CHAP. cxlv.

An Act to confirm certain Orders made by the Board of Trade under The Sea Fisheries Act, 1868, relating to Emsworth Channel and Swansea. [24th July 1871.]

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WHEREAS an Order made by the Board of Trade under The Sea Fisheries Act, 1868, is not of any validity or force whatever until the confirmation thereof by Act of Parliament: 31 & 32 Vict. c. 45.

And whereas it is expedient that the several Orders made by the Board of Trade under the said Act, and set out in the schedule to this Act, be confirmed by Act of Parliament:

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:

Confirmation of Orders in schedule.

1. The several Orders set out in the schedule to this Act shall be and the same are hereby confirmed, and all the provisions thereof in manner and form as they are set out in the said schedule shall, from and after the passing of this Act, have full validity and force.

Short title.

2. This Act may be cited as The Oyster and Mussel Fisheries Orders Confirmation Act, 1871 (No. 2).

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The SCHEDULE of Orders.

EMSWORTH CHANNEL.—Establishment and Maintenance of Several Oyster and Mussel Fishery.

SWANSEA.—Regulation of Oyster and Mussel Fishery.

EMSWORTH CHANNEL OYSTER AND MUSSEL FISHERY.

Emsworth Channel.

Order for the Establishment and Maintenance by the Emsworth Dredgermen's Co-operative Society, Limited, of a Several Oyster and Mussel Fishery at Emsworth, in the Estuary of the Emsworth Channel, in the Counties of Sussex and Southampton.

Undertakers.

1. The Emsworth Dredgermen's Co-operative Society, Limited, (in this Order called the Company,) shall be the undertakers of the fishery mentioned in this Order.

Limits of fishery.

2. The following are the Company's fishery grounds under this Order (as shown on plans deposited at the Board of Trade, and marked "Emsworth Channel Fishery Order, 1871,") namely, all those parts of the bed of the Emsworth Channel lying below low-water mark at ordinary neap tides, being either extra-parochial or partly within the several parishes of Westbourne, Warblington, Hayling North, Hayling South, and West Thorney, and partly within each of the several counties of Sussex and Southampton, consisting of two separate portions, the one on the south side and the other on the north side of the grounds already granted to the "Emsworth Oyster Merchants' Company, Limited," by "The Emsworth Fishery Order, 1870," (confirmed by "The Oyster and Mussel Fisheries Orders Confirmation Act, 1870, No. 1"), and containing together an area of 300 acres, or thereabouts, and bounded as follows; that is to say,

On the south side by an imaginary line drawn from West Point to Gardner's Point, and thence extending northward until it reaches another imaginary line, drawn from the northern bank of Upper Markers Rythe at the point where it debouches into the said Emsworth Channel, to the northern bank of Tibbs Rythe on the west side of the same channel (including Mill Rythe on the west and Hole Rythe on the east);

Then passing over the Emsworth Oyster Merchants' Company's Grounds,

By an imaginary line drawn due west from Vicar or Wicor Point to Sware Deep Torr, and thence extending northwards to Fowley Point, where it

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is bounded by an imaginary line drawn due east from Fowley Point to the mud on the opposite side (including Sware Deep as far as Church Rythe).

Right of several fishery.

3. This Order confers on the Company a right of several oyster and mussel fishery within the limits above mentioned.

Marking of limits.

4. The limits of the said several fishery shall be marked out by perpendicular booms or poles, surmounted with conspicuous triangles, and placed on the line of low water of ordinary neap tides at intervals of not more than one hundred yards, or in such other manner as the Board of Trade may from time to time direct.

Notice to be given if marks obliterated.

5. In the event of the marks, by the last foregoing Article prescribed, being obliterated by storm or otherwise, they shall be replaced by the Company, and notice of the said limits may be given to fishermen, dredgermen, and other persons, as follows; that is to say:—

By advertisement in the Hampshire Telegraph and in the West Sussex Gazette, and by printed handbills posted up at Emsworth, Havant, Prinsted, Langstone, Hayling, and Bosham.

Works not to be commenced without assent of Board of Trade.

6. No buildings, erections, embankments, or other works other than the marks mentioned in clause 4 of this Order, shall at any time be commenced or executed within the limits above described, without the previous sanction and approval in writing of the Board of Trade.

Undertakers to give accounts of capital, receipts, and expenditure, and of oysters and mussels sold.

7. The Company shall render to the Board of Trade such accounts of their capital, expenditure, and income, and of all oysters and mussels sold by the Company, in such form and at such times as the Board of Trade may require; and shall allow the Board of Trade, or any person appointed by the Board of Trade, to inspect the fishery and all books and documents in their possession relating thereto, and shall give to such Board or person all such information relating thereto as they or he may require.

Duration of Order.

8. This Order shall continue in operation for sixty years from its confirmation by Act of Parliament, and no longer.

Saving rights under "The Crown Lands Act, 1866."

9. This Order shall not be taken as a consent to the surrender of any rights, interests, powers, authorities, or privileges transferred to the management of the Board of Trade by The Crown Lands Act of 1866.

Short title.

10. This Order may be cited as "The Emsworth Channel Fishery Order, 1871."

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SWANSEA OYSTER AND MUSSEL FISHERY.

Swansea.

Order for the Regulation by the Corporation of the Borough of Swansea, of an Oyster and Mussel Fishery, in part of Swansea Bay and part of the Bristol Channel lying off the South Coast of Gower, in the County of Glamorgan.

Undertakers.

1. The mayor, aldermen, and burgesses of the borough of Swansea, acting by their council (in this Order called "the Corporation") shall be the Undertakers of this Order.

Limits of fishery.

2. The following are the description and limits of the fishery comprised in this Order (as shown on plans deposited at the Board of Trade), namely:—All those parts of the bed of Swansea Bay and the Bristol Channel, containing an area of 100 square miles or thereabouts, bounded as follows, that is to say, on the north and east by the lines of extreme low-water mark of spring tides for the time being; on the west by an imaginary line drawn due south (true) from the east end of Worms Head Island, until Helwick light vessel bears west (true); on the south by an imaginary straight line drawn from the last-mentioned point to a point three miles due south of Port Eynon Head, or until that line is intersected by an imaginary line joining Helwick and Sker Weather light vessels, thence by an imaginary straight line drawn to a navigation buoy south of White Oyster Ledge, thence by an imaginary line drawn to the Sker Point.

Dredging for oysters or mussels during the months of June, July, and August prohibited.

3. No person shall dredge or fish for or take oysters or mussels within the said fishery during the months of June, July, and August in any year.

Powers to close portions of fishery.

4. The Corporation may from time to time make byelaws for closing any portion or portions of the said fishery, so far as relates to the fishing for oysters or mussels for such periods as they may deem necessary, but subject to the conditions following:—

(1.) No portion shall be closed for a longer continuous period than two years:

(2.) No greater extent in the whole than one third of the oyster beds, and one third of the mussel beds respectively, shall be closed at any one time:

(3.) One month's previous notice at least, of the portion or portions to be closed, shall be given by an advertisement in the London "Shipping and Mercantile Gazette," and in some local newspaper, and by affixing such notice on the Guildhall at Swansea, and in some conspicuous place in or adjoining the portion or portions of the fishery proposed to be closed:

(4.) A certificate in writing, signed by a secretary or by an assistant secretary of the Board of Trade, stating whether any portion or portions is or are, or is not or are not, or have been or have not been, duly closed under the provisions of this Order, shall be taken as conclusive evidence of the fact stated in such certificate.

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No person shall dredge, fish for, or take any oysters or mussels within the said fishery in contravention of any byelaw of the Corporation, whereof notice has been given as aforesaid.

Dredging within enclosed portions prohibited.

5. The Corporation may from time to time make byelaws: —

Powers to make byelaws as to removal of small oysters and mussels and brood.

(1.) Prohibiting during a period to be stated in the byelaws the removal from the fishery, or from one portion of the fishery to another, of any mussels of less size than two inches in length, or of any oysters which will pass through a circular ring of two inches in diameter measured on the inside of such ring:

(2.) Permitting during a period to be stated in the byelaw any person duly authorised by the Corporation to bring any mussels and brood of mussels, and any oysters and spat from without the limits of the fishery, and deposit the same in any place within the limits thereof, and to remove, at such times as the Corporation may direct, any brood of mussels, and any spat or small-sized oysters from one portion of the fishery to another.

Such byelaws shall be for the purpose only of better cultivating the fishery, and shall not be valid for more than three years from their date, but may be renewed from time to time with the sanction of the Board of Trade.

Power to make byelaws, with approval of Board of Trade.

6. The Corporation, with the approval of the Board of Trade, may also make byelaws and regulations for regulating the fishery generally, in terms not inconsistent with this Order. Such byelaws and regulations shall be revised from time to time, when and as required by the Board of Trade, and any byelaw or regulation not so revised may at any time be cancelled by the Board of Trade, and shall then cease to have effect.

Dredging boats to be licensed.

7. No person shall dredge, fish for, or take oysters or mussels within the said fishery in any boat not licensed in that behalf by the Corporation. Licenses in that behalf shall be granted by the Corporation to any person applying for the same on his paying the tolls in this Order specified, and every such license shall include both oyster fishing and mussel fishing.

Office for granting licenses.

8. The office for granting licenses shall be the office (for the time being) of the town clerk of the borough of Swansea.

Tolls payable on licenses.

9. There shall be paid in respect of such licenses, and before they are granted, the following tolls:—

For a license for one season (being a period of nine months),

	s.	*d.*
For every registered ton the licensed boat is capable of carrying	1	0
For a license to fish for three months ditto ditto -	0	6

Provided that every license for a smack or skiff shall include the use of one row boat, such row boat to be used when fishing only, by the regular crew of the smack or skiff, and fishing shall not be carried on by the crew of the row boat and smack or skiff independently at the same time.

Where a license has been lost or accidentally destroyed, a new license by way of substitution may be issued on the payment of a fee of one shilling.

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The person in charge of any boat (not being a row boat belonging to a smack or skiff), fishing within the limits of the fishery, shall, when required by any water bailiff, produce the license of such boat, or else desist from fishing till the same is produced.

Power to appoint water bailiff.

10. The Corporation may from time to time appoint, suspend, or remove, and again appoint, a water bailiff or bailiffs, to enforce the provisions of this Order, and the byelaws and regulations made under this Order, and generally to regulate the fishery. Every such water bailiff shall have and may exercise all the powers and authorities of a constable, for regulating and protecting the fishery, and shall also have the following powers; that is to say, he may enter any smack, fishing boat, or row boat within the limits of the fishery; he may examine the catches, nets, and fishing implements and gear of any such boat; he may seize oysters or mussels illegally taken within the limits of the fishery; and he may do all other lawful acts for giving effect to the provisions of this Order, and the byelaws and regulations made under this Order. Any person considered by a water bailiff to have offended against any of such provisions, byelaws, or regulations shall, when required by such water bailiff, state correctly his Christian name, surname, and place of abode. Any person refusing or omitting, when required, to state correctly his name and place of abode, or wilfully continuing to offend after having been required by a water bailiff to desist, may be apprehended by any water bailiff, or any person acting by order of a water bailiff, and conveyed before a justice of the peace, to be dealt with according to law. Any person resisting, obstructing, or assaulting a water bailiff in performance of his duty may be apprehended and conveyed before a justice of the peace, and upon conviction shall be liable to a penalty not exceeding ten pounds, in addition to any other penalty or punishment incidental to his offence. No person apprehended under this section of this Order shall be detained in custody more than twenty-four hours without being brought before a justice, but at the expiration of that time, if not previously brought before a justice, shall, on correctly stating his name and place of abode, be discharged, without prejudice to further proceedings by summons or warrant.

Tolls to be applied in maintaining and improving the fishery, or in repayment of advances by the Corporation.

11. The whole of the money received by the Corporation from licenses, tolls, or otherwise, under this Order, shall, after the repayment to the borough fund of all expenses incurred in and incidental to the obtaining this Order, be applied to the maintenance and improvement of the fishery, in accordance with these regulations, under the powers and provisions of "The Sea Fisheries Act, 1868," or in repayment to the Corporation of such sums as they may expend in putting or endeavouring to put the fishery into a more profitable state.

Marking of limits.

12. The limits of the said fishery shall be marked out in manner described in Article 2 of this Order, or in such other manner as the Board of Trade may from time to time direct.

Marks to be placed and maintained at the expense of undertakers, and if obliterated to be replaced.

13. The buoy mentioned in Article 2 of this Order shall be placed, maintained, and managed as a navigation buoy by the Elder Brethren of the Trinity House of Deptford Strond, at the expense of the Corporation, and in the event of the said buoy or any other marks of the fishery being obliterated by storm

or otherwise, they shall be replaced from time to time by the Corporation in such manner as the Trinity House or Board of Trade may direct.

Works not to be commenced without sanction of Board of Trade.

14. No buildings, erections, embankments, or other works shall at any time be commenced or executed within the limits above described, without the previous sanction and approval in writing of the Board of Trade.

Undertakers to give accounts of expenditure and income and other information.

15. The Corporation shall render annually to the Board of Trade, on the 31st of August in every year, accounts of their expenditure and income under this Order, and all other information required by the Board of Trade with reference to the subject of this Order, in such form as the Board of Trade may from time to time require, and shall allow the Board of Trade, or any person appointed by the Board of Trade, to inspect the fishery, and all books, accounts, and other documents in the possession of the Corporation relative to the fishery, and shall give to such Board or person all such information relating thereto as he or they may require.

Power to grant several oyster and mussel fishery within the prescribed limits reserved.

16. The Board of Trade may at any time make a grant or grants of a several oyster and mussel fishery of any ground within the limits comprised within this Order, and all the powers and provisions contained in this Order shall be subject to the power of the Board of Trade to make such grant, and to any alteration which may be consequent on such grant, or on any order made in pursuance of such grant.

Duration of Order.

17. This Order shall continue in operation for sixty years from its confirmation by Act of Parliament, and no longer.

Power of Board of Trade to repeal or amend Order.

18. The Board of Trade may, under the thirty-ninth section of "The Sea Fisheries Act, 1868," from time to time, or at any time, make an order or orders repealing, amending, altering, or adding to all or any of the provisions of this Order.

Power to revise tolls, with consent of Board of Trade.

19. The Corporation may, but not without the consent of the Board of Trade, from time to time revise the tolls leviable under this Order, either by increasing or diminishing the amount thereof, or by varying the mode and times in and for which the same are levied, or otherwise, provided that public notice of such revised tolls shall be given either by advertisement or otherwise, in such manner as the Board of Trade shall direct.

Saving rights under "The Crown Lands Act, 1866."

20. This Order shall not be taken as a consent to the surrender of any rights, interests, powers, authorities, or privileges transferred to the management of the Board of Trade by "The Crown Lands Act, 1866."

Short title.

21. This Order may be cited as "The Swansea Fishery Order, 1871."

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