CAP. CXIV.

An Act to amend the Laws relating to Fisheries in *Ireland*. [28th *July* 1863.]

'WHEREAS it is expedient to make further Provisions for carrying into effect the 'Law relating to the Salmon Fisheries in *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, as follows:

Preliminary.

Short Title.

1. This Act may be cited for all Purposes as "The Salmon Fishery (*Ireland*) Act, 1863."

Application of Act.

2. This Act shall not apply to *England* or *Scotland*.

Regulations as to fixed Engines.

Prohibition of Bag Nets in certain Places.

3. After the passing of this Act no Bag Net shall be placed or allowed to continue in any River or the Estuary of any River, as such River or Estuary has been defined by the Commissioners of Fisheries or shall be defined by the Commissioners under this Act, or within a Distance of less than Three Statute Miles from the Mouth of any River as defined as aforesaid.

Any Bag Net placed or continued in contravention of this Section shall be deemed to be a common Nuisance, and may be taken possession of or destroyed; and any Bag Net so placed or continued, and any Salmon taken by such Bag Net, shall be forfeited, and, in addition thereto, the Owner of a Bag Net placed or continued in contravention of this Section shall, for each Day of so placing or allowing the same to be continued, incur a Penalty of not less than Five Pounds and not exceeding Twenty Pounds.

But no Person shall incur any Penalty under this Section in respect of any Bag Net if he removes the same within Fourteen Days after the passing of this Act: Provided always, that no Bag Net now legally existing shall be liable to be abated or removed, or be deemed illegal under this Act, by reason of its being within Three Miles of the Mouth of a River in the whole of which, including all tributary Rivers and Lakes upon its Course, the Proprietor of such Bag Net has the exclusive Right of catching Salmon.

Penalty on new fixed Nets.

4. No fixed Net that was not legally erected for catching Salmon or Trout during the open Season of One thousand eight hundred and sixty-two shall be placed or used for catching Salmon or Trout in any inland or tidal Waters.

Any Net placed or used in contravention of this Section shall be deemed to be a common Nuisance, and may be taken possession of or destroyed; and any Net so placed or used, and any Salmon taken by such Net, shall be forfeited; and, in addition thereto, the Owner of a Net placed or used in contravention of this Section shall, for each Day of so placing or using the same, incur a Penalty of not less than Five Pounds and not exceeding Twenty Pounds.

Commissioners to inquire as to fixed Nets.

5. Subject to such Appeal as is herein-after mentioned, the Special Commissioners appointed under this Act, herein-after referred to as the Commissioners, shall abate and remove all fixed Nets erected or used for catching Salmon or Trout in *Ireland* that are in their Judgment injurious to Navigation, and shall inquire into the Legality of, and if satisfied of their Illegality remove, all such other fixed Nets erected or used as aforesaid as are in contravention of any Act of Parliament or Law in force in *Ireland*.

Certificate as to certain fixed Nets.

6. Where any fixed Net, other than a Bag Net prohibited by this Act, is in use at the Time of the passing of this Act, and any Person claims to have erected the same in pursuance of the Act of the Session of the Fifth and Sixth Years of the Reign of Her present Majesty, Chapter One hundred and six, the Commissioners may, on Proof being given to their Satisfaction that such fixed Net has been erected in pursuance of the said Provisions, certify to that Effect, stating in the Certificate the Situation, Size, and Description of the Net, and the Person who has the Right to erect the same, in pursuance of

of such last-mentioned Provisions. A Certificate given in pursuance of this Notice shall be deemed to be an Order of the Commissioners, and to be subject to Appeal as such. If unappealed from, or as confirmed or amended on Appeal, such Certificate shall be conclusive Evidence that the Person therein named is the Person specified in the said Act as entitled to exercise the Right therein given, but it shall not render any Net legal that would be otherwise illegal by reason of its being injurious to Navigation, a common Nuisance to the public Right of fishing, or otherwise in violation of Common Law or any Act of Parliament.

Commissioners to inquire as to Fishing Weirs.

7. Subject to such Appeal as is herein-after mentioned, the Commissioners shall inquire into the Legality of all Fishing Weirs throughout *Ireland*, and shall remove such as are in contravention of any Act of Parliament or Law in force in *Ireland*, with this Qualification, that where a Fishing Weir is illegal only by reason of its not having a Free Gap, as required by Law, this Section shall not empower the Commissioners to remove such Fishing Weir, if an Undertaking be entered into to the Satisfaction of the Commissioners, by the Owner or other Person interested in such Weir, to make a legal Free Gap therein within a Time to be prescribed by the Commissioners, and a Free Gap is made accordingly.

Persons unlawfully erecting or keeping up any Fishing Weir upon a River after Notice to forfeit 50*l.*, with Costs of Suit.

8. If any Person has unlawfully erected or kept up, or shall unlawfully erect or keep up, any Fishing Weir upon any River, and a Notice shall be served in Writing upon the Proprietor or Occupier of such Weir, or his known Agent, by the Owner or Occupier of any Grounds on the Banks of such River on which such Weir has been or shall be erected, requiring him to prostrate or open the same within the Space of Thirty Days from the Service of such Notice, if such Proprietor or Occupier of such Weir shall not within that Time abate or prostrate the same, he shall forfeit a Sum of Fifty Pounds, together with Costs of Suit, to be recovered by Action of Debt in any of Her Majesty's Courts of Record, one Moiety thereof to be to the Use of the Person who shall sue for the same, and the other to the Use of the Conservators of the District in which such Weir has been or shall be unlawfully erected or kept up; and the said Court shall adjudge such Weir to be abated at the Expense of the Defendant in such Action: Provided always, that nothing in this Section contained shall restrict the Powers by this Act given to the Commissioners.

As to Construction of Free Gaps.

9. In every Fishing Weir there shall be a Free Gap or Opening in accordance with the Regulations following, under the Powers of this Act; (that is to say,)

(1.) The Free Gap shall be situate in the deepest Part of the Stream:

(2.) The Sides of the Gap shall be in a Line with and parallel to the Direction of the Stream at the Weir:

(3.) The Bottom of the Gap shall be level with the natural Bed of the Stream above and below the Gap:

(4.) The Width of the Gap in its narrowest Part shall be not less than One Tenth Part of the Width of the Stream: Provided always, that such Gap shall not be required to be wider than Fifty Feet, and shall not in any Case be narrower than Three Feet; and provided also, that no existing Gap in any Weir shall be reduced in Width, or a Gap of less Width substituted in lieu thereof, or any Alteration made therein so as to reduce the Flow of Water through such Gap:

Provided always, that no Person shall be entitled to any Compensation by reason of the enforcing of any Free Gap in any Weir, anything to the contrary in any Act notwithstanding.

As to Construction of Boxes and Cribs in Fishing Weirs and Fishing Milldams.

10. The following Rules shall be observed in relation to the Construction of Boxes and Cribs in Fishing Weirs and Fishing Milldams; (that is to say,)

(1.) The upper Surface of the Sill shall be level with the Bed of the River:

(2.) The Bars or Inscales of the Heck or upstream Side of the Box or Crib shall not be nearer each other than Two Inches, and shall be capable of being removed, and shall be placed perpendicularly: The Boxes, Cribs, or Cruives shall not be built over, or in any other Manner hidden from public Inspection:

And the Owner of any Fishing Weir or Fishing Milldam that has attached thereto any Box or Crib in contravention of this Act shall bring the same into conformity with this Act within Six Months after the Commencement of this Act; and he shall incur a Penalty not

not less that Five Pounds and not exceeding Twenty Pounds for every Day after the Expiration of such Period of Six Months during which he fails to comply with the Provisions of this Section; and any Owner failing so to maintain the same shall incur a Penalty not less than One Pound and not exceeding Five Pounds for every Day during which such Failure continues.

Extension of Weekly Close Time when inexpedient to make a Free Gap.

11. In any Case where the Breadth of the River where any Chartered or Patent Fishing Weir now exists shall not exceed Forty Feet, and it might be inexpedient to require a Free Gap to be made therein, the Commissioners may, if they think fit, instead thereof, direct by their Order the Extension of the Weekly Close Time for a Period of Twenty-four Hours.

Rules for enforcing Free Gaps in Fishing Weirs.

12. The following Rules shall be observed for the Purpose of enforcing efficient Free Gaps in Fishing Weirs; (that is to say,)

(1.) Where a Weir is without a legal Free Gap at the Time of the Commencement of this Act, the Owner of such Weir shall within Twelve Months after the Commencement of this Act make such a Gap, and if he does not he shall incur a Penalty not less than Five Pounds and not exceeding Fifty Pounds for every Day after the Expiration of such Period of Twelve Months during which he does not make such Gap:

(2.) Where a Free Gap has been made in a Weir, but the same is not maintained in accordance with this Act, the Owner of such Weir shall incur a Penalty not exceeding Five Pounds a Day for each Day he is in default:

(3.) No Alteration shall be made in the Bed of any River in such Manner as to reduce the Flow of Water through a Free Gap: If it is, the Person making the same shall incur a Penalty not less than Five Pounds and not exceeding Fifty Pounds, and a further Penalty of One Pound a Day until he restores the Bed of the River to its original State:

(4.) No Person shall place any Obstruction, use any Contrivance, or do any Act whereby Fish may be scared, deterred, or in any way prevented from freely entering and passing up and down a Free Gap at all Periods of the Year, or shall use any Nets or other Engines within Fifty Yards above or below any Free Gap; and any Person placing any Obstruction, using any Contrivance, Net, or Engine, or doing any Act in contravention of the Regulation lastly herein-before contained, shall incur a Penalty not less than Five Pounds and not exceeding Twenty Pounds for the First Offence, and not less than Ten Pounds and not exceeding Fifty Pounds for each subsequent Offence.

Proceedings for Abatement of illegal Nets and Weirs.

13. Before removing any illegal fixed Net or illegal Fishing Weir, the Commissioners shall take the same Proceedings as to summoning the Parties interested in such Net or Weir, and as to hearing such Parties, and any Evidence they may produce, as the Commissioners under the Salmon Fisheries Acts are thereby required to take where any Parties complain of the erecting, maintaining, or using any fixed Engine; and a Summons issued by the Commissioners shall, in respect of the Proceedings to be taken by the Commissioners, be deemed to be equivalent to a Complaint made under the said Section.

Appeal from Decision of Special Commissioners.

14. If any Person feels aggrieved with any Decision of the Commissioners (and for the Purposes of an Appeal a Dismissal of a Complaint shall be deemed to be a Decision), the Person aggrieved may appeal as follows, and not in manner provided by the Salmon Fisheries Acts; that is to say,

1. The Appeal shall be to the Court of Queen's Bench in *Ireland*.
2. The Appeal shall be by Special Case stating the Facts and the Grounds for the Decision.
3. The Special Case shall be settled by the Commissioners upon the Application of the Appellant to be made in Writing within Seven Days after the Delivery of the Decision, and not afterwards.
4. The Application for a Case shall not be entertained by the Commissioners unless the Appellant at the Time of making the same enter into a Recognizance before the said Commissioners or a Justice of the Peace, with or without Sureties, and in such Sum

Sum as the Commissioners or the Justice think fit, conditioned to prosecute without Delay the Appeal, and to submit to the Judgment of the Court of Queen's Bench, and to pay such Costs as may be awarded.

5. The Special Case shall be signed by the Commissioners, and shall be delivered to the Appellant by the Commissioners on Payment by him of such Fees as are herein-after mentioned.

6. On the Receipt of the Special Case the Appellant shall within Three Days serve a Copy on the other Party to the Proceedings, and transmit by Post or otherwise the original Case to the proper Officer of the Court of Queen's Bench in *Ireland*.

7. The Fees to be charged in respect of the Preparation of the Special Case shall be the same Fees as are chargeable for the Preparation of a Special Case by the Act passed in the Session of the Twentieth and Twenty-first Years of the Reign of Her present Majesty, Chapter Forty-three, intituled *An Act to improve the Administration of the Law, so far as respects summary Proceedings before Justices of the Peace*, and herein-after referred to as "The Summary Jurisdiction Act."

8. The Commissioners may refuse to state a Case when they are of opinion that the Application is frivolous, but if they so refuse they shall, on the Request of the Appellant, give him a Certificate stating the Ground of their Refusal.

9. When a Party gives in good Faith Notice of an Appeal under this Section, but omits through Mistake to do some Act necessary to perfect the Appeal, the Appellate Court may permit an Amendment on such Terms as it thinks just.

10. After the Decision of the Court of Queen's Bench has been given on a Case stated as aforesaid, the Commissioners shall have the same Powers to enforce that Decision, when affirmed or amended, as they would have had to have enforced their original Decision if it had not been appealed from.

11. Save as herein-before varied, the Provisions of the Summary Jurisdiction Act as to the Powers of the Superior Court, as to directing a Special Case to be stated, as to the enforcing of Recognizances, and as to all other Matters, shall apply to an Appeal under this Section in the same Manner as if the Words "Justice or Justices" in the said Summary Jurisdiction Act included "the Special Commissioners appointed under this Act."

12. Any Act required by this Section to be done by the Commissioners may be done by Two of them, of whom the Barrister herein-after mentioned shall be One.

13. The Decision of the Court of Queen's Bench in respect of any Case brought before them under this Section shall, unless the Court otherwise directs, be final.

Transfer of Powers to new Commissioners.

15. All Powers, Rights, Privileges, and Jurisdictions vested in or exercised by the Commissioners of Public Works and the Inspecting Commissioners of Fisheries, or any of them, by any Act relating to Salmon Fisheries, with the Exception of the Powers relating to Oysters and White Sea Fish, shall be transferred to and vest in the Commissioners appointed under this Act during their Continuance in Office, and may be exercised by them.

Miscellaneous.

Fishing with Nets near Milldam.

16. Notwithstanding anything contained in the said Salmon Fisheries Acts, it shall not be lawful for any Person or Persons, although lawfully possessed of a Several Fishery for Twenty Years next before the passing of the Act of the Session of the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, Chapter Eighty-eight, to use any Box, Cribb, Cruive, Net, Instrument, or Device for taking Fish (save and except Rods and Lines only) at or within Fifty Yards, either above or below a Milldam, unless there is attached to such Milldam a Fish-pass of such Form and Dimensions as may be approved of by the Commissioners, nor unless such Fish-pass has constantly running through it such a Flow of Water as will enable Salmon to pass up and down it; any Person offending against this Clause shall for each Offence incur a Penalty of not less than Five Pounds and not exceeding Twenty Pounds, recoverable by any One who will sue for the same.

Power to define Estuaries and Mouths of Rivers.

17. Notwithstanding anything contained in the Salmon Fisheries Acts, or any Definition of the Commissioners acting in pursuance of those Acts, the Commissioners under this Act shall

shall mark out, by Reference to Maps or otherwise, what are to be the Boundaries of Mouths of Rivers and Estuaries, and the Boundaries between the Tidal and Fresh Water Portions of every River, for the Purposes of this Act and the said Salmon Fisheries Acts, with Power where several Streams flow into a common Mouth or Estuary to declare that the Outlets of such Streams form separate Mouths or Estuaries. The Commissioners may also define the Point or Points of Mouths of Rivers or Estuaries from which Distances are to be measured under this Act and the Salmon Fisheries Acts.

Forfeiture of Boat in illegal Fishing.

18. If it be proved to the Satisfaction of the Justices that any Boat, Cot, or Curragh found on or near Waters frequented by Salmon or Trout has been used for the Capture of Salmon or Trout during any Part of the Annual or Weekly Close Time, the Person or Persons who shall be proved to have used such Boat, Cot, or Curragh for the Capture of Salmon or Trout during the Annual or Weekly Close Time shall for the First Offence be subject to a Penalty not exceeding Five Pounds, and for the Second or any subsequent Offence, in addition to the foregoing Penalty, the Boat, Cot, or Curragh so used may be seized and forfeited; but this Section, so far as relates to the Forfeiture of the Boat, Cot, or Curragh, shall not come into operation where a Boat is used by some Person other than the Owner thereof, and the Owner proves to the Satisfaction of the Justices that it was so used without his Knowledge or Consent.

Declaration as to Meaning of certain Terms.

19. It is hereby declared, That for the Purposes of the said Salmon Fisheries Acts and of this Act "Jenkin" and "Gravelling" are deemed to be "Salmon," and "Spring Tides" mean "ordinary Spring Tides."

Weekly Close Season.

20. There shall be repealed so much of the said Salmon Fisheries Acts as provides that it shall not be lawful to take or kill any Salmon or Trout 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, and the said Acts shall be construed as if it had been enacted therein that no Salmon or Trout shall be fished for or taken in any way, except by Single Rod and Line, between Six of the Clock on *Saturday* Morning and Six of the Clock on the succeeding *Monday* Morning; and all Penalties imposed by the said Salmon Fisheries Acts, and the Provisions made for enforcing the Prohibition contained in the said Acts, and providing for the free Passage of Salmon and Trout during the Times therein in that Behalf mentioned, shall apply accordingly, with this Addition, that any Net or other Instrument, or the Inscales or Gates and Rails of any Cribb, Box, or Cruive used between the Times aforesaid shall be forfeited, and also that when any Salmon or Trout is taken at any Fishing Weir during the Weekly Close Season in contravention of this Act and the said Salmon Fisheries Acts, or when any Box, Crib, or Cruive is during the Weekly Close Season left unopened or otherwise left not in conformity with the said Acts, the Penalty in that Behalf imposed by the said Acts shall be payable in respect of each Box, Crib, or Cruive in the Weir in which any Fish is so illegally taken, or which is left as aforesaid unopened or not in conformity with the said Acts.

Alteration of Annual Close Time.

21. There shall be repealed so much of the Thirty-third Section of the Act of the Session of the Fifth and Sixth Years of the Reign of Her present Majesty, Chapter One hundred and six, as provides that the Annual Close Season, or Period during which it shall not be lawful to take Salmon, shall not comprise fewer than One hundred and twenty-four Days in each Year; and in lieu thereof be it enacted, That such Annual Close Season or Period during which it shall not be lawful to take Salmon shall not comprise fewer than One hundred and sixty-eight Days in each Year; and until an Alteration is made by the Commissioners in pursuance of the Powers given to them by the Salmon Fisheries Acts and this Act, there shall be added at the End of the Close Time now established for each Fishery such Number of Days, if any, as may be required to make the Number of Close Days constituting the Annual Close Time in that Fishery amount to One hundred and sixty-eight Days.

Exception of Salmon or Trout caught or kept for certain Purposes.

22. Nothing in this Act contained shall apply to any Person who shall catch or attempt to catch, or shall have in his Possession, any Salmon or Trout for the Purposes of artificial Propagation or other scientific Purposes; and nothing in this Act contained shall prejudice the legal Right of any Owner to take Materials from any Stream.

23. Nothing

23. Nothing in this Act shall be construed to affect angling with single Rod and Line, the Close Season for which shall be from the First Day of *November* in each Year to the First Day of *February* in the Year following. Season for angling with single Rod and Line.

24. From and after the passing of this Act, it shall not be lawful for any Person to use any Net, except a Landing Net, for the Capture of Salmon or Trout in the Fresh-water Portion of any River, as defined by the Commissioners under this Act, between the Hours of Eight o'Clock in the Evening and Six o'Clock in the Morning, except so far as the same may have heretofore been used within the Limits of a Several Fishery next above the tidal Flow, and held under Grant or Charter, or by immemorial Usage; and every Person offending against the Provisions of this Section shall be subject to a Penalty not exceeding Ten Pounds, and to the Forfeiture of all Boats, Nets, and Gear used in such illegal Fishing. As to Use of Salmon Nets during certain Hours in Rivers.

25. No Person shall in any Manner whatever scare, impede, or obstruct the free Passage of Salmon or Trout during the Weekly Close Season; and any Person acting in contravention of this Section shall forfeit any Fish taken by him, and any Net or Instrument used by him, and in addition thereto shall incur a Penalty not less than Two Pounds and not exceeding Ten Pounds; but this Section shall not apply to any Person who takes Fish legally by the single Rod and Line during the Weekly Close Season. As to scaring or obstructing the free Passage of Salmon or Trout during Weekly Close Season.

26. The Salmon Fisheries Acts shall be construed as if in the Schedule annexed to the Act of the Eleventh and Twelfth Years of the Reign of Her present Majesty, Chapter Ninety-two, so far as relates to fixed Engines, there had been inserted instead of the Duties therein mentioned the Duties following; (that is to say,) Additional Licence Duties on fixed Engines.

	£
Bag Nets - - - - - - -	10
Stake Nets, Fly Nets, or Stake Weirs (*Scotch*) - -	30
Head Weirs - - - - - -	6
For every Box, Crib, Cruive, or Drum Net in any Weir for taking Salmon or Trout - - - - -	10

and the Boards of Conservators shall not have Authority to reduce or diminish the same, anything in the said Act or any other Act to the contrary notwithstanding.

27. Magistrates paying Licence Duty, and being Owners of Land abutting on Rivers or Lakes in any District, may act and vote as *ex officio* Members of any Board of Conservators elected for any such District. Magistrates paying Duty to be ex officio Members of Board.

28. On the First *Monday* in the Month of *October* in the Year One thousand eight hundred and sixty-four all existing Boards of Conservators shall cease, and new Boards shall be elected. New Elections of Conservators.

29. No Person shall be eligible for the Office of Conservator in any Electoral Division in which he does not reside or possess Real Property. Residence or Qualification of Conservators.

30. Where a Turbine or similar Hydraulic Machine, which may be injurious to Salmon or the Young of Salmon in their Descent to the Sea, is supplied from a River frequented by Salmon, the Person owning or using such Machine shall, during the Time in which such Descent to the Sea takes place, provide Grating or other efficient Means to prevent such Salmon or Young of Salmon from passing into such Machine, and in case such Means be not provided such Person shall forfeit a Sum not exceeding Fifty Pounds, and also a Sum not exceeding Five Pounds for each Day during which such Injury to the Fry continues. As to Use of Hydraulic Machines.

31. All Salmon Passes and Fish Ladders shall be at all Times open to the Inspection of the Commissioners and the Conservators of the District, and of any Person duly authorized by them or any of them. Salmon Passes and Fish Ladders to be open to Inspection.

Appointment and Powers of Commissioners.

32. Her Majesty may by Warrant under the Royal Sign Manual appoint any Number of Persons not exceeding Three, of whom One shall be an Officer in the Naval Service of Her Appointment of Commissioners under Sign Manual.

Her Majesty, and another a Barrister of not less than Seven Years standing at the Bar, to be Commissioners under this Act during Her Majesty's Pleasure, and upon every Vacancy in the Office of any Commissioner by Death, Resignation, or Incapacity to act may appoint some other fit Person to fill the Vacancy: Provided always, that in the Case of a Vacancy by the Death, Resignation, or Incapacity of any Commissioner being such Officer or Barrister, the Person so to be appointed shall be of the same Profession as the Officer or Barrister in whose Place he shall be appointed.

Commissioners to have a Common Seal.

33. The Commissioners appointed under this Act shall be styled "The Special Commissioners for *Irish* Fisheries;" they shall cause to be made for their Commission such Seal or Seals as they may require; and any Summons, Order, Warrant, or other Instrument, or Copy thereof, purporting to be sealed with the Seal of the Commissioners, and to be signed as herein-after mentioned, shall be received in Evidence without any further Proof.

Commissioners not to sit in Parliament.

34. No Commissioner shall during his Continuance in Office be capable of being elected or of sitting as a Member of the House of Commons.

Acts of the Commissioners.

35. All Warrants for the Removal of any illegal Net or illegal Weir shall be signed by Two at least of the Commissioners, and all Cases relating to the Removal of such Nets or Weirs shall be heard by all the Commissioners, but the Opinions of Two of them shall, in case of Difference, decide any Question; any other Acts authorized to be done by the Commissioners may be done by any One of them, and any Summons under the Seal of the Commissioners, and signed by any Person delegated by them, shall be deemed to be sufficiently executed.

The Treasury to fix Salaries, &c. and appoint additional Officers.

36. The Commissioners of Her Majesty's Treasury may from Time to Time fix such Salaries as they may think fit for the Commissioners hereby appointed, and also appoint such additional Officers, Clerks, and Servants, at such Salaries as the said Commissioners of the Treasury may think proper and necessary, and from Time to Time dismiss such Officers, Clerks, and Servants, and appoint others in their Place.

Duration of Office of Commissioners.

37. The Offices of the said Commissioners, and all Powers, Rights, and Privileges pertaining thereto, shall continue in force for Two Years only, and from thenceforth until the End of the next Session of Parliament.

Powers of Commissioners.

38. The Commissioners may examine any Witnesses on Oath; and with respect to the following Matters, that is to say,

(1.) Enforcing the Attendance of Witnesses, and the Production of Deeds, Books, Papers, and Documents;

(2.) The enforcing any Order whatever made by them under any of the Powers or Authorities of this Act or the Salmon Fisheries Acts,

shall, in addition to any other Powers conferred on them by this Act, have all such Powers, Rights, and Privileges as the Judges of Her Majesty's Court of Queen's Bench in *Ireland* have for such or the like Purposes.

Penalty for false swearing.

39. Every Person who upon Examination before the Commissioners, or any One of them, wilfully gives false Evidence, and every Person who wilfully swears, affirms, or declares falsely in any Affidavit relating to any Matter within the Cognizance of the Commissioners, shall be liable to the Pains and Penalties of Perjury.

Proceedings before Commissioners not to be restrained by Injunction, &c.

40. The Commissioners shall not be subject to be restrained in the Execution of their Powers under this Act, nor shall any Person be restrained from making an Application under this Act to the Commissioners, by Order of any Court of Justice or by any other legal Process, nor shall the Commissioners be required by Writ of Mandamus or any Writ of a like Nature to do any Act or take any Proceeding under this Act, nor shall Proceedings before them be removable by Certiorari or other Writ of a like Nature.

Proceedings not to abate by Death, &c.

41. Proceedings before the Commissioners shall not abate or be suspended by any Death or Transmission or Change of Interest; but in any such Case of Death or Transmission or Change of Interest it shall be lawful for the Commissioners, when they see fit, to require Notices to be given to Persons becoming interested, or to make any Orders for continuing, suspending,

suspending, or carrying on the Proceedings, or otherwise in relation thereto, which to the Commissioners appears just.

42. On the Determination of the Office of the Special Commissioners, all Powers and Duties transferred to, vested in, or imposed on them by this Act shall be transferred to and vested in Two permanent Inspectors of Fisheries, to be appointed by and to be subject to the Control of the Lord Lieutenant of *Ireland*. Provision on Determination of Office of Special Commissioners.

Penalties, Saving Clause, &c.

43. It shall be lawful for the Court before which any Indictment or Information for any Offence against this Act, or for any Nuisance in Tidal or Inland Waters, shall have been preferred, heard, or tried and determined, to order that the Costs, Charges, and Expenses of and incident to such Indictment or Information, and the Proceedings therein, and the preferring, 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 Court. Courts may award Costs.

44. This Act, so far as is consistent with the Tenor thereof, shall be construed with the Acts relating to Salmon Fisheries in *Ireland*, and herein referred to as "The Salmon Fisheries Acts," and the Definitions of Words and Expressions now in force in the said Salmon Fisheries Acts shall apply to the same Words and Expressions when used in this Act, but so as to include "a Head Weir" under the Expression "fixed Net," and that "Fishing Milldam" shall mean a Dam used or intended to be used partly for the Purpose of catching or facilitating the catching of Fish, and partly for the Purpose of supplying Water for milling or other Purposes. Construction of Act.

45. All Penalties imposed by this Act shall be recovered and applied in manner in which Penalties under the said Salmon Fisheries Acts are recoverable and applicable. Recovery of Penalties.

46. Nothing in this Act contained shall render legal or be deemed to recognize as legal, or to confer, any Title on any Person in respect of any fixed Net or Fishing Weir that is in contravention of any Act of Parliament or of the Common Law in force in *Ireland*. Saving Clause.

47. Provided always, That nothing herein-before contained shall prevent any Person having any fixed Engine now in use, and in respect of which Licence Duty has been paid, from being allowed to continue to use the same during the Remainder of the present Season. As to fixed Engines now in use.

CAP. CXV.

An Act to explain the Act for the Amendment of the Law relative to gratuitous Trustees in *Scotland*. [28th *July* 1863.]

'WHEREAS an Act was passed in the Twenty-fourth and Twenty-fifth Years of the Reign of Her present Majesty, intituled *An Act to amend the Law in* Scotland *relative to the Resignation, Powers, and Liabilities of gratuitous Trustees:* And whereas Doubts have arisen as to the Trusts to which the recited Act applies:' 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, as follows: 24 & 25 Vict. c. 84.