



CHAPTER cxlii.

An Act to confirm two Provisional Orders under the Sea Fisheries Act 1868 relating to oyster and mussel fisheries in the estuary of the Wash in the county of Norfolk. A.D. 1912.

[7th August 1912.]

WHEREAS the Board of Agriculture and Fisheries have made the Provisional Orders set forth in the schedule hereto under the provisions of the Sea Fisheries Act 1868:

31 & 32 Vict.
c. 45.

And whereas it is requisite that the said Orders should be confirmed by Parliament:

Be it therefore enacted by the King'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:—

1. The Orders as amended and set out in the schedule hereto shall be and the same are hereby confirmed and all the provisions thereof shall have full validity and force. Orders in
schedule
confirmed.

2. This Act may be cited as the Sea Fisheries (Lynn) Provisional Orders Confirmation Act 1912. Short title.

A.D. 1912.

SCHEDULE.

LYNN DEEPS FISHERY ORDER 1912.

The Lynn Deeps Fishery Order 1872 confirmed by the Oyster and Mussel Fisheries Orders Confirmation Act 1872 (No. 1) is hereby amended so as to be in the following terms namely:—

Limits of fishery.

1.—(1) The following are the description and limits of the fishery (as coloured pink and green on a plan deposited at the Board of Agriculture and Fisheries (herein-after called "the Board") and marked "Lynn Deeps Fishery Order 1872-1912") namely All those parts of the foreshore and bed of the haven and estuary generally known as Lynn Deeps situate in the county of Norfolk and containing an area of one hundred and seven nautical square miles or thereabouts and bounded as follows that is to say commencing on the east by the line of ordinary high-water mark from the lower or northernmost end of the east bank of the Norfolk Estuary Marsh Cut and proceeding in an easterly direction in a direct line towards North Wootton Church in the county of Norfolk to high-water mark on the main land or sea bank there and thence in a north-easterly direction along the line of high-water mark to the Wolferton Creek and thence following the course at low water of the said creek to the point where the water of this creek discharges itself into the Old Channel thence in a northerly and north-easterly direction along the line of ordinary low-water mark by the western side of the Stubborn Sand and so on by the line of ordinary low-water mark along Hunstanton and Holme Beach to a place called St. Edmund's Ness otherwise Gore End or Gore Point thence by an imaginary line drawn in a north-easterly direction to the buoy marked in Staff-Commander Calver's amended Admiralty Chart of 1867 as the Lynn Outer Knock Buoy thence in a north-westerly direction to Boston Outer Dog's Head Buoy as marked on the same chart thence along the eastern limit of the Boston Fishery as defined in the Boston Deeps Fishery Order 1870 (confirmed by the Oyster and Mussel Fisheries Orders Confirmation Act 1870 (No. 1)) by an imaginary line drawn across the two sands known as the Dog's Head Sand and the Long Sand to the Roger Buoy situated at the south-east point of the sand called the Roger Sand and known as the Roger Point thence by an imaginary line to the Outer Gat Buoy situated at the extremity of the sand known as the Gat Sand thence by an imaginary line drawn in a southerly direction to the buoy known as the Wisbech Bar Buoy and thence leaving the eastern limit of the Boston Fishery by an imaginary line drawn in a southerly direction passing by the Life Beacon and westward of the Bell Buoy and Little Bell Buoy across the middle of the Westmark Knock Sand to a

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point midway between the Lynn Pilot Vessel as marked in the said Admiralty chart and the northern extremity of the Wisbech Cut and thence in a south-easterly direction across the Hull Sand to a point at high-water mark on the main land or sea bank where Terrington St. Clement's Church in the county of Norfolk bears due south and thence following the line of ordinary high-water mark in an easterly direction to the point of commencement at the lower or northernmost end of the Estuary Marsh Cut (but excluding the marsh lands containing five hundred and forty-nine acres two roods and twenty-seven perches or thereabouts sold in the year one thousand eight hundred and sixty-seven by George William Pierrepont Bentinck Esquire to James Walker Esquire since deceased). A.D. 1912.

(2) If there is any discrepancy between the plan and this description the plan shall prevail.

2.—(1) The local fisheries committee for the Eastern Sea Fisheries District (herein-after called "the Grantees") shall be the Grantees of this Order and any expenses incurred by the Grantees under this Order or in obtaining this Order so far as they cannot be defrayed out of tolls or other moneys payable to the Grantees under this Order shall be defrayed as expenses incurred under the Sea Fisheries Regulation Acts 1888 to 1894. Grantees of Order.

(2) The expression "Eastern Sea Fisheries District" means the district which for the time being is defined under the Sea Fisheries Regulation Act 1888 and comprises the fishery to which this Order relates.

3. Save as herein-after provided no person shall—

- (i) dredge or fish for or take oysters or mussels within the fishery during the months of May June July or August in any year;
- (ii) remove from the fishery or from one part of the fishery to another part thereof—
 - (A) any oyster which will pass through a circular ring of two and a half inches in internal diameter; or
 - (B) any mussel less than two inches in length; or
 - (C) any culch;
- (iii) dredge or fish for or take any oyster or mussel in contravention of any byelaw for the time being in force under this Order or by means of any sea fishing boat or instrument not marked in accordance with any such byelaw.

Restrictions on taking or removing oysters mussels or culch.

4. Subject to such rules as shall be prescribed by the Board the Grantees may from time to time make byelaws to be observed within Power to make byelaws.

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A.D. 1912. the whole or any specified part of the fishery for all or any of the following purposes:—

- (i) For prohibiting for a period prescribed in the byelaw the fishing for oysters or mussels provided that no such prohibition shall be for a longer continuous period than three years and that not more than one-third of the whole area of the fishery shall at any one and the same time be subject to such prohibition;
- (ii) For varying the period during which and the sizes at which it is prohibited by Article 3 of this Order to dredge or fish for or take or remove oysters or mussels;
- (iii) For determining the marks to be attached or affixed to or painted on sea fishing boats licensed under this Order when used in the fishery or the sails or gear thereof when such sea fishing boats are not registered under the Sea Fisheries Act 1868 or the Merchant Shipping Acts 1894 to 1907 or any regulations made under any of those Acts;
- (iv) For determining the description of dredges or other fishing instruments to be used in the fishery and the marks to be affixed thereto;
- (v) For regulating generally the manner of dredging or fishing for or taking oysters or mussels.

Such byelaws shall not be of any effect until confirmed by the Board but when so confirmed they shall be deemed to be and shall have effect as restrictions imposed or regulations made by this Order. Provided that such byelaws shall be revised from time to time when and as required by the Board and any byelaw may at any time be cancelled by the Board by a certificate in that behalf and shall thereupon cease to have effect.

The production of a copy of any such byelaw or certificate purporting to be signed by a Secretary or Assistant Secretary of the Board shall be conclusive evidence of the byelaw and of the due making and confirmation thereof or of the issue of the certificate as the case may be.

Licences.

5.—(1) Save as herein-after provided no person shall dredge or fish for or take oysters or mussels within the fishery without a licence.

(2) Licences to dredge or fish for or take oysters and mussels at any time or place at which it is not otherwise prohibited to dredge or fish for or take oysters or mussels respectively shall be issued by the Grantees to any person applying for the same and paying the tolls herein-after prescribed.

(3) A licence shall authorise the use of dredges and of a sea fishing boat manned by a crew of not more than four persons.

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(4) A licence shall be available only for the period and for the use of the sea fishing boat and of the number of dredges specified therein provided that a licence to use a sea fishing boat other than a row boat shall authorise the crew thereof to use one row boat but such row boat shall not unless separately licensed carry oysters or mussels at the same time as such sea fishing boat. A.D. 1912.

(5) A sea fishing boat being a row boat shall not be used in connexion with another sea fishing boat not separately licensed.

(6) Where a licence has been lost or accidentally destroyed a new licence in substitution therefor shall on application by the licensee be issued to him on the payment to the Grantees of a fee of one shilling.

(7) Licences shall be in a form approved by the Board.

6.—(1) Save as herein-after provided there shall be paid in respect of such licences and before they are issued the following tolls:— Tolls payable on licences.

For a licence for the whole season viz. during such period as may be open for fishing from the First day of September to the Thirtieth day of April following both days inclusive for each and every sea fishing boat for every ton or part of a ton that the boat licensed is capable of carrying three shillings:

For a licence to fish for one month for every ton or part of a ton that the boat licensed is capable of carrying ninepence:

For each and every dredge exceeding three in number used by any sea fishing boat ten shillings:

And in addition a fee of one shilling shall be paid to the Grantees upon the issuing of each licence.

(2) All tolls arising under this Order shall be applied to the improvement and cultivation of the fishery.

7. The Grantees may from time to time revise the tolls leviable under this Order either by increasing or diminishing the amount thereof or by varying the periods in respect of which the same are levied or otherwise provided that any such revision or variation shall be made and may be proved in evidence in the same manner and subject to the same rules as if such revision or variation were a byelaw made under this Order. Power to revise tolls with consent of Board of Agriculture and Fisheries.

8. The Grantees may by a written authority under the hand of their clerk authorise any person to dredge fish for and take undersized oysters or mussels or culch at any time specified in the authority for the purpose of removing the same to a fishery within the Eastern Sea Fisheries District but for no other purpose and where such authority is Exceptions.

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A.D. 1912. granted Article 3 of this Order and any byelaw made under this Order shall not apply to the dredging or fishing for or the taking or removing oysters or mussels or culch under the authority and in accordance with the conditions (if any) contained in the authority.

Riddlings to be spread on the mussel beds.

9. All persons dredging fishing for or taking mussels from the fishery or bringing mussels within the limits of the fishery and riddling sorting or sifting the same within the limits of the fishery shall forthwith spread thinly and evenly upon the mussel beds within the fishery the riddlings sortings and siftings arising therefrom.

Refuse to be deposited at appointed places only.

10. No person shall deposit within the limits of the fishery any substance dredged up therefrom except at such places and in such manner as may from time to time be appointed by the Grantees.

Power to appoint water-bailiffs.

11.—(1) The Grantees may from time to time appoint suspend or remove and again appoint a water-bailiff or water-bailiffs.

(2) Every such water-bailiff shall have the following powers that is to say he may within the fishery enter any sea fishing boat used for fishing therein examine the catches nets and fishing implements and gear of any such boat seize oysters or mussels or culch illegally taken or removed within or from the fishery and do all other lawful acts for giving effect to the provisions of this Order and of Part III. of the Sea Fisheries Act 1868.

(3) For such purposes he shall be deemed to be a constable and shall have within the fishery the same powers and privileges and be subject to the same liabilities as a constable duly appointed has and is subject to in his constablewick at common law or by statute.

(4) Where a water-bailiff has reasonable cause to suspect any person of having offended against any of the provisions of this Order or against any byelaw or regulation made thereunder he may require such person to state correctly his Christian name surname and place of abode and any person refusing or omitting when so 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 by any person acting in the presence of and by order of a water-bailiff and conveyed before a justice of the peace to be dealt with according to law.

(5) A water-bailiff may require any person dredging or fishing for or taking oysters or mussels within the fishery to produce his licence and any person when so required shall desist from fishing till the same is produced.

Transfer of documents.

12. On the confirmation of this Order all books accounts and documents relating to the fishery in the possession of the Corporation of the Borough of King's Lynn as Grantees under the Lynn Deep

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Fishery Order 1872 shall be delivered by the said Corporation to the Grantees. A.D. 1912.

13. The limits of the fishery shall be marked out in such manner as the Board may from time to time direct. Marking of limits.

14. No buildings erections embankments or other works shall at any time be commenced or executed within the fishery without the previous sanction and approval in writing of the Board of Trade. Works not to be commenced without sanction of Board of Trade.

15. The Grantees shall render to the Board on the Thirty-first day of August in every year accounts of their income and expenditure under this Order and all other information required by the Board with reference to the fishery in such form as the Board may from time to time require and shall allow the Board or any person appointed by them in that behalf to inspect the fishery and all books accounts and other documents in the possession of the Grantees relative to the fishery and shall give to such Board or person all such information relating thereto as they or he may require. Grantees to give accounts of expenditure and income and other information.

16. The Board may at any time make an order or orders conferring a right or rights of several oyster mussel and cockle fishery within any portion of the fishery and all the powers and provisions contained in this Order shall be subject to the power of the Board to make such order or orders and to any alteration which may be consequent thereon. Power reserved to grant several oyster mussel and cockle fishery within prescribed limits.

17. Subject to the provisions of section 45 of the Sea Fisheries Act 1868 and of section 2 of the Oyster and Mussel Fisheries Orders Confirmation Act 1869 (No. 2) this Order shall continue in operation until the Twenty-third day of April One thousand nine hundred and thirty-two. Duration of Order.

18. 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. Saving rights under Crown Lands Act 1866.

19. Nothing in this Order contained shall take away lessen prejudice or interfere with any right power or privilege of Hamon le Strange Esquire his heirs or assigns and in like manner nothing herein contained shall be deemed to be a consent to or be construed to recognise or admit on behalf of the Grantees the existence of any right power or privilege of the said Hamon le Strange Esquire his heirs or assigns. For protection of Hamon le Strange.

20.—(1) Any byelaw made or licence or authority issued or limit marked under the Lynn Deeps Fishery Order 1872 and in force at the date of the commencement of this Order shall have effect as if it had been made or issued or marked under this Order. Saving of byelaws and licences &c.

(2) Nothing in this Order shall affect any right liability or penalty acquired or incurred under the Lynn Deeps Fishery Order

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A.D. 1912. 1872 before the date of the confirmation of this Order or any remedy in respect thereof and the same may be enforced as if this Order had not been confirmed.

Saving of rights of Norfolk Estuary Company.

21. Nothing contained in this Order shall in any manner lessen or take away any of the rights powers or privileges now exercised or which may be exercised by the Norfolk Estuary Company under any Act of Parliament now in existence or under any Act containing or relating to such powers.

Saving of rights of the Crown.

22. This Order shall not affect the charge created in favour of or the compensation payable to His Majesty under the provisions of the Norfolk Estuary Act 1899 and shall not extend to take away prejudice diminish or alter any right of reverter of lands to His Majesty His heirs and successors under the same Act or any other estate right privilege power or authority vested in or enjoyed or exerciseable by His Majesty His heirs or successors.

Short title.

23. This Order may be cited as the Lynn Deeps Fishery Order 1912.

Made by the Board of Agriculture and Fisheries under the Sea Fisheries Act 1868 and the Acts amending that Act this Sixteenth day of May One thousand nine hundred and twelve.

(L.S.)

(Signed)

T. H. ELLIOTT
Secretary.

LYNN SEVERAL FISHERY ORDER 1912.

The Lynn Fishery Order 1906 confirmed by the Sea Fisheries Provisional Order Confirmation Act 1906 is hereby amended so as to be in the following terms namely:—

Grantees of Order.

1.—(1) The local fisheries committee for the Eastern Sea Fisheries District (hereinafter referred to as "the Grantees") shall be the Grantees of this Order but nothing herein contained shall authorise the Grantees to defray their expenses under this Order as expenses incurred under the Sea Fisheries Regulation Acts 1888 to 1894.

(2) The expression "Eastern Sea Fisheries District" means the District which for the time being is defined under the Sea Fisheries Regulation Act 1888 and comprises the area within the limits of this Order.

(3) The Grantees are for the purposes of this Order constituted a body corporate under the name of "The Lynn Fishery Grantees" having perpetual succession and a common seal with power to make contracts and to sue and be sued in that name.

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2. The limits of the area within which the rights and powers conferred by this Order may be exercised (herein referred to as "the limits of this Order") are shown on a plan sealed by the Board of Agriculture and Fisheries (hereinafter referred to as "the Board") and marked "Corporation of King's Lynn Several Mussel Fishery in the Estuary of the Wash in the County of Norfolk 1906-1912."

A.D. 1912.
Limits of
Order.

3. The Grantees may from time to time and as occasion may require—

Reserves and
layings.

(a) with the written consent of the Board set and mark out as reserves such portions of the area within the limits of this Order as they may think necessary for experimental or scientific purposes in connexion with the propagation cultivation breeding fattening or gathering of mussels and may use such reserves for the purposes aforesaid; and

(b) set and mark out such portions of the area within the limits of this Order (in this Order referred to as "layings") as they may think fit for the purpose of being leased as lays or layings or breeding or fattening grounds for the cultivation of mussels:

Provided that no laying shall be set or marked out so as to include any portion of an existing mussel scalp or oyster or cockle bed and if any question shall arise as to the existence or boundaries of a mussel scalp or oyster or cockle bed such question may be determined for the purposes of this Order by the Board.

4. This Order confers on the Grantees a right of several mussel fishery within such reserves and layings as may for the time being be set or marked out in accordance with the provisions of this Order and for the purposes of the Sea Fisheries Acts 1843 to 1893 the limits of such reserves and layings shall be the limits of the several fishery hereby conferred:

Several
Fishery.

Provided that the right of several fishery shall not be exercised by the Grantees themselves within any laying.

5.—(1) The Grantees may by public auction to be held at King's Lynn or by public tender open to all persons offer leases of layings upon such terms for such period and subject to such conditions as may be determined by the Grantees and the Grantees may also with the sanction of the Board carry out leases of layings by private treaty:

Leasing of
layings.

Provided that there shall not be leased to any one person or group of persons whether by means of one or more leases and

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A.D. 1912. whether in single layings or otherwise an area larger than one acre in extent without the approval of the Board.

(2) Upon the execution of a lease or agreement for a lease of a laying there shall by virtue thereof be transferred to and vested in the tenant as respects the laying the right of several fishery therein as if he were the grantee of an Order under the Sea Fisheries Acts 1843 to 1893 conferring on him a right of several mussel fishery within the laying and as if any regulations restrictions terms and conditions comprised in the lease or agreement were restrictions and exceptions contained in that Order.

(3) The execution of any such lease or agreement shall except as may otherwise be provided thereby be taken to be a consent on behalf of the tenant to all byelaws under the Sea Fisheries Regulation Acts 1888 to 1894 or under the Lynn Deeps Fishery Order 1872 or any Order amending that Order for the time being in force within the limits.

(4) The conditions of sale or tender under this Article shall be approved by the Board.

Marking of limits.

6.—(1) The limits of this Order and the limits of every reserve and laying in respect of which there is for the time being a right of several fishery under this Order shall be marked out in such manner as the Board may from time to time require whether by notice boards or otherwise and any notice board marking out the limits of this Order shall if the Board so require contain a notice setting forth that the Grantees have power to let layings under this Order and specifying the effect of a lease under this Order and the name and address of the person to whom persons desiring leases are to apply.

(2) Any notice and notice board or other marks required by the Board shall be placed and maintained by the Grantees and in the event of any such notice or notice board or mark being removed obliterated or damaged it shall forthwith be replaced by the Grantees.

Maintenance of boundaries.

7. The Grantees or their lessees may construct and maintain such works as may be necessary for marking the boundaries of or between any reserves and layings under this Order.

Consent to works of Board of Trade.

8. No buildings erections embankments or other works shall at any time be commenced or executed by the Grantees or their lessees within the limits of this Order without the previous consent in writing of the Board of Trade.

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9.—(1) The sanction of the Board shall not be given to setting or marking out any reserve under Article 3 of this Order except on the written application of the Grantees. A.D. 1912.

(2) The application shall be made and advertised in accordance with such regulations as may be made in that behalf by the Board and the Board before giving their sanction may cause such local inquiry as they think fit to be held with respect thereto. Sanction of Board to setting out reserves and layings.

(3) The sanction of the Board if given shall have effect as if it were contained in this Order.

10. This Order shall not affect the powers of the Grantees under the Lynn Deeps Fishery Order 1872 or any Order amending that Order or the operation of any byelaws made thereunder except (as respects any laying) to the extent specified in the lease or agreement under which the laying is held. Saving of powers under Lynn Deeps Fishery Order.

11. The Grantees shall apply the rents and revenues received under this Order to all or any of the following purposes:— Application of revenue.

(1) Placing and maintaining the notices notice boards and other marks above mentioned and in setting and marking out constructing and maintaining the divisions or boundaries of or between reserves and layings:

(2) Making and maintaining mussel beds and in propagating cultivating breeding fattening and gathering mussels for that purpose:

(3) Payment of their costs and expenses incidental to obtaining this Order or to the management and improvement of the several fishery or to any other purpose of this Order.

12. In the event of any question arising as to the obligations of the Grantees under the foregoing articles or the due observance or performance of any of the restrictions provisions or conditions contained in this Order the question shall be referred to the Board whose decision shall be accepted by all parties as final and conclusive without prejudice however to the powers of the Board under the provisions of Section 45 of the Sea Fisheries Act 1868 and of the Lynn Deeps Fishery Order 1872 or any Order amending that Order. Settlement of questions.

13. The Grantees shall if required by the Board render to the Board such accounts of their expenditure and income and of all mussels sold by them or their lessees in such form and at such times as the Board may require and shall allow the Board or any person appointed by them to inspect the several fishery and all books and documents in their possession relating thereto and shall give the Board or such person all such information relating thereto as he or they may require. Accounts.

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A.D. 1912.
Duration of
Order.

14. Subject to the provisions of Section 45 of the Sea Fisheries Act 1868 this Order shall continue in operation until the twenty-third day of April nineteen hundred and thirty-two.

Crown
rights.

15. Nothing in this Order affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Grantees to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent the said Commissioners and Board are hereby respectively authorised to give).

Saving of
rights of
King's Lynn
Conservancy
Board.

16. Nothing in this Order contained shall take away lessen prejudice or interfere with any of the rights powers authorities liberties (if any) of the King's Lynn Conservancy Board.

Saving of
rights of
Norfolk
Estuary
Company.

17. Nothing contained in this Order shall in any manner lessen or take away any of the rights powers or privileges now exercised or which may be exercised by the Norfolk Estuary Company under any Act of Parliament now in existence or under any Act continuing or relating to such powers and no reserve or laying shall be set or marked out under this Order on any portion of the tracts of land vested in the said Norfolk Estuary Company under their Acts of Parliament or otherwise except under and in accordance with the terms of a lease or licence in writing granted by that Company or until such portion of the said tracts of land shall have been purchased by the Grantees and for the purposes of any such purchase the Lands Clauses Acts (except Section 127 of the Lands Clauses Consolidation Act 1845) shall be incorporated with this Order and shall be read as if this Order were "the special Act" and the Grantees were "the promoters of the undertaking" and as if "lands" included sands covered by the sea partly or wholly.

Saving of
rights of the
Crown.

18. This Order shall not affect the charge created in favour of or the compensation payable to His Majesty under the provisions of the Norfolk Estuary Act 1899 and shall not extend to take away prejudice diminish or alter any right of reverter of lands to His Majesty His heirs and successors under the same Act or any other estate right privilege power or authority vested in or enjoyed or exerciseable by His Majesty His heirs or successors.

Provisions
regulating
transfer of
Order.

19.—(1) On the confirmation of this Order all moneys in the possession of the Corporation of the Borough of King's Lynn by virtue of the provisions of the Lynn Fishery Order 1906 after the discharge

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of any liabilities incurred by the Corporation under the Lynn Fishery Order 1906 which may be outstanding shall be paid and all books accounts and documents relating to the fishery shall be delivered by the said Corporation to the Grantees and any moneys so paid to the Grantees shall be applied by them as rents and revenues received under this Order. A.D. 1912.

(2) Any reserve or laying or limit set out or marked under the Lynn Fishery Order 1906 shall be treated as set out or marked by the Grantees under this Order and any lease or agreement for a lease executed by or on behalf of the Corporation of the Borough of King's Lynn under the first-mentioned Order or any contract with the Corporation thereunder shall if in force at the date of the confirmation of this Order bind and inure for the benefit of and be enforceable by the Grantees in the place of the Corporation.

20. This Order may be cited as the Lynn Several Fishery Order Short title.
1912.

Made by the Board of Agriculture and Fisheries under the Sea Fisheries Act 1868 and the Acts amending that Act this Sixteenth day of May One thousand nine hundred and twelve.

(L.S.)

(Signed)

T. H. ELLIOTT

Secretary.

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