CHAPTER 71.

An Act to amend the Law relating to Salmon Fisheries in England and Wales.

[5th August 1873.]

WHEREAS it is expedient to amend the laws relating to salmon fisheries in England and Wales:

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:

PART I.—PRELIMINARY. DEFINITIONS.

Short title of Act.

1. This Act may be cited for all purposes as "The Salmon Fishery Act, 1873," and this Act and "The Salmon Fishery Acts, 1861 and 1865," may be cited together as "The Salmon Fishery Acts, 1861 to 1873."

Construction of Act.

2. This Act, so far as is consistent with the tenor thereof, shall be read as one with "The Salmon Fishery Acts, 1861 and 1865."

Commencement of Act.

3. This Act shall not come into operation until the first day of September one thousand eight hundred and seventy-three, which date is herein-after referred to as the commencement of this Act.

Definition of terms.

4. In the construction of this Act and of "The Salmon Fishery Acts, 1861 and 1865," unless there is something in the subject or context repugnant to such construction, the words and expressions herein-after mentioned shall have respectively the meanings herein-after assigned to them; (that is to say,)

"Annual close season" and "weekly close season:"

"Annual close season" and "weekly close season" shall mean the annual close season and the weekly close season for all kinds of salmon fishing except by rod and line respectively applicable to and in force in the fishery district or place in which any offence charged shall be committed, and all penalties, forfeitures, proceedings, powers, and things described in the seventeenth, twentieth, twenty-first, and twenty-second sections of the Salmon Fishery Act, 1861, as applicable to the periods therein specified, or intended to be specified, as the annual and weekly close seasons, shall be deemed to apply to the annual or weekly close seasons, as these may have been or shall be lawfully varied from time to time in each fishery district respectively:

"Close season for rods:"

"Close season for rods" shall mean and include the annual season during which at any particular place it is or shall be unlawful at that place under the provisions of "The Salmon Fishery Acts, 1861 to 1873," to fish for, kill, take, or destroy, or attempt to kill, take, or destroy, any salmon with a single rod and line:

"Fishing weir:"

The definition of the words "fishing weir," in the fourth section of the Salmon Fishery Act, 1861, is hereby repealed, and the words fishing weir shall mean any erection, structure, or obstruction fixed to the soil either temporarily or permanently across, or partly across, a river or branch of a river, and which is used for the exclusive purpose of catching or facilitating the catching of fish:

"Fixed engine:"

"Fixed engine" shall include, in addition to the nets, fixed implements, engines, and devices respectively mentioned in "The Salmon Fishery Acts, 1861 and 1865," any net placed or suspended in any inland or tidal waters unattended by the owner or any person duly authorised by the owner to use the same for catching salmon, and all engines, devices, machines, or contrivances, whether floating or otherwise, for placing or suspending such nets or maintaining them in working order or making them stationary:

"Grating:"

"Grating" shall mean and include any device approved by the Secretary of State for preventing the passage of fish through any channel:

"Inspector:"

"Inspectors" shall mean the inspectors of salmon fisheries appointed under the provisions of the thirty-first section of "The Salmon Fishery Act, 1861:"

"Occupier:" "Occupier" shall include any person for the time being in actual possession of the fisheries and premises in respect of which that word is used, whether such person is owner or not;

"Otter lath or jack:" "Otter lath or jack" shall mean and include any small boat or vessel, board, or stick, used for the purpose of running out baits, artificial or otherwise, across any portion of any lake or river, and whether used with a hand line or as auxiliary to a rod and line, or in any other way:

"Owner:" "Owner" shall mean and include any person receiving the rents of the property in respect of which that word is used from the occupier, or who would receive the same if such property were let to a tenant:

"Returning officer:" "Returning officer" shall mean the chairman of any board of conservators, or any person appointed by writing under his hand to conduct the elections of boards of conservators in the manner herein-after prescribed:

"Rod and line:" "Rod and line" shall mean single rod and line:

"Secretary of State:" "Secretary of State" shall mean one of Her Majesty's Principal Secretaries of State:

"Strokehall or snatch." "Strokehall or snatch" shall mean and include any instrument or device, whether used with a rod and line or otherwise, for the purpose of foul hooking any fish.

PART II.—FISHERY DISTRICTS.

Power of Secretary of State to alter districts.

5. A board of conservators of any fishery district may, after giving three calendar months notice in writing to any other board or boards of conservators affected by such alteration, or, in case there is no board, to the justices of the peace of any county in quarter sessions assembled, the whole or any part of which shall be affected by such alteration, apply to the Secretary of State to enlarge, reduce, or alter the limits of such district, or to combine two or more districts or parts of districts; and, after such notice has been previously advertised for two successive weeks in one or more local newspapers published or circulating within the district or districts affected by such alteration, the Secretary of State may thereupon by his certificate enlarge, reduce, or alter such district, either by uniting it with any other district or districts, or combining it with any other part or parts of a district or districts, or by severing any part from such district and forming it into a separate district, or uniting it with any other district, or by adding to such district any place not yet included in any district; and the certificate of the Secretary of State embodying all such alterations shall be granted in accordance with the provisions of "The Salmon Fishery Act, 1865," and shall transfer and apportion any existing contracts, debts, mortgages, liabilities, and assets among such altered boards. But no alteration of any district shall affect the power of any existing board or boards until the new districts are fully constituted.

Combined districts.

6. When the effect of any such alteration is to include in a district either an additional portion of any county previously included or a portion of a county not previously included, the justices of such county in quarter sessions assembled shall add such number of members to the existing board of the district as the Secretary of State shall appoint; and where the effect of such alteration is to exclude altogether from the district any county, the whole of the members of the board appointed by such county shall cease to hold their offices at such board. When the effect of such alteration is to partially exclude from the district any county, the number of members representing that county shall be reduced to such number as the Secretary of State shall appoint, and in case the effect of such alteration is to create the part severed from any district into a new district, or to unite the parts severed from different districts into a new district, then and in either of such cases the provisions of "The Salmon Fishery Act, 1865," shall apply as if a new district had been created under the provisions of the fifth section of that Act.

Notices to be published.

7. A notice of any alteration made in any district or in the constitution of any board of conservators in pursuance of the provisions herein-before contained shall be advertised once in some daily morning London newspaper and at least once a week for four consecutive weeks in some newspaper or newspapers published or circulated within the district or districts affected by such alteration. The production of a copy of a newspaper

containing any such advertisement shall be evidence of such advertisement having been given at the time such newspaper bears date.

Copy of certificate of formation of districts to be evidence.

8. A copy of the certificate or certificates of the Secretary of State deposited with the clerk of the peace of any county in relation to the formation, enlargement, combination, reduction, or alteration of a fishery district granted in pursuance of the fifth section of "The Salmon Fishery Act, 1865," or of this Act, certified or purporting to be certified as a true copy by the clerk of the peace of such county, shall be evidence that all the requisitions contained in "The Salmon Fishery Act, 1865," or in this Act, relating to the formation, enlargement, combination, reduction, or alteration of any fishery district have been complied with, and that such district has been duly formed, enlarged, combined, reduced, or altered with the limits and in the manner specified in such certificate or certificates.

Power to Secretary of State to alter the number of conservators appointed by quarter sessions.

9. It shall be lawful for the Secretary of State, on the application of the justices for any county comprised, or partly comprised, in any fishery district, in quarter sessions assembled, one month's previous notice of such application having been given to the board of conservators affected by such alteration, to alter the number of conservators to be appointed at quarter sessions by the justices for all or any counties or county comprised, or partly comprised, in such district:

Provided always, that no such alteration shall be made, unless one month's previous notice has been given of the intention of the Secretary of State to make such alteration, in some newspaper or newspapers circulating within the district; and previous to the expiration of such notice it shall be lawful for any person to represent to the Secretary of State any objection which he may have to such alteration, and the Secretary of State shall, after making such inquiry into such objection as he may think fit, either make such alteration, or not, as he may see fit, and shall cause his final determination to be published in the same newspaper or newspapers in which his intention to make such alteration was originally published.

Clerk of the peace to send notice of appointment.

10. In any fishery district, where any members of a board of conservators are appointed by the justices in quarter sessions of a single county, or of one or more counties, a notice of the appointment of the members of such board appointed by such county, or by each of such counties, with the name and address of each member, shall be sent to the clerk or other officer of the board of conservators by the clerk of the peace of such county, or of each of such counties, within fourteen days from the date of such appointment; and any clerk of the peace refusing or neglecting to send such notice shall for every such refusal or neglect be liable to a penalty of not exceeding two pounds.

Minute of conviction to be sent to board of conservators.

11. Where any person is convicted of an offence under the Salmon Fishery Acts, 1861 to 1873, or under any byelaw made in pursuance of this Act, the clerk of the justices before whom such person is convicted shall forward a certificate of such conviction to the clerk of the board of conservators for the fishery district within which such conviction took place within one calendar month from the date of such conviction, and such certificate shall be receivable in evidence in all legal proceedings, and any clerk to any justices neglecting or refusing to forward such certificate to the clerk of the board of conservators, shall for every such refusal or neglect be liable to a penalty of not exceeding two pounds.

Appointment of conservators for the river Esk.

12. For the purposes of the Salmon Fishery Acts, 1861 to 1873, the Commissioners of Supply in Scotland shall have all the privileges and duties of the justices in quarter sessions in England for the election of boards of conservators for the river Esk.

PART III.—RESTRICTIONS AS TO CERTAIN MODES AND TIMES OF TAKING AND SELLING FISH.

Extension of the "Malicious Injuries Act."

13. The provisions of the thirty-second section of the "Malicious Injuries to Property Act," so far as they relate to poisoning any water with intent to kill or destroy fish, shall be extended and apply to salmon rivers, as if the words "or in any salmon river" were inserted in the said section in lieu of the words "private rights of fishery" after the words "noxious material in any such pond or water."

No draft net to be shot within 100 yards of another until the latter is landed.

14. Any person who shall shoot or work any seine or draft net for salmon in a river across the whole width or more than three fourths of the width thereof, within one hundred yards from the nearest point in the line of shot of any other seine or draft net worked in like manner, and already shot or being worked in such river before such last-mentioned net is fully drawn in and landed, shall for every such offence be liable to a penalty not exceeding five pounds.

No eel baskets, &c. to be fixed between 1st January and 24th day of June.

15. No person, between the first day of January and the twenty-fourth day of June inclusive, shall hang, fix, or use in any salmon river any baskets, nets, traps, or devices for catching eels or the fry of eels, or place in any inland water any device whatsoever to catch or obstruct any fish descending the stream; or shall at any time place upon the apron of any weir any basket, trap, or device for taking fish, except wheels or leaps for taking lamperns between the first day of August and the first day of March; and any person acting in contravention of this section shall incur a penalty not exceeding two pounds for every day during which he suffers such engines to be fixed or used as aforesaid. But nothing herein contained shall extend to prohibit the use of eel baskets not exceeding in any part ten inches in diameter constructed so as to be fished with bait, and not used at any dam or weir.

Interference with salmon in close seasons.

16. No person shall, during the annual or weekly close season, in any year, place any obstruction, use any contrivance, or do any act, for the purpose of deterring salmon from passing up a river; and any person acting in contravention of this section shall be liable to a penalty of not exceeding five pounds: Provided always, that nothing in this section shall apply to any kind of fishing for fish other than salmon legally practised in any river.

No fishing within 50 yards above or 100 yards below a weir or mill races except with rod and line.

17. No person shall catch or kill, or attempt to catch or kill, except with rod and line, or scare or disturb, or attempt to scare or disturb, any salmon within fifty yards above or one hundred yards below any weir, dam, or artificial obstruction which hinders or retards the passage of salmon, or in any waters under or appurtenant to any mill, or in the head race or tail race of any mill, or in any waste race or pool communicating with such mill race, or in any artificial channel connected with such weir or obstruction; and no person shall fish with rod and line in such a manner, or such a place, near such weir or obstruction, as to wilfully scare or hinder salmon from passing through any fish pass, or over any part of such weir or obstruction usually available to salmon for the purposes of a passage. Any person acting in contravention of this section shall incur a penalty not exceeding five pounds for each offence, and a further penalty not exceeding one pound for every salmon so caught, and shall forfeit all boxes, baskets, nets, rods, implements, or devices used or placed for catching the same; provided that nothing in this section shall be deemed to apply to any legal fishing mill dam not having a crib, box, or cruive, or to any fishing box, coop, apparatus, net, or mode of fishing in connexion with and forming part of such weir or obstruction for purposes of fishing: Provided, that where a fish pass approved by the Home Office, in pursuance of the twelfth section of the Salmon Fishery Act, 1861, has been or shall be attached to such weir, dam, or artificial obstruction, this section shall not be enforced in respect of such weir or artificial obstruction until compensation has been made by the conservators of the district to the persons entitled to fish in such waters for such right of fishery, such compensation to be settled in case of dispute in manner in which disputed compensation as to lands is directed to be settled under the Lands Clauses Consolidation Acts.

Amendments of "Salmon Fishery Acts, 1861 and 1865."

18. The following sections of "The Salmon Fishery Act, 1861," and "The Salmon Fishery Act, 1865," shall be respectively amended in the following manner; (that is to say,)

(1.) The eighth section of "The Salmon Fishery Act, 1861," shall be construed as if the words "otter lath or jack, wire, or snare" were inserted after the word "any," and as if the words "or killing" were inserted after the word "catching" in the second sub-section, and as if the words "or kill" were inserted after the words "to catch" in the third sub-section:

(2.) The eleventh section of "The Salmon Fishery Act, 1861," shall be construed as if the words "or for the purpose of facilitating the catching of salmon, or detaining

" or obstructing the free passage of," were inserted after the words " used for catching :"

(3.) The fourteenth section of " The Salmon Fishery Act, 1861," shall be construed as if the words " kill or injure or attempt to take " were inserted after the words " wilfully take " in the first sub-section of the first part thereof, and the words " in respect of each fish taken, sold, or exposed for sale, or in his possession " in the second sub-section of the second part thereof were omitted, and the words " for each such offence, and a further penalty of one pound in respect of each " fish taken, sold, or exposed for sale, or in his possession " were inserted in lieu thereof:

(4.) The fifty-sixth section of the Salmon Fishery Act, 1865, shall be construed as if the words " or less than one month " were inserted after the words " six months :"

(5.) The fifty-seventh section of the Salmon Fishery Act, 1865, shall be read as if the words " 1861 and 1865 " were omitted, and the words " 1861 to 1873, and under " any byelaw made under the authority of this Act " were inserted in lieu thereof; but it shall not be imperative on any justices under the provisions of such section to inflict a greater penalty than fifty shillings for a second offence, or than five pounds for a third offence under the Salmon Fishery Acts, 1861 to 1873:

(6.) The sixtieth section of " The Salmon Fishery Act, 1865," shall be construed as if the words " or young of salmon " were inserted throughout after the words " unclean or unseasonable salmon :"

(7.) The sixty-fourth section of the Salmon Fishery Act, 1865, shall be read as if the word " October " were substituted for the word " November," and as if the word trout included the word char:

(8.) The provisions of the fourteenth section of the Salmon Fishery Act, 1861, and the thirty-eighth section of this Act shall be read as if the word salmon included the words trout and char.

Penalties on selling fish during close time.

19. No person shall buy, sell, or expose for sale, or have in his possession for sale, any salmon or part of any salmon between the third day of September and the first day of February following, both inclusive. And any person acting in contravention of this section shall forfeit any salmon or part of any salmon so bought, sold, or exposed for sale, or in his possession for sale, and shall incur a penalty not exceeding two pounds for every such salmon or part of any salmon. But nothing herein contained shall apply to any person buying, selling, or exposing for sale, or having in his possession for sale, any salmon which has been cured, salted, pickled, or dried beyond the limits of the United Kingdom, or if within the limits of the United Kingdom between the first day of February and the third day of November in any year, or any clean fresh salmon caught within the limits of this Act, provided its capture by any net, instrument, or device other than a rod and line, was lawful at the time and in the place where it was caught, or to any clean fresh salmon caught at any time beyond the limits of this Act, provided its capture by any net, instrument, or device other than a rod and line, if within the United Kingdom, was lawful at the time and in the place where it was caught; but the burden of proving that any clean fresh salmon so bought, sold, exposed for sale, or in the possession of any person for sale was captured abroad or lawfully captured within the United Kingdom, shall lie on the person selling or exposing for sale, or having in his possession for sale any such salmon; and the burden of proving that any cured, salted, pickled, or dried salmon was cured, salted, pickled, or dried elsewhere than in the United Kingdom, or if within the United Kingdom, then between the first day of February and the third day of November in any year, shall lie upon the person in whose possession for sale such salmon is found.

Penalty on selling trout or char during close time.

20. No person shall buy, sell, or expose for sale, or have in his possession for sale, any trout or char between the second day of October and the first day of February following, both inclusive; and any person acting in contravention of this section shall forfeit any

trout or char so bought, sold, or exposed for sale, or in his possession for sale, and shall incur a penalty not exceeding one pound for every such trout or char.

Part IV.—Licenses.

Provisions as to licenses.

21. The following rules shall apply to the issuing of licenses:

(1.) Licenses for fishing weirs, fishing mill dams, putts, putchers, fixed nets, and other fixed instruments or devices, and for moveable nets and other moveable instruments or devices, and also for rods and lines for catching salmon within a fishery district, shall be granted on payment of such sums not exceeding the sums mentioned in the third schedule hereto as the board of conservators of the district, with the sanction of the Secretary of State, may from time to time determine:

(2.) Licenses shall only be available within the fishery district for which they are granted. Licenses granted for public or common fisheries shall be available only for such fisheries. Licenses granted for private fisheries shall not be available in public or common fisheries, except licenses for the use of a rod and line:

(3.) Licenses for fishing weirs, fishing mill dams, putts, putchers, fixed nets, and other fixed instruments or devices for catching salmon, shall be available only for the use of the persons to whom they are granted, and for the employment of such instruments and devices as are named and described therein:

(4.) Licenses for moveable nets or other moveable instruments or devices for catching salmon shall be used only by the person to whom they are granted, or his agents or servants, and in respect of the instrument for which they are granted, and no person shall be deemed to be an agent or servant of a licensee for the purposes of this section unless his name is endorsed on the license, either by the licensee or his authorised agent, or by the clerk or other persons authorised by the conservators, and the conservators shall make arrangements for facilitating the endorsement of the names of agents or servants of licensees by their clerk or other persons authorised as aforesaid. A fee of sixpence shall be payable to such clerk or other person authorised as aforesaid in respect of the endorsement of the name of any agent or servant on a license, in pursuance of this section, by any person requiring the same, if made by the clerk or other person authorised by the conservators, or by the licensee in case of the endorsement being made by him or his authorised agent. A licensee shall not be entitled to have endorsed on his license the names of agents or servants exceeding twice the number of persons required to work at one time the net, instrument, or device in respect of which the license is granted. Any licensee may from time to time remove or cause to be removed the name of any agent or servant from his license, and, if he so desire, may substitute or cause to be substituted the name of another agent or servant, on payment of a like fee for the name of each person so substituted; but no endorsement made by the licensee or his authorised agent shall be valid unless a copy thereof shall, within twenty-four hours from the date thereof, which date shall be inserted on the license at the time of making such endorsement as aforesaid, be sent by post to such clerk or other person authorised as aforesaid, accompanied with such fee or fees as are payable under this section in respect of such endorsement, and no person shall be deemed to be an authorised agent of the licensee for the purposes of this sub-section unless his name and address and notice of his appointment as an authorised agent shall have been sent by post to the clerk or other person authorised by the conservators previously to any endorsement being made by such authorised agent: Provided always, that if a licensee at any time during a fishing season, either works or assists in working a moveable net or other moveable instrument or device himself, the number of names which he shall be entitled to have endorsed on the license for such moveable net or other moveable instrument or device shall be one less than twice the number of persons required at one time to work such moveable net, instrument, or device. Any licensee or authorised agent of a

licensee who fraudulently endorses on the license more names than he is entitled to have endorsed thereon, or who endorses thereon any date other than the actual date of the making of such endorsement, shall be liable on conviction thereof to a penalty not exceeding twenty pounds:

(5.) A license for the use of a rod and line shall be used only by the person to whom it is granted, and shall in no case be transferable.

Penalty on taking salmon without a license.

22. In all fishery districts in which licenses are payable under the provisions of "The Salmon Fishery Act, 1865," or this Act, any person fishing for, taking, killing, or attempting to take or kill, salmon by any means whatsoever other than a properly licensed fishing weir, fishing mill dam, fixed engine, instrument, net, or device for catching or facilitating the catching of salmon, or assisting any such person in so doing, shall be liable to a penalty not exceeding five pounds, and a further penalty of not exceeding one pound in respect of each salmon so caught: Provided that this section shall not prevent the use of a gaff or landing net as auxiliary to any holder of a rod license angling with a rod and line, and that nothing herein contained shall affect the provisions of the thirty-fifth and thirty-sixth sections of "The Salmon Fishery Act, 1865."

Application of funds in the hands of the conservators.

23. The conservators of a district may expend any moneys in their hands in any manner, not being illegal, they may think most conducive to the improvement of the salmon fisheries within their district.

Scale of licenses.

24. In every fishery district the maximum duty payable in respect of any license for the use of any rod and line, fishing weir, fishing mill dam, putt, putcher, net, and other instrument or device for taking salmon shall not exceed the sums mentioned in the third schedule hereto.

Board may vary license duties with the approval of the Secretary of State.

25. The board of conservators may, with the consent and approval of the Secretary of State, from time to time vary the license duties leviable within their district, and vary the license duties leviable on similar instruments in different parts of the district, specifying in the licenses the portions of the rivers in which the said licensed instruments may be used, so, however, that the license duties so varied shall not exceed the sum mentioned in the third schedule hereto: Provided, that in the event of any variation in the said scale of license duties being agreed upon, the board shall cause notice thereof to be given by advertisement in one or more local newspapers not less than once in each week for four consecutive weeks before the commencement of the next fishing season; and if from any mistake or error or any other cause such variation shall not have been duly made and published, the scale of licenses in force during the preceding year shall be deemed to be in force for all purposes whatsoever, and shall so continue until it shall be duly altered or varied under the provisions of this Act.

PART V.—CONSTITUTION OF BOARDS OF CONSERVATORS.

(i.) *Ex-officio Members.*

Ex-officio members of board of conservators.

26. In addition to the elected members of any board of conservators for any fishery district, every person shall be an ex-officio member of such board who possesses either of the qualifications herein-after mentioned; (that is to say,)

(1.) Is the owner or occupier of a fishery or fisheries in such fishery district, which is or are assessed to the rate for the relief of the poor on a gross estimated rental of thirty pounds a year; provided that in no case shall both the owner and occupier be entitled to act at the same time as ex-officio members in respect of the same fishery or fisheries; and if there be more than one such owner or occupier of the same fishery or fisheries, then any one of such owners or occupiers:

(2.) Is the owner of lands in such fishery district of an annual value of not less than one hundred pounds, having a frontage of not less than one mile to any salmon river (in ascertaining such distance the frontage on both sides of the river to be counted), having the right to fish in the part of the river adjoining such frontage, and having paid license duty for fishing for salmon within such district during the last preceding fishing season.

Provision for persons under disability.

27. In all cases where the owner of any fisheries or lands possessing either of the aforesaid qualifications for ex-officio members of the said board of conservators shall be a minor, idiot, lunatic, feme covert, or under any legal disability, or shall be a corporation, company, or fishery association, one of the guardians or trustees of such minor, the committee of the estate of such idiot or lunatic, the husband of such feme covert, one of the members of such corporation, company, or fishery association, or the attorney or agent of such guardian, trustee, committee, husband, corporation, company, or fishery association (respectively) shall be entitled to act as an ex-officio member of the board of conservators of the district within which such fisheries or lands are situate.

Ex-officio members to sign a declaration.

28. Any person claiming to be entitled to act as an ex-officio member of any board of conservators for any fishery district shall, previously to taking his seat at any such board, or taking any part in the proceedings thereof, or acting in any way as a member of such board, sign a declaration in such form as the board shall prescribe, setting forth the nature of the qualification in respect of which he claims to be entitled to act; and any person wilfully making any false declaration or acting before having made such declaration, having been required to do so, shall be liable to a penalty of not exceeding five pounds; and every ex-officio member having signed such declaration as aforesaid shall be entitled to act as a member of the board so long only as he continues to hold such qualification, and in case of any alteration being made in any fishery district, in pursuance of the provisions contained in Part II. of this Act, he shall be entitled to act only in that district where his qualification exists.

(ii.) *Representative Members.*

Additional members of boards of conservators.

29. In addition to the members of any board of conservators appointed under the provisions of "The Salmon Fishery Act, 1865," in all fishery districts in any part of which there are any public or common rights of fishing, and where such rights are exercised by fishermen duly licensed to fish for salmon (otherwise than with rod and line), all persons who have taken out licenses to fish in such public or common waters or both (other than licenses for the use of a rod and line), during the last preceding fishing season, shall be entitled to elect such number of additional members to represent them at the board of conservators for such district as are herein-after mentioned; (that is to say,)

If the aggregate amount of license duty paid for fishing in public or common waters or both (other than licenses for the use of a rod and line) does not exceed the sum of fifty pounds, one member:

And if the aggregate amount of license duty exceed that sum, one additional member for every additional fifty pounds or part of fifty pounds.

Rules as to election of members.

30. The election of such additional members shall be held in accordance with the following provisions; (that is to say,)

(1.) The board of conservators shall hold a meeting after the commencement of the annual close season in each year; at such meeting the clerk of the board shall produce a statement of the license duty paid in the district during that year, and the board shall thereupon ascertain and declare the amount of license duty paid in respect of licenses for fishing otherwise than with rod and line in public or common waters or both, and the number of representative members for the ensuing year:

(2.) The first meeting of the new board of conservators shall be held annually upon such day after the day fixed for the election of such additional members in each year as the chairman of the board for the preceding year shall appoint:

(3.) Within a reasonable time before the first meeting of any board of conservators n every year, the returning officer shall sign and publish a notice specifying the number of members to be elected and shall send a copy of such notice by post, with a nomination paper, in the form contained in the first schedule hereto, to each person qualified to vote under the last preceding section, and who shall be either resident within, or the owner of land within, or within ten miles of the boundary of the fishery district in respect of which such license was issued:

(4.) The notice shall specify the last day on which the nomination papers are to be sent to the returning officer:

(5.) Any person entitled to vote may fill up such nomination paper with his own name, or with the name or names of any other person or persons (not exceeding the number of persons to be elected), and send such nomination paper by post to the returning officer on or before such specified day. If the number of persons nominated shall be the same or less than the number of persons to be elected, such persons shall be deemed to be duly elected for one year, or until the next annual election, and shall be certified as elected by the returning officer under his hand:

(6.) If the number nominated exceed the number to be elected, the returning officer shall send by post a voting paper in the form contained in the second schedule hereto, containing in alphabetical order the names of all persons nominated, to each person entitled to vote, and shall specify a day, not less than five days or more than ten days from the date of sending such voting paper, upon which such voting paper is to be returned to him:

(7.) Every voter shall, in the presence of a witness, write his initials or make his mark against the name or names of the person or persons (not exceeding the number to be elected) for whom he intends to vote, and shall insert the number of votes he intends to give to each person, and shall strike out the name or names of every other person or persons and sign the voting paper with his name and address. In case the voter cannot write, such witness shall attest and write his own initials against the name of every candidate for whom the voter intends to vote, and against the mark of such voter, and shall fill up the number of votes given to each candidate. In every case such witness shall subscribe his own name and address to such voting paper:

(8.) Each voter shall be entitled to vote according to the following scale; (that is to say,)

If the license duty paid by him shall exceed one pound and not exceed two pounds, one vote for each member to be elected:

If the license duty shall exceed two pounds but not exceed five pounds, two votes for every such member:

If the license duty shall exceed five pounds and not exceed ten pounds, three votes for every such member:

If the license duty shall exceed ten pounds and not exceed twenty pounds, four votes for every such member:

If the license duty shall exceed twenty pounds, five votes for every such member:

(9.) A voter may give all such votes to any one of the persons nominated, or may distribute them amongst such of the persons nominated, not exceeding the number to be elected, as he shall think fit:

(10.) The voter shall send the voting paper by post to the returning officer, duly filled up and attested as aforesaid, on or before the day mentioned therein:

(11.) In case any person entitled to vote shall not have received a voting paper, he shall be entitled, on his personal application to the returning officer, before the day fixed for the return of the voting papers, to receive and fill in a voting paper in manner aforesaid:

(12.) The returning officer, within four days after the day fixed for the return to him of the voting papers, shall inquire into the validity of the votes given, and cast up and ascertain the number of valid votes given to each person nominated, and the persons in accordance with the number to be elected who shall have obtained the greatest number of valid votes shall be deemed to be elected, and the returning officer shall certify them to be so under his hand:

(13.) The returning officer shall make out a list containing the names of all persons nominated, together with the number of valid votes (in case of a contest) given to each person nominated, and shall sign and certify the same, and shall deliver such list, together with the nomination and voting papers, to the board of

conservators at their next meeting; and such list shall be open to the inspection of all license payers without fee or reward:

(14.) The returning officer shall, immediately after ascertaining the persons elected, send by post to each person so elected a notice of his election, and shall publish the names of the persons so elected in such newspaper or newspapers circulating within the district as the board shall direct:

(15.) If upon casting up the votes the returning officer shall find that an equal number of votes has been given for two or more persons, one or more of whom only is or are entitled to be elected, he shall, in the presence of two or more witnesses, determine by lot which of such persons is or are elected, and the person or persons so determined shall be deemed to be for all intents and purposes duly elected member or members of the board as if he or they had obtained a majority of the votes at such election:

(16.) Any casual vacancy occurring by death, resignation, or otherwise, among such additional members of the board of conservators, may be filled up by the board; but the member chosen to fill such vacancy shall hold his office for such time only as the member vacating would have held the same if no vacancy had occurred.

Returning officer to recover expenses.

31. The returning officer shall, at the first meeting of the board of conservators after any such election as aforesaid, lay before the board an account of the expenses incurred by him in conducting such election. And the board of conservators shall thereupon cause the same to be audited, and may disallow any item they consider to be excessive or illegal; and shall forthwith pay the amount found due to the returning officer, and in default of payment the returning officer shall be entitled to recover from the board of conservators in a summary manner whatever shall be found due to him after such accounts have been audited.

Penalty on returning officer for wilful neglect of provisions as to elections.

32. At any such election, if the returning officer wilfully neglects or refuses to comply with any of the provisions of this Act, he shall be liable for every such offence to a penalty not exceeding five pounds.

Penalty for personating voters, &c.

33. At any such election, if any person or persons wilfully fabricate in whole or in part, or alter, deface, destroy, abstract, or purloin any voting paper, or personate any person entitled to vote, or falsely assume to act in the name or on behalf of any person so entitled to vote or attest the execution of any voting paper, such person or persons shall be liable on conviction thereof to a penalty not exceeding twenty pounds, or to be imprisoned for any time not exceeding three months, with or without hard labour.

Continuance of old boards, ratification of their proceedings.

34. Nothing in this Act contained shall be held to invalidate anything done or suffered to be done before the passing thereof, by any board of conservators formed under the powers and authority of "The Salmon Fishery Act, 1865," and all the proceedings and acts of such boards shall be as valid and effectual as if this Act had not been passed. And the proceedings of all boards of conservators after the passing of this Act shall accordingly be subject and without prejudice to everything so done or suffered to be done, and to all rights, liabilities, claims, and demands, both present and future, which would if this Act had not been passed be incident to and consequent on any or everything so done or suffered to be done, and the proceedings, and all proceedings of boards of conservators under this Act, shall be deemed a continuation of and form a part of the proceedings of boards of conservators constituted under "The Salmon Fishery Act, 1865." And the boards of conservators appointed under this Act shall to all intents and purposes represent and be deemed a continuation of the boards of conservators appointed under the provisions of "The Salmon Fishery Act, 1865." And no act or proceeding of any board of conservators appointed under the provisions of "The Salmon Fishery Act, 1865," or of this Act, shall be questioned on account of any vacancy or vacancies in their body, and no defect in the qualification or appointment of any person or persons acting as member or members of any board of conservators shall be deemed to vitiate or affect any proceedings of such board in which he or they may have taken part.

Evidence of proceedings at meetings.

35. Any minute made of proceedings at a meeting of a board of conservators, signed by the chairman of such meeting, or by the chairman of the next meeting of the board, shall be receivable in evidence in all legal proceedings without further proof; and until the contrary is proved every meeting of the board in respect of the proceedings of which minutes have been so made, shall be deemed to have been duly convened and held, and all the members thereof to have been duly qualified.

Part VI.—Powers of Water Bailiffs.

Powers of water bailiff.

36. Any water bailiff appointed under "The Salmon Fishery Acts, 1861 to 1873," acting within the limits of his district, may do all or any of the following things; (that is to say,)

(1.) Examine any weir, dam, fishing weir, fishing mill dam, fixed engine, or obstruction, or any artificial watercourse connected with any salmon river; and any person refusing to any water bailiff access to any such weir, dam, fishing weir, fishing mill dam, fixed engine, obstruction, or watercourse, shall be liable for every such offence to a penalty not exceeding five pounds:

(2.) Stop and search on any salmon river any boat, barge, coracle, or other vessel used in fishing, or which there is reasonable cause to suspect contains any salmon, and seize any fish, instrument of fishing, or other articles forfeited in pursuance of "The Salmon Fishery Acts, 1861 to 1873;" and any person refusing to allow any such boat, barge, coracle, or other vessel to be stopped and searched, or resisting or obstructing any water bailiff in any such search, shall for every such offence be liable to a penalty not exceeding five pounds:

(3.) Search and examine all nets, baskets, bags, or other instruments used in fishing or in carrying fish by persons whom there is reasonable cause to suspect of having possession of fish illegally caught; seize all fish and other articles forfeited in pursuance of "The Salmon Fishery Acts, 1861 to 1873;" and any person refusing to allow any nets, baskets, bags, or other instruments used in fishing or in carrying fish to be searched or examined, or resisting or obstructing any water bailiff in any such search or examination, shall for every such offence be liable to a penalty not exceeding five pounds:

(4.) For the enforcement of the provisions of "The Salmon Fishery Acts, 1861 to 1873," every water bailiff shall be deemed to be a constable, and to have all the same powers and privileges, and be subject to the same liabilities as a constable duly appointed now has or is subject to in his constablewick, by virtue of the common law of the realm or of any statute:

(5.) The production by a water bailiff of the instrument of his appointment, executed in the manner prescribed in "The Salmon Fishery Act, 1865," shall be a sufficient warrant for any water bailiff exercising the authorities given to him under "The Salmon Fishery Acts, 1861 to 1873."

Water bailiff may enter on land.

37. Any water bailiff may under a special order in writing from the board of conservators, signed by the chairman for the time being of such board, for this purpose at all reasonable times enter, remain upon, and traverse any lands, not being a dwelling-house or the curtilage thereof, adjoining or near to any salmon river within the fishery district of such board, for the purpose of preventing any breach of the provisions of "The Salmon Fishery Acts, 1861 to 1873;" and no water bailiff entering, remaining upon, or traversing any land in pursuance of such order shall be deemed a trespasser. Provided always, that this section shall not apply to decoys or lands used exclusively for the preservation of wild fowl, and that no such order shall remain in force for more than two months from the date thereof. But nothing herein contained shall affect any other powers of search conferred by "The Salmon Fishery Acts, 1861 to 1873."

Persons fishing illegally at night may be apprehended.

38. If any person, between the expiration of the first hour after sunset on any day and the beginning of the last hour before sunrise of the following morning, illegally takes or kills salmon, or is found on or near any salmon river with intent illegally to take or kill salmon, or having in his possession for the capture of salmon any instrument prohibited

by the Salmon Fishery Acts, 1861 to 1873, it shall be lawful for any water bailiff, together with any assistants, to seize and apprehend any such offender without warrant, and to deliver him, as soon as may be, into the custody of a peace officer, in order to his being conveyed before two justices of the peace for the purpose of being convicted in the penalty assigned for his offence.

Part VII.—Byelaws.

Boards may make byelaws for certain purposes.

39. Subject to the provisions herein-after contained for the confirmation and publication of byelaws, a board of conservators may make byelaws for the better execution of "The Salmon Fishery Acts, 1861 to 1873," and for the better protection, preservation, and improvement of the salmon fisheries within their district, and alter the same from time to time for all or any of the following purposes; (that is to say,)

(1.) To alter the commencement and termination of the annual close season as to the whole or part of the district, so that such close season, when so altered, shall not be less than one hundred and fifty-four days, for all modes of salmon fishing, except with rod and line, and shall not commence later than the first of November in each year, and as regards fishing with rod and line, so that such close season shall not be less than ninety-two days, and shall not commence later than the first of December in each year:

(2.) To alter the commencement and termination of the weekly close season as to the whole or part of a district, so that such season shall not commence before six o'clock on Friday afternoon, and not terminate earlier than midnight on the Sunday following, nor continue later than twelve o'clock on the following Monday at noon, such weekly close time in no case to exceed forty-eight hours:

(3.) To determine the length, size, and description of nets, and the manner of using the same (not being fixed engines) for taking salmon: Provided that no byelaw made under the authority of this section shall limit the length of a hang net, or limit the length of a draft net so as to be less than two hundred yards:

(4.) To determine the minimum size of the mesh of nets for catching salmon that shall be lawfully used within the district, so that such mesh shall not be less than one and a half inch from knot to knot, and so that no person shall be compelled to use a mesh larger than two and a half inches, measured when wet:

(5.) To determine the form of license and the manner in which licenses shall be issued, provided that different forms be used for licenses for fishing in public or common and in private fisheries:

(6.) To vary the rate of license duty in different parts of the district, in respect of the length or size of the net used, so that such duty shall not exceed the sum mentioned in the third schedule hereto:

(7.) To determine what marks, labels, or numbers shall be attached to licensed nets, or painted upon or affixed to boats, coracles, or other vessels used in fishing:

(8.) To prohibit the use of nets within a certain distance of the mouth of any river, and of the point of confluence of rivers in any part of the district (not being a several fishery), and to erect and fix posts, buoys, and landmarks to indicate such distances respectively:

(9.) To determine the time during which it shall be lawful to use a gaff in connexion with a rod and line:

(10.) To determine when gratings shall be placed during certain times of the year across the head and tail race of mills and across any artificial channel, so, however, as not to diminish the supply of water to any mill, nor to interfere with the passage of vessels or otherwise injure any inland navigation or lock, but so that the provisions of the thirteenth section of the Salmon Fishery Act, 1861, shall not be affected:

(11.) To regulate during the annual and weekly close seasons the use within any river of nets for fish other than salmon, when such use at such times is prejudicial to the salmon fisheries: Provided that nothing in this sub-section contained shall authorise anything to be done which shall affect any part of any river in which

part there is a several right of fishery, or any river or part of any river where the breadth at low water is greater than six miles:

(12.) To prohibit the use in any inland water of any net, except a landing net or a net for taking eels, between the expiration of the first hour after sunset and the last hour before sunrise:

And the said board may, by any such byelaw, impose a penalty not exceeding the sum of five pounds for each offence against such byelaw; such penalties shall be recovered and applied in manner herein-after provided: Provided always, that such byelaw, having been reduced to writing and sealed with the common seal of the board, shall be confirmed and published in manner herein-after provided, and shall be so framed as to allow the justices before whom any penalty imposed thereby shall be sought to be recovered to order the whole or part only of such penalty to be paid: Provided also, that no byelaw shall be made unless notice of an intention to propose the same shall have been given in the notice convening the meeting of the conservators at which it is intended to propose such byelaw, which notice shall be issued one fortnight at least before the date of such meeting.

Byelaws may apply to all or part only of a district, and to whole or parts of a year.

40. A board of conservators may make any byelaw to apply to the whole or to any part or parts of their district, and to the whole or any part or parts of the year, and may from time to time by any new byelaw revoke, vary, or alter, either in whole or in part, or as to its application to the whole or to any part or parts of the district, any byelaw previously made, and may from time to time vary any byelaw made in respect of the whole or any part or parts of the district, and may from time to time except or exclude from the operation of all or any of the byelaws any part or parts of the district, or extend the operation of any byelaw made for any part or parts of the district to the whole or other parts of the district.

Byelaws not to come into operation until confirmed by the Secretary of State.

41. No byelaw made by such board of conservators shall come into operation until the same be confirmed by one of Her Majesty's Secretaries of State, who may direct an inquiry into the same at such time and place, and before such persons, and after giving such notices as he shall think fit; and with or without such inquiry he may allow or disallow the said byelaws as he shall think fit: Provided that if at any time before the confirmation of any byelaw for any purpose mentioned in sub-sections one, two, three, four, or eight of section thirty-nine, any owner or occupier of any fishery or any licensee who would be affected by such byelaw shall, by notice in writing to the Secretary of State, object thereto, and shall give such security for the payment of any costs attending the inquiry and the notice herein-after mentioned as the Secretary of State may require, the Secretary of State shall either disallow such byelaw or cause a public inquiry to be held in some convenient place by such person or persons as he may appoint, when all persons interested may have the opportunity of being heard; and after such inquiry the Secretary of State shall either disallow such byelaw or give one month's notice of his intention to allow the same by advertisement in some newspaper or newspapers circulating in the district affected thereby.

Byelaws to be open to inspection before application to confirm them.

42. For one month at least before any application for confirmation of any byelaws, notice of the intention of the said board to apply for such confirmation shall be given once in each week by advertisement in one or more newspapers circulating in the district, and a copy of the proposed byelaws shall be kept at the office of the board, or some place to be appointed by the chairman for that purpose, and all persons may at all reasonable times inspect such copy without fee or reward, and the said board shall furnish every person who shall apply for the same with a copy thereof, or of any part thereof, on payment of one penny.

Byelaws when confirmed to be printed and published.

43. The said byelaws when confirmed shall be printed, and the secretary or clerk to the said board shall deliver a printed copy thereof to every person who shall pay license duty without charge, and a copy thereof shall be placed and renewed from time to time, on boards, or put up in some conspicuous place or places within the district, and shall be open to inspection without fee or reward; and in case the said secretary or clerk shall wilfully refuse to deliver or to allow the same to be inspected as aforesaid, he shall for every such offence be liable to a penalty not exceeding five pounds.

Byelaws when confirmed and published to be binding on all persons.

44. Any byelaw made, confirmed, and published according to the provisions of this Act, shall be binding and be observed by all parties, and shall be sufficient to justify all persons acting under the same.

Byelaws proved by copy having seal of board and publication in newspapers.

45. The production of a written or printed copy of any byelaw purporting to have been confirmed, authenticated by the common seal of the board, shall be conclusive evidence of the existence and due making of such byelaw in all legal proceedings, and the production of a copy of any newspaper or newspapers containing the notice of the making of any such byelaw shall be taken and received in all legal proceedings as evidence that all things required by this Act for the making and publication of the byelaw therein advertised have been duly done, performed, and published.

PART VIII.—WEIRS AND FISH PASSES.

Penalty on all persons rebuilding weirs and making new weirs without fish passes, and raising or altering weirs so as to increase obstruction to passage of salmon.

46. Every person who in any salmon river, since the sixth day of August one thousand eight hundred and sixty-one, has created, caused, or increased, or who hereafter shall create, cause, or increase any obstruction to the passage of salmon, or who rebuilds or reinstates a weir or dam which from any cause shall have been destroyed or taken down to the extent of one half of the length of such weir, dam, or obstruction, shall make a fish pass for salmon of such form and dimensions as the Secretary of State shall approve, as part of the structure thereof, if none already exists, and every person who omits or fails to make such fish pass in such weir, or who newly builds a weir without providing such fish pass, or who raises or alters any existing weir in whole or part, so as to cause increased obstruction to the passage of salmon, or who makes or continues any obstruction whatsoever to the passage of salmon without lawful authority, shall incur a penalty of not exceeding twenty pounds for every such offence, and a further penalty of not exceeding two pounds for every day during which such offence is continued, commencing from the date of the first conviction; and it shall be lawful for the Secretary of State to cause to be done any work by this section required to be done by such person, and to recover the expenses of doing the same in a summary manner from such person, or from the owner or occupier of such obstruction who shall neglect to do the same. But this section shall not authorise anything to be done that may injuriously affect any navigable river, canal, or inland navigation, public waterworks, dock or docks, the supply of water to which is obtained from any navigable river, canal, or inland navigation, under the provisions of any Act of Parliament, nor shall anything in this section or in the twenty-fifth section of "The Salmon Fishery Act, 1861," prevent any person from removing a fish pass for the purpose of repairing or altering such obstruction, so that within a reasonable time he restore such fish pass in as effectual a state as it was before he removed the same; and for the purpose of this section the owner or occupier of any such obstruction for the time being shall be deemed to be the person who created or caused or increased such obstruction in manner aforesaid.

Member of board may recover compensation.

47. In case any member of the board of conservators of the district is the owner of any weir, dam, fishing mill dam, or obstruction, nothing in "The Salmon Fishery Acts, 1861 to 1873," shall prevent the board paying to such member any compensation in respect of the same, provided that such member does not vote in respect of the payment of any such compensation to himself.

Penalty on injuring and rendering fish pass inefficient.

48. Any person wilfully altering or injuring any fish pass, or doing any act whereby fish are obstructed or liable to be obstructed in using such fish pass, or whereby such fish pass is rendered less efficient, or altering the bed or banks of the river so as to render any fish pass less efficient, or using any contrivance or doing any act whereby fish are in anywise liable to be scared, hindered, or prevented from passing through such fish pass shall for every such offence incur a penalty of not exceeding five pounds, and a further penalty of not exceeding one pound for every day during which any such alteration, obstruction, or contrivance is continued from the date of a second conviction for such offence, in addition to any expense which may be incurred in restoring such fish pass to its former state of efficiency.

49. Where any board of conservators shall be of opinion, having regard to the prejudicial effect upon the salmon fisheries of their district, caused by any weir, dam, fishing weir, fishing mill dam, fixed engine, or artificial obstruction which hinders the passage of fish, that it would be beneficial to such fisheries if such weir, dam, fishing weir, fishing mill dam, fixed engine, or artificial obstruction should be removed, in whole or in part, but the owner thereof shall be unwilling or unable to treat, or they cannot agree to the terms of purchase thereof, and such board shall be desirous of obtaining authority to acquire compulsorily the property of such weir, dam, fishing weir, fishing mill dam, fixed engine, or artificial obstruction, and premises, for the purposes of such removal, such board may, after giving one month's notice of their intention to the owner thereof, present a petition to the Secretary of State praying that such board may, with reference to such weir, dam, fishing weir, fishing mill dam, fixed engine, or artificial obstruction, and the premises used in connexion therewith, be allowed to put in force the powers of the Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, and such prayer shall be supported by such evidence as the Secretary of State may require.

Board, if desirous of acquiring compulsorily a weir or obstruction for the purposes of removal, may petition Secretary of State.

Upon the receipt of such petition, and upon due proof of notice being given to the owner and occupier of such weir, dam, fishing weir, fishing mill dam, fixed engine, or artificial obstruction, the Secretary of State, after satisfying himself that the board are provided with funds for the purchase of such weir, dam, fishing weir, fishing mill dam, fixed engine, or artificial obstruction, and the premises connected therewith, shall take such petition into consideration, and may either dismiss the same or direct an inquiry in the district in which such weir, dam, fishing weir, fishing mill dam, or artificial obstruction is situated, or otherwise inquire into the propriety of assenting to the prayer of such petition.

After the completion of such inquiry, the Secretary of State may, by provisional order, empower the said board to put in force with reference to the said weir, dam, fishing weir, fishing mill dam, fixed engine, or artificial obstruction, and premises referred to in such order, the powers of the Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, with such conditions and modifications as he may think fit, and the board shall serve a copy of any order so made upon the owner and occupier of the said weir, dam, fishing weir, fishing mill dam, fixed engine, or artificial obstruction and premises. No provisional order so made shall be of any validity until the same has been confirmed by Act of Parliament, and the Act confirming such order shall be deemed to be a Public General Act of Parliament, and the said board shall be thereupon deemed and taken to be the promoters of an undertaking to remove the said weir, dam, fishing weir, fishing mill dam, fixed engine, or artificial obstruction, in whole or part, so as to enable salmon to pass more freely, and the residue of the premises so purchased, when separated from such weir, dam, fishing weir, fishing mill dam, fixed engine, or artificial obstruction, shall be deemed to be superfluous lands within the meaning of the said Acts, and may be dealt with accordingly: Provided that this section shall not extend to any weir constructed under any Act of Parliament for the purpose of improving the navigation of any river, or of supplying any town with water. For the purposes of this section the word owner shall mean any person or corporation who under the provisions of this clause and the Lands Clauses Consolidation Acts would be enabled to sell and convey any such weir, dam, fishing mill dam, fixed engine, or artificial obstruction.

50. When any proprietor of a fishery or board of conservators is or are, from the circumstances of the case, unable to attach a fish pass to any weir, dam, fishing mill dam, or obstruction under the provisions of the twenty-third section of the Salmon Fishery Act, 1861, such proprietor or board of conservators may, after giving such notice as is prescribed in the last preceding section, present a petition to the Secretary of State praying to be allowed to purchase so much of the bank adjoining the same as may be necessary for such fish pass, and the provisions contained in the last preceding section with reference to the proceedings upon a petition for the purchase of any weir or obstruction for the purpose of removal shall apply to a petition presented under the provisions of this section.

Provision as to fish passes.

Provision as to legal weirs not now provided with fish passes.

51. In any case where the special commissioners for English fisheries have decided that any fishing mill dam, box, crib, or cruive is illegal only by reason of its not having a fish pass attached thereto as required by law, if the owner thereof enters into an undertaking to erect and maintain at his own expense a fish pass in accordance with the provisions of the twelfth section of "The Salmon Fishery Act, 1861," before the first day of January one thousand eight hundred and seventy-five, it shall be lawful for such person to use, from and after the erection of such fish pass, the said fishing mill dam, box, crib, or cruive for taking salmon, any provision in "The Salmon Fishery Act, 1865," to the contrary notwithstanding: Provided nevertheless, that in the event of the owner of such fishing mill dam, box, crib, or cruive not making such fish pass within the time above mentioned, his right of fishing or using such fishing mill dam, box, crib, or cruive for the purpose of taking fish shall henceforth cease, and be for ever forfeited and lost, and the board of conservators for the district in which such fishing mill dam, box, crib, or cruive is situated shall thereupon give notice to such owner to remove all or any cages, cribs, traps, boxes, cruives, or other contrivances for catching salmon within six calendar months after the service of such notice; and in the event of his non-compliance with such notice, the board aforesaid shall have power to remove the same and all other obstructions to the free passage of the fish.

Secretary of State may approve existing fish passes.

52. In all cases where any fish pass has been already constructed in any weir, dam, or fishing mill dam, and has received the approval of the Secretary of State, such fish pass shall be deemed to be a fish pass within the meaning of "The Salmon Fishery Acts, 1861 to 1873," notwithstanding such fish pass was not constructed in the manner and by the parties specified in "The Salmon Fishery Acts, 1861 to 1873." And it shall be lawful for the Secretary of State to approve and certify any fish pass that now is or hereafter shall be constructed, if he is of opinion that such fish pass is efficient in all respects and for all purposes, as if the same had been constructed under the provisions of "The Salmon Fishery Act, 1861," with the written consent and approbation of the Secretary of State.

Amendment of sections 23, 24, and 26 of "The Salmon Fishery Act, 1861."

53. The following sections of "The Salmon Fishery Act, 1861," shall be respectively amended in the following manner; (that is to say,)

The twenty-third and twenty-fourth sections thereof shall be read as if the words "or a board of conservators" were inserted after the words "proprietor of a fishery" or "proprietor" throughout such sections respectively:

The twenty-sixth section thereof shall be construed as if the words "where a fish pass "is attached to any dam in pursuance of this Act" were omitted, and the words "any dam" were substituted for the words "the dam," and the words "on Sundays and" were inserted after the words "kept shut," and the words "if any or over the dam" were inserted over the words "fish pass."

Compensation to be paid on erecting fish passes or gratings.

54. In all cases in which it is alleged that a board of conservators, in executing the powers and authorities of the Salmon Fishery Acts, 1861 to 1873, have caused any damage to or injuriously affected any land or other hereditaments by reason of the making or maintaining of any fish pass, grating, or other work, if the compensation claimed in respect of such alleged damage shall not exceed the sum of fifty pounds, the same shall be settled by two justices of the peace, but if the compensation shall exceed the sum of fifty pounds the same shall be settled by arbitration in accordance with the provisions of the Common Law Procedure Act, 1854: Provided always, that no compensation shall be recovered under this section unless proceedings for the recovery of the same are instituted within two years from the date of the erection of such fish pass, grating, or other work.

Provision as to Severn Navigation weirs.

55. Whereas it is expedient that the dams or weirs which have been constructed by the Severn Commissioners under the provisions of "The Severn Navigation Acts, 1842 and 1853," should be placed under the same general law as is applicable to dams or weirs under "The Salmon Fishery Acts, 1861 to 1873:" Be it therefore enacted, that sections one hundred and fifty-eight, one hundred and fifty-nine, and one hundred and sixty of "The Severn Navigation Act, 1842," and so much of section three of "The Severn Navigation Act, 1853," as extends their operation to the Tewkesbury Weir therein mentioned,

be hereby repealed, and that each of the dams or weirs constructed by the Severn Commissioners under the provisions of "The Severn Navigation Acts, 1842 and 1853," respectively, or either of them, shall be deemed a dam or weir within the meaning of "The Salmon Fishery Acts, 1861 to 1873," and the provisions of the said Acts shall apply thereto, and that every fish pass now existing in the said dams or weirs or either of them, or which may be constructed therein under the provisions of this Act, shall be deemed a fish pass within the meaning of "The Salmon Fishery Acts, 1861 to 1873," and shall be maintained in an efficient state by the said Severn Commissioners.

Power to enter and inspect weirs, dams, &c.

56. Any inspector, or any person or persons duly appointed in writing by a board of conservators, may at all times enter upon any lands to inspect any weir, dam, fishing weir, fishing mill dam, fixed engine, obstruction, mill race, or watercourse, and any person either refusing to admit or obstructing them or any of them in entering any such place or places shall for every such offence be liable to a penalty of not exceeding five pounds.

Board may levy additional duty for permanent improvements.

57. In addition to the license duties authorised to be levied in a fishery district, the board of conservators may from time to time, with the sanction of the Secretary of State, for the purpose of defraying the charges of any improvements made or about to be made for the purpose of facilitating the passage of salmon, levy additional license duties throughout the district, not exceeding in any one year twenty-five per cent. of the sum paid by each person respectively, and the said additional duty shall be payable at the same time as and in addition to the ordinary license duty, and shall for all the purposes of the Salmon Fishery Acts be deemed part of the ordinary license duty, and no license granted after the passing of this Act without payment of such additional duty, if any, as well as the license duty applicable thereto, shall be valid: Provided, that notice shall be given by the board, by advertisement in one or more local newspapers, one calendar month before the commencement of each fishing season, of the amount of such additional duty to be paid in addition to the ordinary license duties in force in each district. And the estimate on which such additional duty is founded shall be kept by the clerk or other officer of the board, and be open to the inspection of all previous license payers, riparian owners, and persons entitled to vote within the district, at reasonable times and places to be appointed by the board before the commencement of each fishing season.

PART IX.—GRATINGS TO PREVENT FISH ENTERING WATERCOURSES.

Gratings in watercourses.

58. Any board of conservators after due notice to the owner or occupier of any mill or other premises, at the expense of such board during such period as may be prescribed in each year, may order to be placed in any watercourse, mill race, cut, leat, or other channel for conveying water for any purpose from any river frequented by salmon at or near the point of divergence from and return to such river, or either of them, or in any other suitable place, a grating of such form and dimensions as they shall determine: Provided always, that nothing herein contained shall affect the liability of any person to place and maintain a grating or gratings across any artificial channel under the provisions of the thirteenth section of the Salmon Fishery Act, 1861, nor shall authorise any grating to be placed so as to obstruct any channel used for navigation or in any way to interfere with the effective working of any mill.

Power to widen channels.

59. In all cases of construction of gratings under the powers of this Act, the Secretary of State may, in such cases as he shall deem expedient, cause any watercourse, mill race, cut, leat, or other channel to be widened at the expense of such board, so far as necessary to compensate for the diminution of any flow of water caused by the erection of any grating, or shall take some other means to prevent the flow of water being prejudicially diminished or otherwise injured.

Board may place gratings at mouths of streams.

60. A board of conservators, with the consent of the Secretary of State, may adopt such means as he shall approve for preventing the ingress of salmon into streams in which

they or their spawning beds are, from the nature of the channel, liable to be destroyed, but so that no water rights used or enjoyed for the purposes of manufacture, or agricultural purposes, or drainage or navigation, shall be prejudicially interfered with thereby.

Owner to preserve gratings.

61. The owner or occupier of the lands adjoining any grating erected under the authority of this Act, and the owner or occupier of the lands to which such watercourse, mill race, cut, leat, or other channel leads, shall take all reasonable means to preserve the said gratings from injury, and to prevent the same from being removed, and in case any owner, occupier, or other person shall injure such gratings, or remove any part of them, during the period prescribed for any such grating to be kept up by any byelaw made under the authority of this Act, or open them improperly, or knowingly permit them to be injured or removed or improperly opened, he shall for every such injury, removal, or improper opening, forfeit and pay any sum not exceeding five pounds.

PART X.—LEGAL PROCEDURE.

Recovery of penalties.

62. All penalties imposed by "The Salmon Fishery Acts, 1861 to 1873," or by any byelaw made in pursuance of this Act, and all sums of money, costs, and expenses by the said Acts or either of them directed to be recovered in a summary manner, may be recovered within six months after the commission of the offence before two justices, in manner directed by an Act passed in the eleventh and twelfth years of the reign of Her present Majesty Queen Victoria, chapter forty-three, intituled "An Act to facilitate the "performance of the duties of Justices of the Peace out of sessions within England and "Wales, with respect to summary conviction and orders," or of any Act amending the same. And all moneys received and penalties recovered under the said Acts or any of them on the complaint of a board of conservators, or of any officer of or a person authorised by a board of conservators, shall be paid to the board of conservators for the district, to be applied by them for the purposes of "The Salmon Fishery Acts, 1861 to 1873" (unless the court for some special reason otherwise order).

Returns.

63. The clerk, secretary, or other officer where there is no clerk, of every board of conservators shall prepare and forward to the Home Office, before such date as the Secretary of State shall from time to time appoint, an annual return in such form and made up to such date as the Secretary of State shall from time to time appoint. Such return shall contain such information as the said Secretary of State shall from time to time require; and any such person refusing or neglecting to make such return shall be liable to a penalty of not exceeding one pound for every such refusal or neglect.

Proof of legality of scale of licenses.

64. The provisions of the "Documentary Evidence Act, 1868," shall apply to a scale of licenses approved by the Secretary of State, in pursuance of the said "Salmon Fishery Act, 1865," or this Act, in the same manner as if such scale so approved as aforesaid were an order or regulation issued by such Secretary of State, and the production of a copy of such scale of licenses, purporting to be certified to be a correct copy of such scale, by any person empowered to certify the same in pursuance of the "Documentary Evidence Act," shall be evidence that such scale has been approved of, and that all the steps required by "The Salmon Fishery Act, 1865," or this Act, relating to the formation and approval of such scale have been taken.

Repeal of Acts.

65. The eighteenth, nineteenth, and thirty-fifth sections of the Salmon Fishery Act, 1861, and the fourteenth, twentieth, twenty-fourth, twenty-sixth, and thirtieth sections, the first and second sub-sections of the thirty-fourth section, and the first schedule of the Salmon Fishery Act, 1865, are hereby repealed, except so far as relates to anything done or in the course of being completed under the same respectively.

SCHEDULES.

FIRST SCHEDULE.

Form of Nomination Paper.

_____ Fishery District.

I the undersigned _____ of _____ do hereby nominate [*A.B.* of _____ in the county of _____ Esquire, *C.D.* of _____ in the county of _____ fisherman] for election as additional members of the board of conservators of the _____ Fishery District under the provisions of "The Salmon Fishery Act, 1873."

(Signed) _____

To _____

Returning officer for such election.

Dated this _____ day of _____ 187_.

SECOND SCHEDULE.

Form of Voting Paper.

_____ Fishery District.

Number of Voting Paper.	Name and Address of Voter.	Number of Votes.

Directions to the Voter.

The voter must write his initials against the name of every person for whom he votes, and insert the number of votes he intends to give to each candidate voted for, and must sign this paper in the presence of, and it must be attested by, a witness.

If the voter cannot write he must affix his mark, but such mark must be attested by a witness, and such witness must write the initials of the voter against the name of every person for whom the voter intends to vote, and the number of votes given to each such person.

Initials of Witness.	Initials of the Voter against the Names of the Persons for whom he intends to vote.	Names of the Persons nominated.	Residence of the Persons nominated.	Quality or calling of the Persons nominated.	Number of Votes given to each Candidate voted for.

I vote for the persons in the above list against whose name my initials are placed in the proportion above mentioned.

(Signed) _____

Mark of _____

Dated the _____ day of _____ 187_.

Name and address of witness.

THIRD SCHEDULE.

License Duties.

	£	s.	d.
For each and every—			
„ Weir, hang, baulk, garth, goryd, box, crib, or cruive	12	0	0
„ Draft or hang net, not exceeding 200 yards in length measured along the head-rope when wet	5	0	0
„ Ditto, exceeding 200 yards, for every additional 40 yards or part thereof	1	0	0
„ Coracle net	2	5	0
„ Putt	0	3	6
„ Outrigger or leader to putts and putchers, not exceeding 100 yards in length	2	0	0
„ Ditto, exceeding 100 yards, for every additional 20 yards or part thereof	1	0	0
„ Cross line	2	10	0
„ Single rod and line	1	10	0
For putchers or butts, if not exceeding 50 in number	1	10	6
For every additional 50 or part thereof	1	10	6

For any instrument or device not named above, such sum as may be determined by the board of conservators, with the sanction of the Secretary of State.

CHAPTER 72.

An Act for the Amendment of the Defence Acts, 1842 and 1860.

[5th August 1873.]

WHEREAS the power vested in Her Majesty's Principal Secretary of State for the War Department of selling lands purchased by him under the Defence Acts, 1842 and 1860, or one of such Acts, might be exercised beneficially to the public service if certain of such lands could be sold with a condition thereto attached to the effect that they should for ever be kept free from buildings and other obstructions:

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:

Power of the Secretary of State for War to sell lands, subject to condition as to freedom from obstructions, and to purchase the right to subject lands to such condition.

1. Her Majesty's Principal Secretary of State for the War Department may, from time to time as he may deem it expedient, sell any lands vested in him or under his control as such Secretary of State as aforesaid, subject to the condition that such lands are for ever thereafter to be kept free from buildings and other obstructions.

Where any lands are sold subject to such condition as aforesaid, the following consequences shall ensue:

Such condition as aforesaid shall be deemed to attach for ever to any lands so sold, and no building or other structure, other than barns, hovels, or other like structures of wood, shall at any time be made or erected on any lands subject to such condition as aforesaid:

The said Secretary of State may at all times, by himself, his officers, agents, servants, and workmen, or any of them, and without payment of any compensation whatever, enter upon any lands subject to such condition as aforesaid, and pull down any present or future buildings or structures (other than as aforesaid) thereon, and cut down or grub up all or any of the trees thereon, and remove or alter all or any of the banks, fences, hedges, and ditches thereon, and make under-ground or other drains therein, and generally level and clear the said lands, and do all such acts for levelling and clearing the same as may be deemed necessary or proper by the said Secretary of State, but in such manner, nevertheless, that evidence of the boundaries of the lands held by different owners may be preserved:

It shall not be lawful for any person to alter the level of the said lands, or do any act which may prejudicially affect any work done on the said lands under the authority of the said Secretary of State: