Contrivance for placing or erecting Nets or taking of Fish on any Parts of the Coast of *Ireland*, or on the Bank or Shore of any River or Estuary wherein the Tide ebbs and flows, or in the Sea or Tideway adjoining such Coast, Bank, or Shore; and that if any Person or Persons, other than the Person or Persons so entitled as aforesaid, shall place, erect, maintain, or use any Weir, fixed Net, or other such Contrivance as aforesaid, contrary to this Act, he or they, being thereof convicted, shall for every such Offence forfeit and pay a Sum not exceeding Ten Pounds nor less than One Pound, together with the further Penalty of Ten Shillings for every Fish taken or destroyed by him or them by means of such Weir, fixed Net, or Contrivance; and the said Weir, fixed Net, or Contrivance shall also be forfeited, and ordered to be abated or removed at the Expense of such Offenders or Offender, by the Commissioners, or (as the Case may be) by the Magistrate before whom such Conviction shall be had, and the Materials thereof shall be disposed of in such Manner as is by the said recited Acts or any of them directed with respect to illegal Nets used or legal Nets illegally used for fishing.

Penalties for erecting or re-erecting Weirs after Conviction.

XVII. And be it enacted, That if, after any Order or Decision of any Judge of Assize heretofore made, for abating or removing any Weir, fixed Net or Engine, or any Part thereof, or after any Order or Decision of any Court whatsoever, which shall at any Time hereafter be made, for abating or removing any Weir, fixed Net or Engine, or any Part thereof, unless and until the same shall be reversed on Appeal, any Person shall erect, re-erect, use, or fish with any Weir, fixed Net or Engine, or any Part thereof, in or adjoining or contiguous to any Place where it may have been or shall be decided by any such Court that any such Weir, fixed Net or Engine, or any Part thereof, should be abated and removed, or if any Person shall erect, re-erect, use, or fish with any Weir, fixed Net or Engine, or any Part thereof, contrary to Law, and after Conviction of any Person for erecting, using, or fishing with any Weir, fixed Net or Engine, or any Part thereof, in the same Place, or in, adjoining, or contiguous to the same Place, or for erecting, using, or fishing with any Weir, fixed Net or Engine, or any Part thereof, of the same Description or used for the same Purposes, then and in every such Case the said Commissioners, or any Two Justices of the Peace for the County or other Jurisdiction wherein the said Weir, fixed Net or Contrivance, or any Part thereof, shall have been so erected or re-erected, or used or fished with, shall, by Warrant under their Hand and Seal, from Time to Time, and so often as any such Weir, fixed Net or Engine, or any Part thereof, as aforesaid, shall be so erected, re-erected, used, or fished with, abate and remove the same, at the Expense of the Party or Parties erecting, re-erecting, using, or fishing with the same, or of the Owners or Occupiers of the Soil whereon such Weir, fixed Net or Engine, or any Part thereof, shall be so erected, re-erected, used, or fished with, (if such Owners or Occupiers shall appear to have permitted or suffered such Erection, Re-erection, Use, or Fishing,) and further, that the Materials of every such Weir, fixed Net or Engine, or such Part thereof as aforesaid, shall be forfeited and sold or otherwise disposed of as the said Commissioners or Justices shall direct; and that the said Party or Parties and Owner shall (independently of all other Forfeitures and Penalties to which under this Act or the said recited Acts he or they may be liable) forfeit and pay for every such Offence any Sum not less than Twenty Pounds, and also any Sum not exceeding Ten Pounds nor less than Two Pounds for every Day during which such Weir, fixed Net or Engine, or such Part thereof, shall continue to be so erected, re-erected, used, or fished with as aforesaid; and that the Produce of such Sale and all such Forfeitures and Penalties respectively shall be disposed of and applied in such Manner as is in and by the said recited Acts directed in regard of illegal Nets or Nets illegally used for fishing.

Not to prevent, in certain Cases, the Erection of Weirs in or adjoining to the Place from which Weirs

XVIII. Provided always, and be it enacted, That where any such Order or Decision of any such Court as aforesaid hath been or shall hereafter be made for abating or removing any Weir, fixed Net or Engine, or any Part thereof, merely by reason of its having been erected, used, or fished with on the Soil and without the Permission of the Person being or claiming to be the lawful Owner thereof, and for no other Reason, such Person shall not be

be thereby estopped or prevented from afterwards erecting, re-erecting, using, or fishing with (subject, nevertheless, to the other Provisions of this Act and the said recited Acts) any such Weir, fixed Net or Engine, or any Part thereof, as aforesaid, or any other Weir, fixed Net or Engine, or any Part thereof, in or adjoining or contiguous to the Place wherein it may have been or shall be decided by such Court as aforesaid that the said first-named Weir, fixed Net or Engine, or such Part thereof, as aforesaid, should be abated and removed: Provided also, that nothing herein contained shall be construed to give to or confer upon any such Person so being or claiming as aforesaid any new or better Title to the said Soil, or any new or better Right to erect, use, or fish with any Weir, fixed Net or Engine, or any Part thereof, in or adjoining to or contiguous to such Place as aforesaid, but that he shall in other respects remain and be subject to the Provisions of the said recited Acts and of this Act in that Behalf set forth.

had been abated and removed by Order of Court.

XIX. And be it enacted, That nothing in the said recited Acts or this Act contained shall take away or in any Manner lessen or impair the Powers of Her Majesty's High Court of Admiralty, or any other Court or Jurisdiction, in relation to the Removal or Abatement of Nuisances accruing or occasioned to Navigation, Fishery, or the Passage of Fish, by the placing or maintaining or using of Weirs, fixed Nets, or other Contrivances.

Nothing to affect or impair Jurisdiction of Admiralty and other Courts.

XX. And be it enacted, That in any Action or Prosecution for or in respect of any of the Trespasses or Nuisances aforesaid it shall not be necessary to set forth in the Declaration or Indictment the Metes or Bounds of the Place in which the Trespass or Nuisance complained of hath been committed, and that it shall be sufficient to state generally that the same was committed within the District in which the Fishery in question shall happen to be situate.

Metes and Bounds not necessary to be set out on Records.

XXI. 'And whereas Provisions have been made by the said recited Acts for defining 'the Mouths of Rivers "at their Entrance into the Sea;" and for the better Protection 'and Regulation of the Fisheries it may in many Cases be expedient to prohibit the Use of 'Nets within certain Distances of the Mouths of tributary Rivers at their Entrance into 'other Rivers, Estuaries, Roadsteads, or Bays:' Be it therefore enacted, That it shall and may be lawful for the said Commissioners to define the Mouths of such Rivers, where they shall think fit so to do, subject to the Provisions of the said recited Acts; and when the Mouth of any such River shall have been defined as herein provided, the same Regulations with respect to using, placing, or erecting Nets shall be observed, and may be enforced in like Manner as provided by the said recited Acts and this Act, and any Person offending shall suffer the same Forfeitures and Penalties as therein provided.

Further Powers for defining Mouths of Rivers.

XXII. And be it enacted, That from and after the passing of this Act, if any Person entitled to or possessed of the Fishing of any River or Branch thereof, or any Weir, Dam, or Dyke for the taking of Fish, and not being by Prescription or other legal Title exempted from the Obligation of having, making, or maintaining any Free Gap or Queen's Share therein, shall omit or neglect to have, make, or maintain such Free Gap or Queen's Share of the Dimensions or in the Place or to construct it in the Manner now by Law required, or shall reduce the Width of any existing Free Gap or Queen's Share, or substitute a Free Gap or Queen's Share of less Width in lieu thereof, the said Commissioners may cause such Alterations to be made, and recover the Expenses thereof against such Person, and the Person so offending shall also forfeit and pay a Sum not exceeding Fifty Pounds nor less than Ten Pounds, and shall also for every Fish taken by means of such Weir, Dam, or Dyke, so long as such Free Gap or Queen's Share shall not be left, made, or maintained of the Dimensions or in the Place or shall not be constructed in the Manner now by Law required, or shall be reduced in Width, or shall remain of less Width than that in lieu of which it is substituted, forfeit and pay the Sum of Ten Shillings, and shall also, for every Day during which such Free Gap or Queen's Share shall not be left, made, or maintained of the Dimensions or in the Place or shall not be constructed in the Manner now by Law required, or shall be reduced in Width, or shall remain of less Width than that in lieu of which it is substituted, forfeit and pay a Sum not exceeding Ten Pounds nor less than Five Pounds; and such Expenses and Forfeitures shall be recovered in like Manner as is hereinafter provided with respect to Penalties for Offences against the said recited Acts and this

Penalties for Neglect to make or maintain the statutory Free Gap or Queen's Share.

Act: Provided always, that the Person who is lawfully entitled to or lawfully possessed of any Weir, Dam, or Dyke, and who shall be not liable or compellable at Law to have, make, widen, or maintain, or to cause to be left, made, widened, or maintained, a Free Gap or Queen's Share therein, shall not be liable to any Penalty for not leaving, making, widening, or maintaining (as the Case may be) such Free Gap or Queen's Share, until his Claim (if any) for Compensation for the Loss or Damage he may sustain by leaving, making, widening, or maintaining such Free Gap or Queen's Share be settled and disposed of, and the Amount of Compensation (if any) paid, tendered, or lodged, according to the Provisions herein-after contained.

Commissioners may require Owners of Weirs in certain Cases to make Gaps therein, and furnish a Claim for Compensation.

XXIII. And be it enacted, That where the Owner of any such Weir, Dam, or Dyke as aforesaid is not liable or compellable at Law to leave, make, widen, or maintain, or to cause to be left, made, widened, or maintained, any such Free Gap or Queen's Share in such Weir, Dam, or Dyke as aforesaid, it shall nevertheless be lawful for the said Commissioners, upon the Application of any Person or Persons who is or are interested in the Fisheries in or Lands adjoining to the River in which any such Weir, Dam, or Dyke shall be situate, or who is or are licensed to fish or fishing within the District or Districts whereunto such River belongs, and who shall deposit or secure, to the Satisfaction of the said Commissioners, the Amount of the Cost of all Proceedings necessary to be taken under the Provisions herein contained (if the said Commissioners shall require such Deposit or Security), to serve a Notice on the Owner, and also the Lessee or Occupier, if any, of such Weir, or at his or their known Place of Abode, and thereby to require the Owner of such Weir, Dam, or Dyke to make, widen, or open a free Gap or Queen's Share therein of such Construction and Dimensions as the said Commissioners shall deem fit and shall name in such Notice, not varying from the Construction nor exceeding the Dimensions specified in an Act passed in the Sixth Year of Her present Majesty, intituled *An Act to regulate the* Irish *Fisheries*, and to furnish his Claim for Compensation, or his Objections, if any, to making, widening, or opening such Free Gap or Queen's Share, within a Time to be specified in such Notice, not less than Thirty Days from the Service thereof on the Owner, Lessee, or Occupier of such Weir.

5 & 6 Vict. c. 106.

Satisfaction may be made and accepted.

XXIV. And be it enacted, That every Owner of any such Weir, Dam, or Dyke, or of any Share, Estate, or Interest therein, may accept and receive as Satisfaction and Recompence for the Value of any Injury or Damage that shall be sustained on account of making, widening, or opening such Free Gap or Queen's Share, or in anywise relating thereto, such Sum of Money in respect thereof as shall be agreed upon between him respectively and the said Commissioners; and in case the said Commissioners and the said Party interested in such Weir, Dam, or Dyke, or sustaining such Injury or Damage, cannot or do not agree as to the Amount or Value of such Satisfaction, Recompence, or Compensation, the same respectively shall be ascertained and settled in manner herein-after directed.

Commissioners empowered to assess the Value in case of Dispute.

XXV. And be it enacted, That if any such Owner of such Weir, Dam, or Dyke as aforesaid shall neglect or refuse to treat or shall not agree with the said Commissioners, or by reason of Absence or Disability cannot agree, or cannot be found or known, or shall not prove to the Satisfaction of the said Commissioners a clear Title to receive such Recompence or Compensation as aforesaid, or in case any such Owner of a Weir, Dam, or Dyke wherein such Gap is to be made, widened, or opened as aforesaid shall not accept such Satisfaction or Recompence for the same as shall be offered by the said Commissioners, for the Space of Thirty Days after Notice in Writing given to the known Agent or Attorney of such Owner as aforesaid, or left at his Place of Abode, or at the House of the Lessee of such Weir wherein such Gap is intended to be made, widened, or opened as aforesaid, or in case the Parties interested in the Fisheries in or Lands adjoining the River in which such Weir, Dam, or Dyke shall be situate, or Fishing within the District or Districts whereunto such River belongs, shall not agree with the Owner of such Weir, Dam, or Dyke, or shall not subscribe and deposit the Amount which the said Commissioners may agree upon with the said Owner of such Weir, Dam, or Dyke as the Amount of Compensation to be paid for making, widening, or opening such Free Gap or Queen's Share, or shall not agree upon the Proportions in which such Amount of Compensation is to be paid by the said several Parties respectively, then in every such Case the said Commissioners are hereby empowered, at a Time and Place

to

to be specified in a Notice to be served as aforesaid, and published once in the *Dublin Gazette*, and once in each Week for Three successive Weeks in a Newspaper circulating in the County or Counties in which such Weir, Dam, or Dyke shall be situate, and through or by which such River shall flow, to inquire and examine and assess and award the Sum of Money to be paid for such Recompence or Compensation as aforesaid, and ascertain and settle in what Proportions the Parties interested in the Fisheries in or the Lands adjoining such River, or Fishing within the District or Districts whereunto such River belongs, should contribute to pay the Sum so awarded, and the said Commissioners shall award such Recompence so to be assessed; and the said Commissioners shall in such Award name or describe the Persons (if known to the said Commissioners) to whom respectively the Sum mentioned therein shall be paid, and in what Proportions the same shall be paid to and among such Persons where more than One, and the Weir, naming or describing the same, in respect of which such Sum has been so awarded, and the Position and Breadth of such Free Gap or Queen's Share, and the Names or other Descriptions of the Parties who are to contribute the Amount awarded for such Recompence or Compensation as aforesaid, and the Proportion to be contributed by each respectively; and the said Commissioners shall notify and appoint a Time and Place for holding a Meeting for the Confirmation of their said Award, and shall attend at such Time and Place, and at such Meeting, or at some Adjournment thereof, proceed to consider each Case, and hear all Objections which may be made thereto by any Person whatsoever, and receive all such Evidence as they shall find pertinent and proper, and amend or confirm and settle each such Award accordingly; and such Award shall be conclusive and binding upon the Queen's most Excellent Majesty and all other Persons interested, except in the Case and subject to the Provisions herein-after contained: Provided always, that the Person who shall under the Provision before mentioned contribute in respect of Lands to such Compensation shall be the Owner in Fee Simple or Fee Tail, or for a Lease of Lives renewable for ever, or for Life with Remainder to his Issue, or for ever, or for a Term of which not less than One hundred Years are unexpired, and from whom the Fishery or Right of fishing shall not have been reserved.

Any Person dissatisfied with the Adjudication of the Commissioners may appeal to a Judge at the Assizes.

XXVI. And be it enacted, That if the Owner or other Person claiming Compensation on account of such making, widening, or opening of the Free Gap or Queen's Share in such Weir, Dam, or Dyke, or any Person liable to pay such Compensation as aforesaid, shall be dissatisfied with the Award of the said Commissioners, it shall be lawful for the Person so dissatisfied to appeal to the Judges of Assize, or One of them, at the Assizes which shall be held next after any such Award shall have been made and settled as aforesaid for the County wherein such Weir, Dam, or Dyke shall be wholly or in part situate, (provided the same shall not be held sooner than Thirty-one Days after the making of such Award,) the Party appealing, if there be sufficient Time after the making of such Award, having first given to the said Commissioners Twenty-one Days Notice at least of his Intention of bringing such Appeal, and of the Matter thereof; and if there shall not be Thirty-one Days between the making of such Award and the Day appointed for holding such Assizes, then such Appeal may be tried at the Assizes which shall be holden for such County next after the Expiration of Thirty-one Days from the making such Award, and the like Notice thereof shall be given; and any Judge at such Assizes or any Adjournment thereof, upon due Proof of such Notice having been given, is hereby empowered and required to hear and finally determine the Matter of such Appeal, in such and the same Manner as he is at present empowered to do in Cases of Appeal from Decrees on Civil Bills made by Assistant Barristers at Quarter Sessions in *Ireland:* Provided always, that if such Dam, Weir, or Dyke shall be situate in more than One County or between Two or more Counties, such Appeal shall be tried at the Assizes to be held in the County the Assize Town of which shall be nearest to such Weir, Dam, or Dyke; and provided also, that if no Notice of Appeal shall be served on the said Commissioners within Twenty-one Days next after their Award shall be made the same shall be final, binding, and conclusive upon all Persons and to all Intents and Purposes whatsoever.

If no Appeal within 21 Days Award to be final.

Judgments to be final.

XXVII. And be it enacted, That in all such Cases of Appeal as aforesaid the said Judges of Assize, or One of them, shall give Judgment in respect to the Matter of such Appeal, and such Judgment shall be final, binding, and conclusive to all Intents and Purposes against all Parties, Corporations, and Persons.

XXVIII. And

Awards and Judgments to be recorded.

XXVIII. And be it enacted, That such of the aforesaid Awards of the said Commissioners as shall not be appealed from, and the Judgments so given as aforesaid, shall be respectively transmitted to and be kept by the respective Clerks of the Peace of the Counties in which the Land in respect of which such Awards or Judgments shall have been respectively made shall be situate, and shall be deposited with the Records, and deemed Records of such Counties respectively, to all Intents and Purposes, and the same, or certified Copies thereof, shall be allowed to be good Evidence in all Courts whatsoever, and all Persons shall have Liberty to inspect the same, paying for such Inspection the Sum of Sixpence, or to have Copies thereof, paying for every Copy the Sum of Three Halfpence for every Seventy-two Words, and so in proportion for any greater or less Number of Words.

How the Award or Judgment shall be enforced.

XXIX. And be it enacted, That upon Award or Judgment being so made and transmitted as aforesaid the said Commissioners shall cause a final Notice to be served on the Proprietor, Lessee, or Occupier of such Weir, Dam, or Dyke, and a Copy thereof to be published once in the *Dublin Gazette*, and once in each Week for Three successive Weeks in some One or more Newspapers circulating in the County or Counties in which such Weir, Dam, or Dyke shall be situate, stating that all the Requisites of this Act in respect to the making such Award or Judgment had been fully complied with, and calling upon all Parties liable under such Award or Judgment to pay to the said Commissioners, within a Time to be specified in such Notice, not less than Three Months from the Date thereof, the Sums of Money which such Parties thereby became liable to pay; and the Publication of such Notice shall be deemed final and conclusive Evidence that the several preliminary Measures hereinbefore required to be taken and observed in respect to such Award or Judgment had been duly taken and observed; and from and after the Publication of such Notice all the Parties liable under such Award or Judgment shall be bound to contribute the Sum awarded, assessed, or ascertained, in the Proportions fixed by such Award or Judgment, and within the Time specified in such Notice.

If not paid it may be sued for.

XXX. And be it enacted, That if any Portion of the Money so to be contributed shall remain unpaid to the said Commissioners after the Expiration of the Time specified in such Notice as last aforesaid, then it shall be lawful for the said Commissioners to recover the same from the Parties liable thereto under the said Award or Judgment who shall make default in the Payment thereof, or the lawful Representatives of such Parties, by Civil Bill, or by Action or Suit in any of the Superior Courts in *Dublin:* Provided always, that where any Party so making default, or his lawful Representatives, shall be insolvent, or absent beyond Seas, or unable to be found, the Conservators of the District or Districts through or by which such River shall flow shall, notwithstanding anything contained in this Act or the said recited Acts to the contrary, apply from Time to Time any Portion of the Funds in the Hands of the Treasurers to the Credit of such District or Districts, for the Purposes of making good any Deficiency of Money so to be contributed which shall have been occasioned by such Default, together with full Costs and Expenses, and either in One Sum or by Instalments, as the said Commissioners shall appoint.

Compensation to be paid over, when received, and the Alterations in the Weir, &c. to be made as directed by the 5 & 6 Vict. c. 106.

XXXI. And be it enacted, That upon Receipt of the Money so agreed, awarded, or adjudged to be paid as Satisfaction or Recompence for enlarging or opening such Free Gap or Queen's Share in such Weir, Dam, or Dyke, under the Provisions herein-before contained, the said Commissioners shall forthwith pay the same to such Persons or in such Manner as is provided and directed by the said Act of the Sixth Year of Her Majesty, in regard of Monies agreed, awarded, or adjudged to be paid as Satisfaction or Recompence for enlarging or opening a Free Gap or Queen's Share under the Provisions of the said last-mentioned Act; and thereupon the said Commissioners shall take such Proceedings for the Purpose of causing the required Alterations in such Weir, Dam, or Dyke to be made and completed, and the objectionable Parts thereof to be removed, as they are by the said Act of the Sixth Year of Her said Majesty empowered to take in the Cases specified in or arising under the said Act for the like Purposes.

Savings for Mill Weirs.

XXXII. Provided always, and be it enacted, That nothing herein-before contained respecting the making or maintaining such Free Gap or Queen's Share shall be construed to extend to Weirs, Banks, or Heads used for the sustaining the Supply of Water to Mills, Factories,

Factories, or Navigation, if such Weirs, Banks, or Heads shall not be made use of for the Purpose of taking Salmon or other Fish in any Manner whatsoever.

Commissioners not bound to do more than open the Passages required by this Act, and not liable for consequential Damages.

XXXIII. And be it enacted, That in all Cases where the said Commissioners shall, by virtue of the Provisions in this Act contained, open or cause to be opened, in any Weir, Dam, or Dyke, a Gap of the Dimensions prescribed by this Act, or remove any Obstructions hereby declared to be illegal, it shall not be necessary for the said Commissioners, or any Person executing their Orders, to rebuild any Part of such Weir, Dam, or Dyke, or of the Works appertaining thereto, nor to fix up or erect altered or improved Boxes, Rails, or Cruives, nor shall they be answerable or accountable for any Damage or Injury arising to such Weir, Dam, or Dyke, or to such Box, Rail, or Cruive, in consequence of such Removal as aforesaid.

Removal of Nets from the Banks of Rivers during Close Seasons.

XXXIV. And be it enacted, That every Proprietor, Lessee, or other Person who shall be engaged in fishing for Salmon by means of Nets of any Kind or Description shall remove and carry away, or cause to be removed or carried away, from any Strand, or from the Banks of any River, or from the Vicinity thereof, during the yearly Close Season, all such Nets; and in case any such Person shall omit or neglect to remove or carry away, or cause to be removed or carried away, such Nets as aforesaid, he shall forfeit all such Nets, and shall forfeit and pay a Sum not exceeding Ten Pounds nor less than Two Pounds.

Having in possession Part of a Salmon or Trout, liable to Penalty.

XXXV. 'And whereas Persons having in their Possession or exposing for Sale a Salmon 'or Trout in the Close Season are now by Law liable to certain Penalties and Forfeitures in 'certain Cases:' Be it enacted, That any Person in whose Possession any Part or Portion of a Salmon or Trout shall be found or exposed for Sale during the Close Season shall be in the like Cases subject to the like Penalties and Forfeitures as are provided by the said recited Acts or any of them; and all Persons empowered to enforce the Provisions of the said recited Acts and this Act shall be and are hereby empowered to seize all such Salmon or Trout, or any such Portion thereof as aforesaid, when so found in the Possession of any Person or exposed for Sale during the Close Season.

Penalty for poisoning Rivers for the Purpose of taking Fish.

XXXVI. 'And whereas great Destruction to Fish and the Spawn and Fry thereof is in 'some Places occasioned by placing Matters poisonous to Fish in Rivers for the Purpose of 'capturing them: And whereas the Laws at present in force have proved insufficient 'to suppress this destructive Practice:' Be it therefore enacted, That any Person found on the Bank of or near any River with any deleterious Matter in his Possession, under such Circumstances as shall satisfy the Court before whom he may be tried that such Person had employed or was about to employ such deleterious Matter for the Capture or Destruction of Fish, the said Court is hereby empowered to inflict on such Person a Penalty not less than Five Pounds nor more than Ten Pounds for every such Offence; and any Person found taking Fish from any River or Lake, where it shall be proved to the Satisfaction of any Justice or Justices that such Fish have been wilfully poisoned, shall be subject to a Penalty of not less than Ten Shillings nor more than Five Pounds.

Nets and other Engines not to be used within certain Distances of Weirs.

XXXVII. 'And whereas in many Rivers Fish are impeded in their Passage up and 'down by means of Weirs used for supplying Water to Mills or Factories or for Navigation:' Be it therefore enacted, That it shall not be lawful to use any Net, Instrument, or Device for taking Fish (save and except Rods and Lines only) within Two hundred Yards of any such Weir, either above or below the same; and if any Person shall offend against this Provision he shall forfeit and pay a Sum not less than Two Pounds nor more than Ten Pounds for every such Offence, and shall also forfeit such Net, Instrument, or Device: Provided always, that where such Right has been exercised in any such Place by any Person or Persons lawfully possessed of a Several Fishery therein for Twenty Years next before the passing of this Act, he shall not be subject to the Penalty herein-before provided.

Boxes, Cribs, &c. in the Tideway during Weekly Close Time to be subject to Regulations of

XXXVIII. And be it enacted, That it shall not be lawful to take Salmon or Trout in any Crib, Box, Cruive, Eye, Sluice, or Gap, in any Salmon, Eel, or other Weirs, whether the same be set in the Tideway or in the Fresh-water Portion of any River, between the Low Water next in point of Time before Six o'Clock on *Saturday* Night and the Low Water next in point of Time before Six o'Clock on *Monday* Morning, if the Weir be in the

5 & 6 Vict. c. 106., upon the Certificate of the Commissioners.

the Tideway, nor between Six o'Clock on *Saturday* Evening and Six o'Clock on *Monday* Morning, if the Weir be in the Fresh-water Portion of any River; and in case any Question or Doubt should arise as to whether any such Weir is in the Tideway or in the Fresh-water Portion of the River, it shall be competent to the Commissioners, on Application to them, to determine, by Certificate under their Hands and Seals, whether such Weirs should be subject to the aforesaid Regulation relating to the Tideway, or to the aforesaid Regulations relating to the Fresh Water, as to the said Close Time; and a Copy of such Certificate shall be lodged with the Clerk of the Peace for the County or Counties in which such Weirs shall be situate, and an attested Copy thereof, certified by such Clerk of the Peace, shall be received as Evidence of the Determination so made by the said Commissioners; and any Person offending against the said Regulations respectively shall be subject to the Forfeitures and Penalties provided by the said recited Act or this Act for Breaches of the Law in respect to the Weekly Close Time or Close Season.

Mill Sluices to be opened or shut as by Law required at all Times when Mills are out of Use, subject to a Penalty.

XXXIX. And be it enacted, That the Waste Sluices, Waste Gates, or Overfalls of the Weirs of any Mill or Factory deriving their Supply from Rivers frequented by Salmon shall, at all Seasons of the Year when and during the Time such Mills or Factories shall not be used for Milling Purposes, be kept open, if no Passage for Fish be provided; and when such Passage for Fish shall be provided, then the Sluices which admit the Water to such Mills or Factories, and the Waste Sluices, Waste Gates, or Overfalls, shall be kept down or shut, to force the Water through such Passage for Fish, as provided by the said Act of the Sixth Year of Her present Majesty's Reign, intituled *An Act to regulate the* Irish *Fisheries;* and if the Owners of any such Mill or Factory not used for Milling Purposes as aforesaid shall omit to keep any such Sluice or Sluices, Waste Gates, or Overfalls shut as aforesaid, or open as aforesaid, as required in the respective Cases aforesaid, he shall forfeit and pay a Sum not less than Two Pounds nor more than Ten Pounds for every such Offence: Provided always, that the opening or shutting of such Sluices, Waste Gates, or Overfalls shall not in any way injuriously interfere with the Machinery or Water Power of any Mill or Factory whatsoever.

5 & 6 Vict. c. 106.

Otters, Spears, Gaffs, &c. prohibited.

XL. And be it enacted, That it shall not be lawful, in any Fresh-water River or Lake, at any Season of the Year, to use for the Purpose of taking Fish any Otter, Lyster, Spear, Strokehaul, Dree Draw, or Gaff, (except when the latter Implement may be used solely as auxiliary to angling with Rod and Line, or for the Purpose of removing Fish from any legal Weir or Box by the Owner or Occupier thereof,) and if any Person shall offend against this Provision he shall upon Conviction thereof forfeit and pay any Sum not exceeding Ten Pounds nor less than Four Pounds, and shall also forfeit such Implement and the Materials thereof: Provided always, that nothing herein contained shall be construed to extend to Eel Spears.

Power to make Oyster Beds.

XLI. And be it enacted, That it shall and may be lawful for the Owner or Occupier of any Land bordering on the Sea or any Estuary, with the Permission in Writing of the said Commissioners, or for any Person or Persons, with the Consent of such Owner or Occupier, and with the Permission in Writing of the said Commissioners, to form or plant any Oyster Bed or Laying on the Shore adjacent to such Lands, and either above or below the Level of the lowest Water Marks of Spring Tides, as the said Commissioners shall think fit; and it shall be lawful for the several Persons forming or planting any such Oyster Bed or Laying to hold the same as private Property, and to exercise an exclusive Control over the same, and such Oyster Beds shall be entitled to the like Protection as by the said recited Acts is provided in case of any other Oyster Beds or Layings being the exclusive Property of any Person: Provided always, that the forming and planting of such Oyster Beds as aforesaid shall not give any exclusive Right or Title to the Occupancy of the said Shore, except for the Purpose aforesaid, or to the Appropriation of any public Banks or Beds at present resorted to for Oysters, but that the Rights herein-before granted and conferred are to be considered as exclusively applying to Places where no such public Oyster Beds at present exist; saving to the Queen's most Excellent Majesty and all the Subjects of this Realm the free and full Exercise and Enjoyment of all other Rights of Fishing or other Rights whatsoever in or along the said Shore, subject to the Provisions herein contained.

XLII. And

Penalty for stealing Oysters or Oyster Brood.

XLII. And be it enacted, That if any Person shall steal any Oysters or Oyster Brood from any Oyster Bed or Laying, being the exclusive Property of any other Person or Persons, and sufficiently marked out and known as such, every such Offender shall be deemed guilty of Larceny, and being convicted thereof shall be punished accordingly, unless it shall appear that the Party taking such Oysters, or accused of stealing the same, acted under a fair and reasonable Supposition that either he himself, or any other Person in whose Right or by whose Authority he acted, or the Public at large, had a Right to take the said Oysters, and to convert the same to his or their own Use.

Further Regulations as to Stake Nets, &c.

XLIII. And be it enacted, That Stake Weirs, Stake Nets, and other fixed Nets, in the Sea or Tidalways, shall be so placed and erected, maintained and used, as that clear Openings for the free Passage of Fish as in the said recited Acts provided can be made in the Pouches and Traps thereof; and if any Person shall offend by placing, erecting, maintaining, or using any Weir, Net, Leader, Engine, or Work in any Manner hereby prohibited, or neglect to construct the same in the Mode required by the Provisions contained in the said Acts, he shall for every such Offence forfeit a Sum not exceeding Ten Pounds nor less than One Pound.

Nets for taking Salmon not to be used at the Mouths of narrow Rivers, nor to be stretched across the Mouths or any other Parts of Rivers.

XLIV. And be it enacted, That it shall not be lawful for any Person, save and except the Owner of a Several Fishery within the Limits thereof, at any Time to shoot, draw, or use any Net for taking Salmon at the Mouth of any River, where the Breadth of such Mouth between the Banks thereof shall not exceed a Quarter of a Mile Statute Measure; and that it shall not be lawful for any Person, save such Owner as aforesaid, within such Limits as aforesaid, to shoot, draw, or use any Net for taking Salmon within Half a Mile Seaward, or Half a Mile Inwards, or along the Coast from the Mouth of any River, such Mouth to be defined, ascertained, and mapped, in case of Dispute, by the said Commissioners; and that it shall not be lawful for any Person, save and except the Owner of a Several Fishery in the whole of a River and its Tributaries, within the Limits of such Several Fishery, to shoot, draw, stretch, or use Nets at the Mouth or any other Part of any River in such wise as, in the Judgment of the Commissioners, to be injurious or detrimental to the free Passage of Fish, and which they shall have prohibited by some Bye Law duly published as the Law directs; and if any Person shall offend by shooting, drawing, stretching, or using any Net in any Place or Manner hereby prohibited, he shall for every such Offence forfeit a Sum not exceeding Ten Pounds nor less than One Pound, and also the further Penalty of Five Shillings for every Fish taken by means of such Net in such Place and Manner so prohibited as aforesaid; and such Net shall also be forfeited.

Close Season for Trout Fishing.

XLV. And be it enacted, That no Person shall kill, take, or destroy, in any Lakes or Rivers, any Trout, between the Twenty-ninth Day of *September* in any Year and the last Day of *February* in the Year following, nor shall any fixed Crib, Cruive, Box, or other Device, nor any Haul, Draw, or other Net of any Description, for the catching of such Trout, be used in any Lake or River frequented by Salmon, between the First and Twenty-ninth Day of *September* in any Year, or at such Periods as may be or may have been fixed for certain Lakes and Rivers by the said Commissioners in respect of Salmon Fishing, under the Powers in the said recited Acts contained.

Penalties for not opening or removing Cribs, &c. in Weekly Close Time.

XLVI. And be it enacted, That any Person occupying or using any Crib, Box, Cruive, Stake, Flood, Ebb, or Head Weir, Stake, Bag, or other fixed Net, Basket, or other Engines for catching Fish, and failing to remove or open the same as required by the said Act of the Sixth Year of Her Majesty, and any Person using any Means, Device, or Contrivance to prevent the free Passage through such Box, Cruive, or Engine, or in any way or by any Means wilfully frightening or scaring, or attempting to frighten or scare, any Salmon or other Fish from passing through such Box, Crib, Cruive, Pouch, Trap, Eye, Sluice, Gap, or other Engine, or taking therein any Salmon between Six of the Clock on *Saturday* Evening and Six of the Clock on *Monday* Morning, or between the Low Waters next in point of Time to those Periods respectively, as the Case may be, shall for every such Offence forfeit and pay a Sum not less than Ten Pounds and not exceeding Fifty Pounds: Provided always, that nothing herein contained shall be construed to render liable to any Penalty any Person who shall be able satisfactorily to prove that he was prevented by Floods, Storm, or

Stress of Weather from removing such Leaders or making such Openings as aforesaid, during the Continuance of such Prevention, but no longer.

Offences committed in Rivers, &c. forming Boundaries of Two Districts of Petty Sessions may be tried before Justice of either District.

XLVII. 'And whereas it is enacted in the before-recited Act of the Sixth Year of Her 'present Majesty, that where any of the Offences mentioned in that Act shall be committed 'in or upon any Lakes, Rivers, or Streams forming the Boundaries or Mearing Lines 'between any Two Counties, Districts of Quarter Sessions, or Districts of Petty Sessions, 'such Offence shall and may be prosecuted before any Justice or Justices of the Peace in 'either of such Counties or Districts, and may be alleged and stated to have been com-'mitted therein; and Doubts have arisen as to the Meaning of the said Clause:' Be it enacted, That where any of the Offences mentioned in this or any of the said recited Acts shall be committed in or upon any Lakes, Rivers, or Streams forming the Boundaries or Mearing Lines between any Two Districts of Petty Sessions, such Offence shall be prosecuted before any Justice or Justices of the Peace in either of such Districts, and in no other, and may be alleged and stated to have been committed therein, anything in the said Acts to the contrary notwithstanding.

Recovery of Expenses.

XLVIII. And be it enacted, That wheresoever, under the Provisions of this Act or the said recited Acts, any Justice or Justices of the Peace or the said Commissioners or Conservators are authorized or empowered or required to execute any Work, or remove or alter any Weir or other Erection, or to do any Matter or Thing, at the Expense of any Offender, such Justice or Justices, or Commissioners or Conservators, as the Case may be, shall ascertain the Amount of such Expenses, and direct Payment thereof to be made by such Offender to such Person as he or they may think fit, and it shall be lawful for such Person to sue for and recover the same by Civil Bill or by Action or Suit in any of the Superior Courts in *Dublin;* and a Certificate in Writing under the Hand or Hands of such Justice or Justices, or Commissioners or Conservators, as the Case may be, shall be conclusive Evidence of the Amount of such Expenses, and of the Liability of the Party therein named to pay the same, and of the Right of the Person thereby authorized to sue for and recover the same.

The Mode in which Penalties are to be levied.

XLIX. And be it enacted, That all Penalties directed to be enforced against any Person or Persons offending contrary to the Provisions of this Act or the said recited Acts shall be levied by the same Persons and in the same Manner as all Fines and Penalties may by Law be levied, or by the Officers and Men of the Coast Guard Service or of the Constabulary Force.

Form of Conviction.

L. And be it enacted, That the Justice or Justices before whom any Person shall be convicted of any Offence against this Act or of any of the said recited Acts shall cause the Conviction to be drawn up in the following Form of Words, or in any other Form of Words to the same Effect; (that is to say,)

'BE it remembered, That on the Day of in the Year of our 'Lord at in the County of [*or* City, Town, 'or Place, *as the Case may be,*] *A.O.* is, upon the Complaint of *G.H.*, convicted before me '*J.P.*, One of Her Majesty's Justices [*or* before us *C.D.* and *E.F.*, Justices] of the Peace 'for the said County of in pursuance of an Act made in the 'Year of the Reign of Her Majesty Queen Victoria, intituled [*here insert the Title of the 'Act*], for that the said *A.O.* [*here state the Offence, and the Time and Place when and where 'the same was committed*]; and I [*or* we] do hereby adjudge him to pay and forfeit for the 'said Offence the Sum of of lawful Money of Great Britain, together with 'the further Sum of for Costs of Suit and Prosecution of the said *G.H.*; '[*and in case any Nets or other Engines are to be forfeited*] I [*or* we] do hereby further 'adjudge that the Nets or other Engines, *et cetera* [*describing the same*], be and the same 'are hereby forfeited. Given under my Hand and Seal, [*or* our Hands and Seals, *as the 'Case may be,*] at in the County of the Day and Year 'above written.'

Which said Conviction and Adjudication shall be good and valid in Law to all Intents and Purposes, and shall not be quashed, set aside, or adjudged void or insufficient for Want of Form only, and shall not be liable to be removed by Certiorari or otherwise into Her Majesty's

Majesty's Court of Queen's Bench or any other of Her Majesty's Courts of Record at *Dublin*, but shall be deemed and taken to be final to all Intents and Purposes whatsoever, unless the same shall be reversed on Appeal as herein-after provided: Provided always, that no Person shall be convicted of any Offence committed against the Provisions of this Act unless the Prosecution for the same shall be commenced within Six Calendar Months from the Time of the Commission of such Offence.

Appeal from Convictions to Judges of Assize.

LI. And be it enacted, That in all Cases where any Person has any Right of Appeal against any Judgment, Order, Proceeding, or Conviction for placing, erecting, maintaining, or using any fixed Net, Weir, or Engine, or any Part thereof, whereby such Person is aggrieved, such Appeal shall (subject to the specific Provisions herein-before contained) be to the next going Judges of Assize at the Assizes to be held for the County or for the City or Place where such Judgment, Order, Proceeding, or Conviction shall have been given, had, or made, or such alleged Offence shall have been committed, provided that such Assizes shall be held at any Time not less than Twenty-one Days after the Time such Judgment, Order, Proceeding, or Conviction shall have been given, had, or made; and in case such Assizes shall be held within Twenty-one Days from the Time of such Judgment, Order, Proceeding, or Conviction, such Appeal shall be to the going Judges of Assize for the Assizes to be holden next but One after such Judgment, Order, Proceeding, or Conviction in such Division of the County, City, or Place as aforesaid, and that no such Appeal shall be allowed, received, heard, or determined unless the Party appealing shall within Ten Days next after, or, if the Court appealed from shall think right so to require it, immediately on the pronouncing, having, or making of such Judgment, Order, Proceeding, or Conviction, enter into a Recognizance, with Two sufficient Sureties, before such Court, or before any Magistrate of such County, City, or Place, in a Sum not less than Fifty Pounds, conditioned personally to appear at the said Assizes to try such Appeal, and abide the Judgment of the said Judges there, and to pay such Costs and Expenses as the said Judges at the said Assizes may award against him.

Form of Dismissal.

LII. And be it enacted, That in case any Justice or Justices of the Peace shall dismiss any Complaint made under the Authority of this Act or of the said recited Acts, or any of them, such Dismissal shall be drawn up and signed by such Justice or Justices in the Form following; (that is to say,)

'BE it remembered, That on the Day of in the Year of our Lord C. D. of was charged before me [*or* us] on the Complaint of A. B. of for that the said C. D. did [*here state the Offence charged, and the Time and Place when and where the same was committed*], contrary to the Provisions of an Act, intituled [*here insert the Title of the Act*]; and it appearing to me [*or* us] that the said C. D. is not guilty of such Offence so charged against him as aforesaid by the said A. B., we therefore do adjudge that the said Complaint be and the same is hereby dismissed. Given under my Hand and Seal [*or* our Hands and Seals, *as the Case may be*], at in the County of the Day and Year first above written.'

Appeal against Dismissal.

And if any Person prosecuting shall feel aggrieved by such Order of Dismissal it shall and may be lawful for such Person to appeal to such Judges of Assize as herein-before directed with regard to Appeals from any Conviction, upon giving the like Notice as herein-before prescribed, and entering into a Recognizance, with Two sufficient Sureties, before any Magistrate, in any Sum not less than Ten Pounds, conditioned for the Payment of all such Costs and Expenses as shall be adjudged against him on the Hearing of such Appeal.

Proceedings on Appeal.

LIII. And be it enacted, That it shall and may be lawful for the Judges of Assize assembled at any such Assizes as aforesaid to rehear the Subject Matter of such Conviction or Order of Dismissal as last aforesaid, and either affirm or reverse the same, or impose or increase or reduce any Penalty which may have been adjudged, such Imposition or Increase nevertheless not to amount to a greater Sum nor such Reduction to be to a smaller Sum than by this Act or the said recited Acts is directed; and in case such Conviction shall be affirmed it shall be lawful for such Judges to award such Costs and Expenses to the Prosecutor, and any Witnesses who may be examined in support of such Prosecution, as they may think

think reasonable; and in case the Party appealing from any such Order of Dismissal as aforesaid shall not appear at such Assizes as aforesaid to prosecute the same, such Order of Dismissal shall be affirmed; and it shall be lawful for the said Judges to award to the Person accused such Costs and Expenses of Witnesses as they may think reasonable; and in case any Appellant or Respondent on any such Appeal shall not pay any Costs or Expenses which may be so awarded against him his Recognizances shall be estreated.

Courts may award Costs.

LIV. And be it enacted, That it shall be lawful for the Commissioners, Judges of Assize, Justices of the Peace, or any of the Courts in this Act or in the said recited Acts mentioned, where any Complaint, Suit, Action, or Indictment shall have been heard or tried and determined before them respectively under this Act or the said recited Acts, to order that the Costs, Charges, and Expenses of and incident to such Complaint, Suit, Action, or Indictment, and the Proceedings therein, and the Hearing or Trial and Determination thereof, shall follow the Event of the same respectively, and be borne and paid, by the Party against whom the same shall have been determined, and that such Costs, Charges, and Expenses shall be estimated, either as between Party and Party or as between Attorney and Client, at the Discretion of such Commissioners, Judges, Justices, or Courts respectively; which Costs, Charges, and Expenses, being so ordered as aforesaid, shall be recovered against the Party therewith charged in the same Manner as is herein-before specifically provided with respect to Costs in certain Cases.

Recited Acts to be read with this Act.

LV. And be it enacted, That this Act and the said recited Acts shall for the Purposes thereof respectively be read and construed together as One Act, and the said recited Acts shall remain in full Force and Effect, except where the Provisions thereof are repealed or altered by this Act or are repugnant thereto.

Saving Rights of the Crown.

LVI. Provided always, and be it enacted, That nothing contained in this Act or in any of the Acts recited or referred to shall extend or be construed to extend to alienate, defeat, lessen, abridge, or derogate from, or in any Manner affect, any Estate, Right, Title, Interest, Franchise, Royalty, Prerogative, or Jurisdiction vested in or appertaining to the Queen's most Excellent Majesty, Her Heirs or Successors, in Right of Her Crown, or otherwise howsoever.

Act may be amended, &c.

LVII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

CAP. LXXXIX.

An Act to regulate the Proceedings in the High Court of Chancery in *Ireland*.
[14th *August* 1850.]

'WHEREAS it is expedient to regulate the Proceedings in the High Court of Chancery in *Ireland*, and otherwise to improve the Procedure of the said Court:' Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That in any Case in which a Suit might be instituted in Her Majesty's High Court of Chancery in *Ireland* by way of Bill or Information, it shall be lawful for any Person who would have been entitled to file such Bill or Information to apply to the said Court by Petition for the Relief which might have been prayed for by any such Bill or Information; and Service of Notice of such Petition shall be made, as herein-after provided, upon such Persons as the Petitioner thinks fit, but with Power to the Court from Time to Time to direct any further Service of the same; and Service of such Notice being made, the Person so served shall from the Time of such Service become a Party to such Proceeding, and be bound thereby in all respects, in the same Manner as if a Bill or Information had been filed and such Person had appeared to a Subpœna to appear and answer.

Suits may be instituted in the Court of Chancery in Ireland by Petition in all Cases.

II. And