CHAP. vi.

An Act to confirm certain Orders made by the Board of Trade under The Sea Fisheries Act, 1868, relating to Boston Deeps and Emsworth. [12th May 1870.]

A.D. 1870.

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, 1870, (No. 1.)

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The SCHEDULE of Orders.

Boston Deeps.—Regulation of Oyster and Mussel Fishery.

Emsworth.—Establishment and Maintenance of Several Oyster and Mussel Fishery.

Boston Deeps.

BOSTON DEEPS OYSTER AND MUSSEL FISHERY.

Order for the Regulation, by the Corporation of the Borough of Boston, of an Oyster and Mussel Fishery in Boston Deeps, being a portion of the Estuary called the Wash, in the County of Lincoln.

Undertakers.

1. The mayor, aldermen, and burgesses of the borough of Boston, 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 foreshore and bed of Boston haven and estuary known as Boston Deeps, situate within the county of Lincoln, containing an area of 122 square miles or thereabouts, and bounded as follows, that is to say, to the west and north by the line of ordinary high-water mark from the point where the northern bank of Dawes Mere Creek intersects the old Roman bank, in the parish of Gedney, to a point on the western bank of the River Witham, opposite Hobhole sluice, thence by an imaginary line to Hobhole sluice, and thence by the line of ordinary high-water mark to the Coast Guard station at Skegness, such boundaries being within or adjacent to the several parishes of Gedney, Holbeach, Frampton, Wyberton, Fishtoft, Freiston, Butterwick, Benington, Leverton, Leake, Wrangle, Friskney, Wainfleet, and Skegness. To the east and south by an imaginary line drawn from the last-named point to the Outer Knock buoy, situated at the lower end of a sand known as the Outer Knock sand; thence by an imaginary line drawn across two sands known as the "Dog's Head Sand," and the "Long Sand," to the Roger buoy, situated at the south-west point of a sand called the "Roger Sand," and known as the "Roger Point;" thence by an imaginary line to the "Gat Buoy" situated to the south of a sand known as the "Gat Sand;" thence by an imaginary line drawn in a south-westerly direction along the north-western side of the Wisbeach channel, to the Bachelor's beacon, and thence along the northern side of Dawes Mere Creek (but not including the said creek), up to the old Roman bank, in the parish of Gedney, at the point of intersection first mentioned.

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.

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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 three 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, except that during the first three years after the passing of the Act confirming this Order one half of the oyster beds, and one half of the mussel beds respectively, may be closed:

(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 Town Hall at Boston, 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.

Dredging within closed portions prohibited.

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.

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

5. The Corporation, with the approval of the Board of Trade, may 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.

6. 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.

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

Tolls and fees payable on licenses.

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

For a license to fish for one season (being nine months in any one year),

		s.	*d.*
For every ton the boat licensed is capable of carrying	-	3	0
For a license to fish for one month „ „	-	0	9
For a license to fish for one week or a less period „ „	-	0	3
		3	

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Provided, that every license for a smack shall include the use of one row boat, such row boat to be used when fishing only, by the regular crew of the smack.

There shall be a fee of one shilling paid upon the issuing of each license.

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

The person in charge of any boat (not being a row boat belonging to a smack), 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.

Taking of small mussels and oysters prohibited.

9. Save, as in this Order expressly provided, no person shall at any time remove from the said fishery, or from one portion of the fishing grounds to another, any mussels of less size than two inches in length, or any oysters which will pass through a circular ring of two and a half inches in diameter, measured on the inside of such ring.

Riddlings and refuse to be deposited at appointed places only.

10. All persons dredging, fishing for, or taking mussels within the said fishery, or bringing mussels within the said fishery, whether taken or dredged within the said fishery or not, shall deposit all riddlings and refuse arising from screening or preparing the mussels for market, either on such of the mussel beds, or at such place or places only, as the Corporation may from time to time appoint.

Power reserved to remove brood of mussels and oysters.

11. For the purpose only of better cultivating the fishery the Corporation, or any person or persons duly authorised by them, or acting in pursuance of any regulation made by them under the preceding section, may remove any brood of mussels, and any spat or small-sized oysters, from one portion of the fishery to another, at such times as the Corporation may direct.

Power to appoint water bailiff.

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

13. The whole of the money received by the Corporation from licences, tolls, fees, or otherwise, under this Order, shall 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 repaying to the corporation such sums as they may expend in putting the fishery into a more profitable state.

Marking of limits.

14. The limits of the said fishery shall be marked out by the navigation buoys and sea marks described in Article 2 of this Order, or in such other manner as the Board of Trade may from time to time direct.

Marks, if obliterated, to be replaced.

15. In the event of the said marks being obliterated by storm or otherwise, they shall be replaced from time to time by the Corporation.

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

16. No buildings, erections, embankments, or other works, other than the marks mentioned in Article 14 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 expenditure and income and other information.

17. 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 they or he may require.

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

18. The Board of Trade may at any time make a grant or grants of a several oyster and mussel fishery 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.

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

Power to Board of Trade to repeal or amend Order.

20. 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.

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

21. The Corporation, with the consent of the Board of Trade, may 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.

22. 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.

23. This Order may be cited as The Boston Deeps Fishery Order, 1870.

Emsworth.

EMSWORTH OYSTER AND MUSSEL FISHERY.

Order for the Establishment and Maintenance by the Oyster Merchants' Company, 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 Oyster Merchants' Company, 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 Fishery Order, 1870,") namely, all those parts of the bed of the Emsworth channel lying below low-water mark at ordinary neap tides, being situate within the parishes of Hayling North, in the county of Southampton, and West Thorney, in the county of Sussex, or one of them, containing an area of 45 acres or thereabouts, and bounded as follows: On the north by an imaginary line drawn from Wicor or Vicar Point due west to Swear Deep Torr, and on the south by 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.

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, 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 direct.

Notice to be given if marks obliterated.

5. In the event of the marks mentioned in the last foregoing article 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:—

(1.) By notice boards or placards placed in conspicuous places at the entrances of Emsworth channel and Chichester harbour, at Emsworth, Havant, and Hayling Bridge.

(2.) By advertisements in one or more local newspapers, and in the London "Shipping and Mercantile Gazette."

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, 1866.

Short title.

10. This Order may be cited as The Emsworth Fishery Order, 1870.

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