



ANNO TRICESIMO

VICTORIÆ REGINÆ.

Cap. xlvi.

An Act to amend and enlarge the Powers of "The Ipswich Fishery Act, 1859;" and to enable the Corporation to grant a Lease of the Fishery.

[31st May 1867.]

WHEREAS by "The Ipswich Fishery Act, 1859," the Mayor, Aldermen, and Burgesses of the Borough of Ipswich (who are in the said Act and in this Act called the Corporation), acting by the Council of the said Borough, were authorized (Section 3) to make Byelaws for the Regulation, Management, Preservation, and Improvement of the Oyster Fishery in the River Orwell, and (Section 6) to appoint a Water Bailiff and Assistants for protecting the said Fishery and enforcing the Byelaws in relation thereto, and (Section 15) to apply a Sum of Money not exceeding Six thousand Pounds (which the Corporation are authorized by the Act to borrow) in the Settlement of certain Litigation relating to the Fishery, and in the Improvement of the Fishery: And whereas the Corporation have proceeded in the Execution of the said Act, and have raised the said Sum of Six thousand Pounds for the Purposes of the said Fishery, and it is necessary that the Corporation should be empowered to raise a further Sum of Money for the same Purposes: And whereas it has been found that the Matters which by the Third Section of the said

22 & 23 Vict.
c. lxxii.

[Local.]

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Act

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Act are to be regulated by Byelaws may be more conveniently provided for, both for the Advantage of the Corporation and of the Dredgermen, if placed under the Control of a Committee of the Corporation, who shall from Time to Time make Directions with respect to the said Matters: And whereas the Ninth Section of the said Act provides for the Apportionment between the Corporation and the licensed Dredgermen of the Proceeds arising from the Sale of Oysters as follows:

“As to One Moiety of such Proceeds, the same shall be paid to
 “and among the Persons who shall have dredged the Oysters,
 “each Person taking a Share of such Moiety in proportion to
 “the Quantity dredged by him:”

“And as to the remaining Moiety of such Proceeds, the Corporation
 “shall pay thereout the Salaries of the Water Bailiff and his
 “Assistants, the Interest of the Money to be borrowed as
 “herein-after mentioned, such a Proportion of the Money
 “borrowed under the Powers of this Act as that the Amount
 “so borrowed shall be paid off within the Period of Thirty
 “Years from the Time of borrowing the same, and all other
 “current Expenses incurred by the Corporation in relation to
 “the Maintenance and Regulation of the said Fishery; and
 “the Corporation shall retain the Balance of such remaining
 “Moiety until they shall have been reimbursed the Amount
 “paid as herein-after mentioned for the Costs of the said
 “Actions, and also the Amount herein-after provided to be
 “paid to the said *William Colchester*, and also the Expenses
 “of obtaining this Act; and when the Corporation shall have
 “been so reimbursed they shall pay and divide One Half of
 “the said last-mentioned Balance to and among the Persons
 “who shall have dredged the same Oysters, each Person
 “taking as aforesaid a Share in proportion to the Quantity
 “dredged by him, and the remaining Half of such Balance
 “shall be retained by the Corporation in aid of the Borough
 “Fund:”

And whereas the Portion of the Proceeds assigned to the Corporation has been found insufficient to meet the Outlay required for maintaining the said Fishery, and it is expedient that the said Provisions should be amended: And whereas it is necessary for the profitable Management of the said Fishery that Money should from Time to Time be expended in raising or purchasing young Oysters, Oyster Brood, or Spat, and laying down the same in the said River to be dredged for Sale when arrived at Maturity; and it is doubtful whether under the said Provision the Money thus expended can be first deducted from the Proceeds of the Sale before making the Division prescribed by the said Section, and it is desirable to remove such Doubt: And whereas it is also expedient that the Powers and Provisions of the said Act for
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the proper Management of the Fishery should be in other respects amended and enlarged: And whereas it is also expedient that the Corporation should be authorized to demise or lease for a Term of Years the said Fishery, and all their Rights, Powers, and Interest therein, but subject to the Provisions herein-after contained with respect to the Application of the Rent derived from any such Lease: And whereas the Objects aforesaid cannot be obtained without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and 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; (that is to say,)

1. This Act may be cited for all Purposes as "The *Ipswich Fishery Act, 1867.*" Short Title.

2. This Act shall come into operation on the First Day of *August* One thousand eight hundred and sixty-seven, and from and after that Day "The *Ipswich Fishery Act, 1859,*" shall be read and have Effect together with this Act, and subject to the Modifications thereof herein contained. Commence-
ment of Act.

3. The Words "*River Orwell*" herein-after used shall have the same Meaning as the same Words have in the said recited Act, and the word "*Fishery*" herein-after used shall mean the Oyster Fishery within the *River Orwell*. Interpreta-
tion of
Terms.

4. The Corporation shall annually on the Second *Wednesday* in the Month of *August* appoint Nine Members from the Council of the said Borough to be a Committee, called the Fishery "*Committee.*" Fishery to
be under
Control of
Committee
of Corpora-
tion.

5. In case any Member of the Committee shall die, resign, or cease to be a Member of the Council of the said Borough during the Year for which such Committee shall have been appointed, the Corporation may if they think proper fill up such Vacancy, but the Powers of the Committee shall not be affected by any such Vacancy. As to
Vacancies in
Committee.

6. The Fishery Committee may meet from Time to Time and may adjourn from Place to Place as they think proper for carrying into effect the Purposes of their Appointment, and shall not exercise the Powers entrusted to them except at a Meeting at which there shall be present Three Members thereof, and at all Meetings of the Committee One of the Members present shall be appointed Chairman; and all Questions at any Meeting of the Committee shall be determined by a Majority of Votes of the Members present, and in case of
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an equal Division of Votes the Chairman shall have a Casting Vote, in addition to his Vote as a Member of such Committee.

Powers and
Duties of
Committee.

7. The Fishery Committee shall from Time to Time order and determine,

The Season or Period during which alone the said Fishery may be open and Oysters may be dredged in the River *Orwell* :

The Quantity or Stint of Oysters which every licensed Dredgerman may dredge during the Day, and the Hours during which he may dredge :

The Size of the Oysters which may be dredged for Sale, and the Places where all unsizeable Oysters, Oyster Brood, or Spat which may have been dredged may be deposited :

The Parts of the River which may be dredged :

And the Places within the Limits of the said recited Act where all sizeable Oysters which have been dredged shall be deposited until sold or removed for Sale :

And the Committee may vary the said Orders from Time to Time as the State of the Fishery and the Oyster Market may in their Judgment require :

The Committee shall sell the sizeable Oysters which have been dredged, and pay the Proceeds thereof to the Treasurer of the Borough.

Byelaws
may be
varied.

8. The Fishery Committee may vary the Byelaws already made by the Corporation under the Powers of the said Act relating to the several Matters entrusted to such Committee, and the Water Bailiff and his Assistants shall be appointed by and be under the Control of the said Committee.

As to Sale of
Oysters and
Proceeds of
Sale.

9. The Ninth Section of the said Act, relating to the Sale of Oysters and the Proceeds of the Sale, is hereby repealed ; and instead thereof be it hereby enacted as follows :

All Oysters dredged in the River *Orwell* shall be deposited at such Places within the Limits of the said Act of 1859 as the Fishery Committee shall from Time to Time prescribe, and the said Oysters shall be sold according to the Directions of the said Committee, who shall receive the Price for the same :

There shall be paid to each licensed Dredgerman, within such reasonable Time after he shall have deposited the Oysters as shall be fixed by the Fishery Committee, such a Sum of Money in respect of the Quantity of Oysters dredged by him, and in advance of his Share of the Proceeds arising from the Sale thereof, as shall also from Time to Time be fixed by the said Committee.

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10. The Monies derived from the Sale of Oysters shall be applied in the following Manner: As to Application of Proceeds of Sale of Oysters.

First, in repaying to the Corporation the Expenses of the Salaries of the Water Bailiff and his Assistants, and the other current working Expenses incurred by the said Committee in relation to the Maintenance and Regulation of the Fishery:

Secondly, in repaying to the Corporation all such Money as shall have been expended in the Year ending on the next preceding Thirty-first Day of *July* by the Corporation under the Direction of the Fishery Committee in raising, purchasing, and laying down in the River young Oysters, Oyster Brood, or Spat, and any Arrears of such Expenditure which may have accrued during the Three Years antecedent to such Year, with Interest at the Rate of Five *per Centum per Annum* on such Expenditure from the Date at which the same shall have been made:

Thirdly, the Balance of the said Monies after making the foregoing Payments shall be divided into Two equal Parts; the one of which shall belong to the Corporation, and the other to the licensed Dredgermen who shall have dredged the Oysters, each Person being entitled to a Share of such Moiety in proportion to the Quantity dredged by him, after deducting the Monies paid to him as aforesaid in advance of his Share:

Fourthly, the Corporation shall apply their Moiety:

(a.) In paying the Interest of the Money borrowed under the Powers of the recited Act and of this Act:

(b.) In paying such a Proportion of the Principal Monies so borrowed as shall discharge the said Principal Sums within Thirty Years from the Time of borrowing the same, or in creating a Fund for that Purpose:

(c.) The Balance of Monies then remaining in the Hands of the Corporation shall be paid to the Borough Fund of the said Borough.

11. True Accounts of the said Fishery shall be kept by the Fishery Committee, and shall be made up to the Thirty-first Day of *July* in each Year, instead of the Fifteenth Day of *August* as provided by the Tenth Section of the said recited Act, and it shall not be necessary for the Mayor and Town Clerk to sign the same. Accounts to be kept.

12. The Fishery Committee shall also keep a true Account with each licensed Dredgerman, showing the Quantity of Oysters dredged by him, the Amount paid to him as before provided by way of Advance on account of his Share of the Proceeds of the Sale of the Oysters, and the Balance remaining due to him out of the Moiety herein-before assigned to the licensed Dredgermen; and such Accounts with licensed Dredgermen to be kept.

[Local.]

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Accounts

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Payment of
Balances due
to licensed
Dredgermen.

Accounts shall also be made up to the Thirty-first Day of *July* in each Year; and each such licensed Dredgerman shall in the said Month of *August* be paid the Balance found due to him.

Licences to
define
Limits.

13. Every Licence to dredge for Oysters shall extend and apply only to such Parts of the River *Orwell* and to such Days and Hours as the Fishery Committee shall from Time to Time order and direct; and any licensed Dredgerman who shall dredge in any other Parts of the River, or at any other Hours, shall be deemed guilty of unlawful dredging: Provided always, that the Parts of the said River to which every such Licence shall not extend shall from Time to Time be sufficiently marked out and defined, and every such Licence may be in the Form set forth in the Schedule to this Act, or to the like Effect.

When
Licences to
be granted.

14. No Licence to dredge in the said River shall be granted except at a Meeting of the Council of the said Borough on the Second *Wednesday* in *August* in every Year.

Employment
of additional
Dredgermen.

15. If at any Time after the Second *Wednesday* in *August* in any Year it appears to the Fishery Committee that more Dredgermen should be employed than were licensed on that Day, it shall be lawful for the Fishery Committee from Time to Time to employ an additional Number of Dredgermen as the State of the Fishery and the Oyster Market shall in the Judgment of the said Committee require; but no Dredgerman so employed shall be entitled to share in the Proceeds of the Fishery, or to be paid more than the Wages mutually agreed on between him and the Fishery Committee; and no such Wages shall be more than the Sums fixed from Time to Time by the said Committee, to be paid in the first instance to the licensed Dredgermen in advance of their Share of the Proceeds of the Fishery; nor shall any Dredgerman so employed be allowed to dredge in any Part of the River to which the Licences then in force shall not extend, except for the Purpose of cleaning the Grounds, or raising small Oysters, Oyster Brood, or Spat, to be deposited in some other Part or Parts of the said River.

Disposal of
Proceeds of
Oysters
dredged by
them.

16. An Account shall be kept of all the Proceeds of the Sale of the Oysters dredged by such additional Dredgermen so employed, and the said Proceeds shall, subject to the Payment thereof of their said Wages, be applied towards the Repayment of any Money which may have been expended in raising or purchasing and laying down young Oysters, Oyster Brood, or Spat, and Interest thereon as aforesaid, the Salary of the Water Bailiff and his Assistants, and the other current working Expenses of the Fishery, and the Balance thereof shall be applied towards the other Purposes to which the Moiety of the

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the Proceeds herein-before assigned to the Corporation is made applicable.

17. The Fishery Committee may impose and levy in the Name of the Corporation Penalties for Breach of any of the Orders or Regulations made by the Committee in pursuance of this Act, such Penalties in no Case exceeding Forty Shillings for any such Breach; and for the First Repetition of any Offence the said Committee may suspend for a Time, to be fixed by them, any Licence to dredge; and for the Second Repetition of an Offence the Committee may declare such Licence to be forfeited, and the same shall accordingly be forfeited: Provided always, that in addition to any Penalties or Forfeitures under this Act, the Corporation may recover from any licensed Dredgerman, as Damages, the Value of any Oysters dredged by him in the said River and sold or disposed of by him contrary to the Provisions of this Act.

As to Penalties and Forfeiture of Licence.

18. The Penalties which may be imposed under the said recited Act or this Act, and such Damages as aforesaid, shall be recovered upon summary Conviction before One Justice, and all the Provisions contained in the Act passed in the Eleventh and Twelfth Years of the Reign of Her present Majesty, 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 Convictions and Orders*, and all Provisions which are or shall be contained in any Act or Acts amending the same relating to the Proceedings for the Recovery of Penalties upon summary Conviction, and to Appeals against such Convictions, and the levying and enforcing of Penalties and the Costs of such Proceedings, shall be applied and put in force in relation to the Penalties imposed under the said recited Act or this Act, and such Damages as aforesaid.

Provisions of 11 & 12, Vict. c. 43. applicable to this and recited Act.

19. The Fishery in the said River and the Oysters in the said River shall be deemed to be to all Intents and Purposes the Property of the Corporation, and in all Criminal and Civil Proceedings with respect to the said Fishery or the said Oysters, whether such Proceedings be against Freemen of the said Borough, or licensed Dredgermen, or others, for the dredging for or the taking of Oysters, or other illegal Act with respect to the said Fishery, the Corporation may be Prosecutors or Plaintiffs.

Fishery to be deemed to belong to Corporation.

20. The Corporation may from Time to Time demise and lease the said Fishery in the said River *Orwell*, and all their Rights, Powers, and Interest in the said Fishery, and the Benefit of all Orders, Rules, and Byelaws made by them or by the Fishery Committee; and every such Lease may be for any Period not exceeding Sixty Years, and shall

Corporation may demise Fishery, and define Powers under Lease, &c.

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shall take effect in possession, or within Six Calendar Months from the making thereof, and there shall be reserved therein the best Rent that can be gotten for the Premises leased: Provided nevertheless, that the said Rent may be fixed or fluctuating; and the said Lease shall contain the usual Proviso for Re-entry in the Case of Nonpayment of Rent or Breach of Covenant; and the following Incidents shall apply to such Lease:

The Lessee under every such Lease shall have by virtue of such Lease and of this Act the exclusive Right of depositing, propagating, dredging, and fishing for and taking Oysters in the River *Orwell*, and in the Exercise of that Right may within the said River proceed as follows; namely, make and maintain Oyster Beds, and at any Season collect Oysters and remove the same from Place to Place, and deposit the same as and where he thinks fit, and do all other things which he may think proper for obtaining, storing, and disposing of the Produce of the said Fishery:

All Oysters in the said River shall during any such Lease be the absolute Property of the Lessee, and in all Courts of Law and Equity and elsewhere, and for all Purposes, civil, criminal, or other, shall be deemed to be in the actual Possession of the Lessee.

Rights of
Freemen to
demand
Licence to
be suspended
while
Fishery is
leased.

21. Notwithstanding anything contained in the Eighth Section of the recited Act, the Corporation shall not be required during any such Lease to grant to any Freeman of the Borough of *Ipswich* a Licence to dredge for Oysters in the River *Orwell*; and the following Provisions shall apply with respect to the Application of the Rent derived under any such Lease.

Application
of Rent.

22. The Rent received by the Corporation under any such Lease shall be annually applied as follows, and in the following Order:

First, in paying the Interest of the Money borrowed under the Powers of the recited Act and of this Act:

Secondly, in paying such a Proportion of the Principal Monies so borrowed as shall discharge the said Principal Sums within Thirty Years from the Time of borrowing the same respectively, or in creating a Fund for that Purpose:

Thirdly, in paying all the necessary incidental Expenses incurred by the Corporation with relation to the Fishery:

Fourthly, the Balance of the Monies then remaining in the Hands of the Corporation shall be paid as to one Moiety to the Borough Fund of the said Borough, and as to the other Moiety to the Trustees for the Freemen appointed as herein-after mentioned, whose Receipt shall be a sufficient Discharge to the Corporation for the Payment of such Moiety.

23. As

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23. As soon as conveniently may be after the Execution of any Lease under the Provisions of this Act, the Mayor for the Time being of the said Borough shall, by giving Twenty-one Days Notice by Advertisement in Two Newspapers circulated within the said Borough, convene a Meeting of the Freemen of the said Borough resident within Fourteen Miles of the Town Hall of *Ipswich*, to be held at such Time and Place as the said Mayor shall appoint.

After Execution of Lease Mayor to convene a Meeting of Freemen.

24. At such Meeting One of the Freemen present shall be appointed Chairman, and the Freemen present at such Meeting shall appoint Five Freemen to be Trustees for the Freemen for the Purpose of receiving from Time to Time during such Lease the Monies payable as aforesaid to them the Trustees for the Freemen, and of distributing the said Monies as herein-after mentioned, and such Appointment shall be determined by the Majority of the Votes of the Freemen present, and in case of an equal Division of Votes the Chairman shall have a Second or Casting Vote.

Meeting to appoint Trustees for the Freemen.

25. If any Trustee appointed under the last Section or under this Section die, or resign, or cease to reside within Fourteen Miles of the Town Hall of the said Borough, or become incompetent to act, some other Freeman residing within Fourteen Miles of the said Town Hall shall be appointed a Trustee in the Place of the Trustee so dying, or resigning, or ceasing to reside as aforesaid, or becoming incompetent to act; and such Appointment shall be made at a Meeting of Freemen convened and held for that Purpose in the same Manner as herein-before provided, except that the said Meeting, instead of being convened by the Mayor of the said Borough, shall be convened by the surviving or continuing Trustees by giving Fourteen Days Notice thereof by Advertisement in Two Newspapers circulated within the said Borough.

On Death of Trustee Vacancy to be supplied.

26. The Trustees for the Freemen shall, during any such Lease as aforesaid, receive from the Corporation the Monies that shall become payable to the said Trustees as herein-before mentioned, and the said Trustees (after repaying any Disbursements made by them in the Execution of their Trust) shall distribute such Monies in equal Shares among all such of the Freemen whose Place of Abode on the First Day of *January* in the Year in which such Monies shall have been received by the said Trustees was within Fourteen Miles of the Town Hall of *Ipswich* as shall apply for their Shares; and any Shares not so applied for before the First Day of *January* of the next Year shall be forfeited, and the Amount thereof shall be added to and be distributed with the next Monies that become distributable under this Section, and in the meantime the said unclaimed Shares shall be held by the said Trustees.

Trustees for the Freemen to distribute the Monies received from the Corporation among the Freemen on their applying for the same.

[*Local.*]

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27. It

The Ipswich Fishery Act, 1867.

Power to
Corporation
to borrow
Money.

27. It shall be lawful for the Corporation to borrow upon the Security of the said Fishery and other their Property, or a competent Part thereof, a Sum not exceeding Ten thousand Pounds for the Purposes of this Act, and the Money so borrowed shall be applied solely in the Improvement of the Fishery.

Expenses of
Act.

28. All the Expenses of obtaining this Act and incidental thereto shall be paid by the Corporation, and the Corporation may apply to the Payment of the said Expenses any Portion of the Monies which they are hereby authorized to raise.

SCHEDULE.

FORM OF LICENCE.

BOROUGH
of
IPSWICH.

The Mayor, Aldermen, and Burgesses of the Borough of Ipswich do hereby authorize and empower *A.B.* to dredge for Oysters within such Parts of the River Orwell, and at such Days and Hours, as the Fishery Committee shall from Time to Time prescribe under the Provisions of "The Ipswich Fishery Act, 1867," until the Day of _____, so that he obey the Orders and Directions of the Fishery Committee and the Byelaws in force with respect to the said Fishery.

Dated the _____ Day of _____ 18 _____.

Corporate Seal. 

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