

No. XXVI.

An Act for the better preservation of Fish in Inland Waters. [28th December, 1887.]

INLAND WATERS
FISHERIES.

WHEREAS it is expedient to prevent as far as possible the destruction of Fish in the Inland Waters of this Colony, although such fish may not be included in the definition of fish contained in the Act forty-fourth Victoria, number twenty-six ("The Fisheries Act, 1881"), hereinafter termed the Principal Act, and it is also expedient to make further provision for the protection of the fresh-water fishes specified in the First Schedule to the said Act. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (i) This Act may be cited as the "Inland Waters Fisheries Act of 1887," and shall be read with the Principal Act and with any Act amending the same, so far as any such Act applies to the inland waters of this Colony. Short title, &c.

(ii) In this Act the expression "inland waters" includes all rivers and creeks for that portion of their watercourse which is beyond the influence of the tides, also all fresh-water lakes, lagoons, and ponds. "Prescribed" means prescribed by regulations. "Regulations" means the regulations now or hereafter to be made under the Principal Act. "Fish" includes fish as defined by the said Act, and also fish not indigenous to this Colony which may be introduced or be in any inland waters. Interpretation.

2. (1) Every net when used for the purpose of catching or enclosing fish in inland waters shall be deemed to be an unlawful net, if the mesh of such net shall measure diagonally when prepared for use, wetted, and stretched, in accordance with the regulations, less than four inches in any part thereof, or if such net (whatever the size of the What nets unlawful when used in inland waters.

Inland Waters Fisheries.

the mesh) be staked, fixed, set, or hauled from bank to bank of any inland waters, and any person using any such unlawful net shall be liable to a penalty not exceeding five pounds.

As to bag nets, &c.

(II) If any person shall catch or attempt to catch fish in any inland waters by casting, hauling, or shooting any net (whatever the size of the mesh) of the description known as a bag net, or net of which the central portion is elongated in the form of a cod or purse he shall, for the first offence, be liable to a penalty not exceeding five pounds, and for a second or subsequent offence, to a penalty not exceeding twenty pounds, and any such net shall be deemed an unlawful net.

Forfeiture.

(III) The Justices may, in any case where an offender is convicted under this section, and shall, if such offender has been previously convicted of any offence under this Act, order all unlawful nets used by or found in the possession of such offender to be forfeited to Her Majesty.

Saving.

(IV) Nothing in this section contained shall apply to the owner of the soil or bed of any inland waters using or setting a net within such waters to capture fish for breeding purposes, or for stocking a fishery, or for his own consumption only.

Governor may close inland waters against net-fishing.

3. The Governor may from time to time if so advised by the Commissioners declare, by proclamation in the *Gazette* and in some newspaper circulating in the Police District within which the waters proclaimed are situated, that the whole or any defined portion of any inland waters shall be closed against the use of all fishing-nets for such term as the Governor shall think fit; but any such proclamation may be extended by the Governor, if advised as aforesaid, or may in like manner be rescinded at any time.

Penalty on net-fishing in closed waters.

4. (I) If any person, after the expiration of sixty days from the date of any such proclamation or extended proclamation, and during the currency thereof, shall cast, haul, stake, fix, or place any net of any kind whatever for the purpose of taking or capturing fish within the limits of the waters or area defined in such proclamation, such person shall be liable for the first offence to a penalty not exceeding ten pounds, and for the second or any subsequent offence, to a penalty not exceeding twenty pounds.

Forfeiture of fish, nets, &c.

(II) All fish taken in violation of the provisions of this section, together with all fishing-nets used for the purpose of taking the same, shall be forfeited to Her Majesty, and shall be disposed of in the prescribed manner.

Arrest of offenders.

(III) Any inspector, constable, or officer of Police may, with or without warrant, apprehend and take before one or more Justices any person found offending against the provisions of this section, to be dealt with according to law; and may in like manner seize every net unlawfully used by such person as well as all fish found in his possession.

Proclamation of close months in inland waters.

5. The Governor, on the recommendation of the Commissioners, may, by proclamation in the *Gazette*, declare that any inland waters therein specified, shall be exempted from net-fishing from the first day of October to the thirty-first day of January in every year. The months during which such waters are so exempt from net-fishing, shall be designated "Close months." And if any person shall, during any close-month, place, shoot, cast, or haul any fishing-net whatever, or stake, fix, or set any such net for the purpose of catching, taking, or enclosing any fish in any such waters, or in such manner that fish in such waters might be caught or taken thereby, such person shall be liable to a penalty not exceeding fifty pounds. And every person aiding or assisting in the shooting or casting of any such net, or being in any boat from which any such net shall be shot or cast, in contravention of

the

Consolidated Revenue Fund (No. 2).

the provisions of this section, shall incur a like penalty. Provided always that it shall be lawful for the Governor, on the like recommendation, and in like manner, to rescind or vary any such proclamation.

6. In order that carp and tench may be within the protection of the Principal Act such fish shall be added to the list of fresh-water fishes in the First and Second Schedules to the said Act, and shall be subject to all the provisions of the said Act, as amended by this Act, which relate to the fresh-water fishes enumerated in such Schedules ; and for the purposes of the said Second Schedule, the lawful weights for carp and tench respectively shall be four ounces, but subject to the provisions of section nine sub-section three of the said Act. The provisions contained in the twenty-second section of the Principal Act shall be applicable and extend to the protection not only of "fish" as defined by the said Act but to the protection of any fish not indigenous to this Colony, which may be introduced or may be in any inland waters.

7. Any person affixing a net in any inland waters, at a less distance than sixty-six feet from the next nearest net, shall be liable to a penalty not exceeding ten pounds.

8. The sections of the Principal Act hereinafter enumerated, shall be applied in carrying out and enforcing the purposes and provisions of this Act with as full effect as if they had been herein specifically enacted, namely :—

- (a) Sections fifty-eight to sixty-four, both inclusive.
- (b) Section sixty-seven.

Section 22 of
Principal Act
extended.

Nets to be at least
sixty-six feet apart.

Application of
certain provisions of
Principal Act.