



CHAPTER cvii.

An Act for the transfer of the navigation from the Hythe at Colchester to Wivenhoe in the county of Essex to the mayor aldermen and burgesses of the borough of Colchester and for altering the boundaries of the wards of the said borough. A.D. 1892.
—
[20th June 1892.]

WHEREAS the mayor aldermen and burgesses of the borough of Colchester are or claim to be the owners of the harbour of Colchester in this Act called "the harbour":

And whereas by the local and personal Act 51 George III. chapter xliii. (in this Act called the Act of 1811) commissioners were appointed with power to improve the navigation of that part of the River Colne which is situate between the Hythe at Colchester and Wivenhoe in the county of Essex and to levy dues on vessels for the purpose and also to pave light watch cleanse and improve the town of Colchester and to levy rates for that purpose and to borrow moneys on mortgage for the purposes of the navigation on the security of the said dues and for the purposes of the said town on the security of the said rates: 51 Geo. III.
c. xliii.
(1811).

And whereas by the local and personal Act 10 and 11 Victoria chapter cclxxxi. (in this Act called the Act of 1847) the powers of the commissioners were extended and they were authorised— 10 & 11 Vict.
c. cclxxxi.
(1847).

Section 35—To make a new cut and floating basin quays and wharves;

Section 51—To provide public wharves and charge dues for the use thereof;

Section 57—To scour deepen straighten and improve the River Colne;

Section 68—To demand and take in respect of every ton of coals culm or cinders landed or brought or carried through the town of Colchester or the liberties thereof any sum not exceeding one shilling and also to demand and take certain tonnage duties on shipping set forth in Schedule A. to that Act;

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Section 81—To borrow for the navigation not exceeding forty thousand pounds ;

Section 94—To rate houses and other property to the extent of sixpence in the pound to make up any deficiency in the navigation revenue ; and

Section 98—To mortgage that rate as a collateral security for the money so borrowed ; and

by section 99 it was provided that they should keep separate accounts of navigation and town expenses and not apply any part of the navigation revenue for the benefit of the town unless the town should be rated for the benefit of the navigation and various powers were also conferred on the commissioners for the improvement and government of the said town and the power to borrow moneys for the last-mentioned purpose was extended :

And whereas the commissioners have spent various sums in improving the navigation of the said river but have not constructed the said floating basin :

And whereas by the Public Health Act 1875 the powers of the commissioners so far as they relate to the government of the said town are vested in the Corporation and the mortgage debt of the commissioners created under the powers of the Act of 1811 and the Act of 1847 for the improvement of the said town amounting to six thousand pounds became the mortgage debt of the Corporation and is still owing :

And whereas it is expedient that the powers of the commissioners under the said recited Acts so far as they relate to the navigation should be transferred to the Corporation and that further powers should be conferred on the Corporation for the improvement of the said navigation and harbour and that for that purpose they should be authorised to borrow money and levy additional dues and rates and that the said Acts should in divers ways be altered and amended :

And whereas the commissioners now owe on mortgage the sum of seven hundred and ninety-four pounds :

And whereas the borough of Colchester is at present divided into three wards and owing to the increase of population and the alteration of the rateable value of property therein it is expedient that the borough be re-divided into four wards and that the number of the aldermen and councillors of the borough be increased :

And whereas the objects of this Act cannot be attained without the authority of Parliament :

And whereas an absolute majority of the whole number of the council at a meeting held on the sixteenth day of December one thousand eight hundred and ninety-one after ten clear days' notice by

public advertisement of such meeting and of the purpose thereof in the Colchester Mercury a newspaper published or circulating in the borough (such notice being in addition to the ordinary notices required for summoning such meeting) resolved that the expense in relation to promoting the Bill for this Act should be charged on the borough fund and borough rate of the borough: A.D. 1892.

And whereas such resolution was published twice in the "Essex Telegraph" being a newspaper published or circulating in the borough and has received the approval of the Local Government Board:

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the council at a further special meeting held in pursuance of a similar notice on the third day of February one thousand eight hundred and ninety-two being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas the owners and ratepayers of the borough by resolution in the manner provided in the Third Schedule of the Public Health Act 1875 consented to the promotion of the Bill for this Act:

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:—

PART I.—PRELIMINARY.

1. This Act may be cited as the Colchester Corporation Act Short title.
1892.

2. This Act except where otherwise expressly provided shall Commence-
commence and take effect from the passing thereof. ment of Act.

3. This Act is divided into Parts as follows (that is to say):— Act divided
Part I.—Preliminary. into Parts.
Part II.—Transfer of navigation &c.
Part III.—Rates &c.
Part IV.—Finance.
Part V.—Alteration of wards &c.
Part VI.—Miscellaneous.

4. The Harbours Docks and Piers Clauses Act 1847 and the Incorporation of
Lands Clauses Acts (except the provisions of the Lands Clauses general Acts.
Consolidation Act 1845 with respect to the purchase and taking of
lands otherwise than by agreement and with respect to entry upon

A.D. 1892. — lands by the promoters of the undertaking) so far as the same are applicable for the purposes of and not varied by or inconsistent with this Act are incorporated with and form part of this Act Provided always that the provisions of the Harbours Docks and Piers Clauses Act 1847 with respect to lifeboats and with respect to keeping a tide and weather gauge shall not be in force for the purposes of this Act except so far as may from time to time be required by the Board of Trade.

Interpreta-
tion.

5. In this Act—

- “The borough” means the borough of Colchester ;
- “The Corporation” means the mayor aldermen and burgesses of the borough whether acting under the provisions of the Municipal Corporations Acts or in the execution of the Acts relating to such part of the port of Colchester as is for the time being within the jurisdiction of the Corporation ;
- “The council” means the council of the borough ;
- “The town clerk” and “the borough accountant” mean respectively the town clerk and the borough accountant of the borough ;
- “The harbour” means the harbour of Colchester ;
- “The borough fund” and “the borough rate” mean respectively the borough fund and the borough rate of the borough ;
- “Goods” includes goods wares merchandise minerals articles and things ;
- “Vessel” includes ships vessels and craft of every description and however propelled ;
- “Rates” includes all tolls dues rates and charges by this Act authorised to be levied by the Corporation in respect of vessels passengers animals or goods ;
- “Quays” means and includes all quays wharves yards jetties landing-stages and places and other works in the harbour now existing and belonging to the commissioners or to the Corporation or which may be hereafter constructed by the Corporation and whereat or wherefrom any person animals or goods shall be landed shipped or transhipped ;
- “The Municipal Corporations Acts” means the Municipal Corporations Act 1882 and any Act from time to time amending the same or otherwise relating to municipal corporations in England ;
- “The recited Acts” means the Act of 1811 and the Act of 1847 ;
- “The Harbour Acts” means and includes this Act and the recited Acts so far as they respectively relate to or affect the navigation of the River Colne or the harbour ;

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The expression "court of competent jurisdiction" "superior courts" or any other like expression shall have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt and not a debt or demand created by statute;

Terms to which meanings are assigned in enactments incorporated with this Act or which have therein special meanings have in this Act the same respective meanings unless there be something in the subject or context repugnant to such construction:

In this Act and (for the purposes of this Act) in enactments incorporated with this Act—

"The company" or "the undertakers" means the Corporation;

"The undertaking" used with reference to the transfer means and includes the quays walls landing-places and other works and all the real and personal property of or belonging to the commissioners.

6. Subject to the provisions of this Act this Act shall be carried into execution by the Corporation acting by the council.

Execution of Act by Corporation.

PART II.—TRANSFER OF NAVIGATION &C.

7. The undertaking shall on the passing of this Act for all purposes vest in the Corporation subject to all debts liabilities obligations and duties of the commissioners so far as they affect the said navigation or the harbour of Colchester and the Corporation shall thenceforward have the full control and management thereof and the day of such passing is in this Act referred to as "the vesting day."

Undertaking to vest in Corporation.

8. Subject to the provisions of this Act from and after the vesting day all the rights powers (except the power to borrow money) privileges and authorities of the commissioners under the recited Acts so far as they relate to the said navigation and under any enactment for the protection of the commissioners or the undertaking including the right to levy demand receive and recover any tolls rates dues duties and charges which the commissioners may levy demand receive or take shall be by virtue of this Act transferred to and vested in the Corporation and those Acts shall be read and have effect as if the Corporation had been therein named instead of the Commissioners subject nevertheless and according to the provisions of this Act.

Application of the recited Acts to the Corporation.

9. Except as is by this Act otherwise expressly provided everything before the passing of this Act done or suffered by or with reference to the commissioners shall be as valid as if this Act had not

Nothing to affect previous rights and liabilities.

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been passed and this Act shall accordingly be subject and without prejudice to everything so done or suffered and to all rights liabilities claims and demands both present and future which if this Act were not passed would be incident to or consequent on any and everything so done or suffered and with respect to all such rights liabilities claims and demands the Corporation shall to all intents and purposes represent the commissioners and the generality of this enactment shall not be restricted by any of the other clauses and provisions of this Act.

Saving for contracts &c.

10. Nothing in this Act shall prejudicially affect any purchase sale conveyance covenant contract deed act or thing made entered into executed or done by the commissioners in relation to the undertaking before the passing of this Act and the same respectively shall continue in as full force and be as valid and effectual as if this Act had not been passed the Corporation only being substituted for the commissioners.

Books of commissioners to be evidence.

11. All books and documents of or concerning the commissioners which if this Act had not been passed would have been admitted in evidence shall be admitted in evidence as if this Act had not been passed.

Powers of commissioners may be exercised by Corporation &c.

12. Subject to the provisions of this Act all the powers rights privileges and authorities including the power to levy tolls rates dues and charges and all the duties of the commissioners under the Act of 1847 (so far as they are in force and relate to the navigation of the River Colne between Wivenhoe and the Hythe or to the harbour) and the levying and recovering of tolls rates dues and charges shall as and from the vesting day extend to and be exerciseable by the Corporation throughout the whole navigable portion of that river and all the powers rights privileges and authorities and all the duties of the Corporation so far as they relate to the navigable portions of the said river other than the portion between Wivenhoe and the Hythe shall extend to and be exerciseable by the Corporation throughout the last-mentioned portion of the said river.

Power to acquire lands by agreement for improving river.

13. The Corporation may by agreement purchase or acquire and hold such lands as may be necessary for the purposes of improving the navigation of the River Colne under the provisions of section 57 of the Act of 1847 or any easement (not being an easement of water) in over or under any such lands but the Corporation shall not deal with such lands so as to create or permit a nuisance thereon.

14. The Corporation shall not under the powers of this Act purchase or acquire in any city borough or other urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which on the fifteenth day of December next before the passing of this Act were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been subsequently so occupied.

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Restriction
on taking
houses of
labouring
class.

For the purposes of this section the expression "labouring class" includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

PART III.— RATES &C.

15. In lieu of the tonnage duties on shipping authorised to be taken by section 68 (Rates and duties on coals culm cinders and tonnage under this Act) of the Act of 1847 the Corporation may demand and take in respect of all vessels entering or leaving the harbour wherefrom or whereon any passengers animals or goods mentioned in the Second Schedule to this Act are landed shipped or transhipped any tonnage rates not exceeding those set forth in the First Schedule to this Act and the Act of 1847 shall be read and construed accordingly.

Substituted
tonnage
rates.

16. From and after the passing of this Act section 68 of the Act of 1847 shall be read and have effect as if the sum therein named as payable in respect of coals culm and cinders were sixpence instead of one shilling for every ton landed brought or carried as in that section mentioned.

Reducing
rate on coal
&c.

17. The Corporation may from time to time confer exemptions from such portion as they think fit of all or any of the tonnage rates Provided that every such exemption shall be made equally to all persons in respect of all vessels falling within the same class or description carrying the same description of cargo and in the like circumstances.

Remission of
portion of
tonnage
rates.

18. The Corporation may from time to time demand and take for all passengers animals and goods mentioned in the Second Schedule to this Act which shall be landed shipped or transhipped

Rates
payable on
goods.

A.D. 1892. — within the harbour elsewhere than at a private landing-place any sums not exceeding the several wharfage rates specified in that schedule and as to all such goods as are not specified in the said schedule the Corporation may demand and take a rate equal to the rate for the time being payable in respect of goods of a similar nature package and quality and every such rate shall be payable by the owner or consignee of the goods.

For the protection of the lord of the manor of Brightlingsea.

19. Nothing in this Act shall authorise the Corporation to demand or take tonnage rates in respect of any vessel coming from the sea and going only to any creek lying to the eastward of a line drawn from the Martello Tower situate nearest to the entrance to the Brightlingsea Creek to West Marsh Point on the northern side of that creek or in respect of any vessel passing out of the said creek and going direct to sea nor to demand or take wharfage rates in respect of any passengers animals or goods landed or shipped at Brightlingsea or at any wharf or landing-place within the manor of Brightlingsea.

Power to compound tonnage rates.

20. The Corporation may compound by the year or for any shorter time for the payment by the proprietor or owner of any vessel of an annual or other sum instead of the tonnage rates which would otherwise be payable for such vessel. Provided always that in case the Corporation shall at any time make any such composition as aforesaid it shall be lawful for the proprietor or owner of any similar vessel and under similar circumstances to compound upon the like terms for the tonnage rates payable for such vessel and the tonnage rates shall not be compounded for partially or in favour of any particular person.

Power for Corporation to remit rates.

21. The Corporation if and when they think fit may remit or return the whole or any part of any rates in respect of any vessel or goods shown to their satisfaction to have been wrecked spoiled or damaged and may remit or return the whole or any part of any rates under any other circumstances which in their judgment make the remission or return reasonable and just so as the claim for the remission or return be made and substantiated to the satisfaction of the Corporation within such time as under the circumstances they deem reasonable.

If unnecessary delay Corporation may discharge vessels.

22. Whenever in the opinion of the harbour-master any unnecessary or inconvenient delay shall take place in the discharging unloading or loading of any vessel in any part of the harbour other than alongside of a private wharf arising either from the inadequacy or improper conduct of the persons machinery or gear employed for that purpose or from the negligence or default of the master or any other person in charge of such vessel or of the owner or consignee

of the cargo or any part of the cargo of such vessel the harbour-master may employ a sufficient number of persons to discharge unload or load or assist in the discharging unloading or loading of such vessel and the Corporation may recover in any court of competent jurisdiction from the owner or consignee of the cargo or part of cargo as the case may be the reasonable cost thereby incurred. The master of any vessel who shall not when required by the harbour-master so to do cause the deck of such vessel to be properly cleared of any articles or things which may impede the discharge unloading or loading of the cargo of such vessel shall be liable to a penalty not exceeding ten pounds for every day such offence shall continue.

23. The Corporation may appoint license employ and pay weighers and recorders of weights in connexion with the powers by this Act conferred on them and may also from time to time fix the remuneration to be paid them when and if employed by parties other than the Corporation.

Power to appoint weighers and recorders of weights and to pay salaries and wages.

24. If default be made in payment to the Corporation of any rate rent or charge with respect to any goods at on or in the harbour quays warehouses or conveniences the Corporation (first paying the customs duties and inland revenue duties if any due and payable thereon) may detain and (subject to the provisions of this Act) sell the goods or any part thereof and after retaining the amount so paid may retain for themselves the rates rents or charges so due and payable to them and the expenses of detention and sale rendering on demand the surplus (if any) of the proceeds of sale and such (if any) of the goods as remain unsold to the person appearing to them to be entitled thereto. Provided that the Corporation if they do not sell the goods or if the proceeds of the sale thereof be insufficient may recover the amount of the rates rents charges and expenses due and payable to them or the balance thereof in any court of competent jurisdiction.

Power for Corporation to recover rents and charges for goods by sale &c.

25. The Corporation shall not so sell any goods (except goods of a perishable nature which in the judgment of the Corporation would be materially lessened in value by being retained by them) until after the expiration of six months after the time at which the goods are unshipped or delivered at their quays or landing-places or warehouses.

Restrictions as to time of sale by Corporation for recovery of charges.

26. The Corporation may if they think fit first paying the customs duties and inland revenue duties (if any) payable thereon sell any goods of a perishable nature deposited and lodged with them at any time when in their judgment the goods would be materially lessened in value by being retained by them and whether or not they have notice of the non-payment of freight claimed on the goods or notice to retain the same.

Sale of perishable goods.

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Application
of proceeds
of sale of
perishable
goods.

27. When the Corporation so sell any such perishable goods they shall apply the proceeds of the sale so far as they suffice in the first place in recouping themselves the amount of the customs duties and inland revenue duties (if any) paid in respect of the goods and in the next place in payment of the rates rents and charges due and payable to the Corporation in respect thereof and the expenses of the sale rendering on demand the surplus (if any) of the proceeds and the unsold goods (if any) to the person appearing to them to be entitled thereto or in default of any claim thereto for the space of twelve months after such sale such surplus (if any) and the produce of the sale of such unsold goods (if any) shall be paid over by the Corporation to the harbour revenue.

Corporation
not to be
liable for loss
by fire &c.

28. The Corporation shall not under any circumstances or in any case whatever be answerable or accountable for or be liable to make good any loss or damage which may happen to any goods or to any vessel or to any property of any description by fire theft storm earthquake or tempest or from any civil commotion or by the act of the Queen's enemies or other inevitable accident or from any other cause not arising directly from the default or neglect of the Corporation.

Powers as to
lights and
buoys.

29. The Corporation may either jointly with the Trinity House of Deptford Strond or with their consent solely maintain and light the Knoll Buoy and such other buoy or buoys as may be placed at or near the entrance to the harbour and may with the like consent place alter and maintain such buoys and lights in or for the purposes of the harbour as they may think expedient.

Chairman of
harbour
committee to
be styled the
portreeve.

30. The chairman of the committee of the council appointed to regulate and manage the matters connected with the harbour shall during the term of his office bear the title of the portreeve of Colchester.

PART IV.—FINANCE.

Expenses of
execution of
Act.

31.—(1) All expenses of carrying into execution the powers of this Act (except such of them as are to be paid out of borrowed moneys) shall be paid out of the harbour revenue and any deficiency shall be met out of the borough fund and borough rate and section 94 (power to rate houses &c. for benefit of navigation) of the Act of 1847 is hereby repealed.

(2) The Corporation shall keep separate accounts on capital and revenue account of all receipts and expenditure under this Act and may apportion as between the borough and the harbour any items which in the opinion of the Corporation relate to each.

32. The Corporation shall apply the harbour revenue as follows (that is to say) :—

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Application
of harbour
revenue.

First. In payment of the costs charges and expenses of and incidental to the collecting and recovering of the harbour revenue and of the borrowing of money under this Act ;

Secondly. In payment of the working and establishment expenses and cost of maintenance of the undertaking and of executing the powers of the Harbour Acts ;

Thirdly. In payment of the interest on moneys borrowed and now owing by the commissioners under the recited Acts for the purposes of the harbour ;

Fourthly. In payment of the interest on moneys borrowed by the Corporation under this Act ;

Fifthly. In providing the requisite instalments or sinking funds under the Harbour Acts ;

Sixthly. In repaying to the borough fund any moneys which may have been expended thereout to meet any deficiency in the Harbour Revenue ;

Seventhly. In providing a reserve fund if they think fit by setting aside such money as they from time to time think reasonable and investing the same and the resulting income thereof in any securities in which the Corporation are for the time being authorised to invest their sinking funds and accumulating the same at compound interest until the fund so formed shall amount to ten thousand pounds which fund shall be applicable from time to time to answer any deficiency at any time happening in the income of the Corporation from the undertaking or to meet any extraordinary claim or demand at any time arising against them in respect thereof and so that if that fund be at any time reduced it may thereafter be again restored to the like sum and so from time to time :

The surplus (if any) in any one year shall be expended as the Corporation think fit in improving or otherwise for the benefit of the harbour and in no other way.

33. The Corporation may from time to time in addition to any moneys they are now authorised to borrow or which they may be authorised to borrow under the provisions of the Public Health Acts or any public general Act borrow at interest for the following purposes the following sums :—

Power to
borrow.

On the security of the harbour revenue and the borough fund and the borough rate—

For paying the costs charges and expenses of and in relation to this Act as herein-after defined and of and in relation to

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the paying off and re-borrowing of moneys under the powers of this Act the sum requisite for the purpose ;

For improving the navigation of the River Colne and for carrying into execution the powers of this Act the expenses of which are properly payable out of capital such sums as the Local Government Board may sanction ;

For paying off the loans of the commissioners such sum as may be necessary for that purpose :

On the security of the district fund and general district rate—

For paying off the debt of the commissioners under the recited Acts so as aforesaid transferred to the Corporation by section 10 of the Public Health Act 1875 such sums as may be necessary for that purpose :

And in calculating the sum the Corporation may borrow under any other enactment any sums they may borrow under this Act shall not be reckoned and the powers of the Corporation as to borrowing and re-borrowing shall not be restricted by any of the provisions of the Public Health Act 1875 :

The powers of borrowing and re-borrowing under the recited Acts transferred to the Corporation by section 10 of the Public Health Act 1875 are hereby repealed.

Incorporation of certain provisions of Public Health Act.

34. The following provisions of the Public Health Act 1875 (that is to say) :—

Section two hundred and thirty-six (Form of mortgage) ;

Section two hundred and thirty-seven (Register of mortgages) ;

Section two hundred and thirty-eight (Transfer of mortgages) ;
and

Section two hundred and thirty-nine (Receiver may be appointed in certain cases) ;

shall extend and apply mutatis mutandis to and in relation to mortgages made under the powers of this Act.

As to repayment of borrowed moneys.

35. With respect to the repayment of moneys to be borrowed under the powers of this Act or borrowed under the recited Acts the following provisions shall have effect (that is to say) :—

The Corporation shall repay or make provision for repaying—

All moneys borrowed under the powers of this Act for payment of the costs thereof in any period not exceeding ten years from the date of borrowing the same ;

All moneys borrowed by the commissioners under the recited Acts and now owing by them or the Corporation and all moneys borrowed by the Corporation under this Act for the paying off of those moneys in any period not exceeding thirty years

from the twenty-fifth day of March one thousand eight hundred and ninety-two; A.D. 1892.

All other moneys borrowed under the powers and for the purposes of this Act in such periods as the Local Government Board may in every case sanction which said respective periods are herein-after referred to as the prescribed period :

And such repayment shall be effected—

Either by equal yearly or half-yearly instalments of principal or of principal and interest;

Or by means of a sinking fund;

Or partly by such instalments and partly by a sinking fund :

And the sinking fund shall be provided as follows:—

The Corporation in every year after the respective dates in that behalf by this section prescribed shall appropriate and set apart out of the tolls funds rates rents and charges on the security of which such moneys shall have been borrowed or are now charged such equal annual sums as will with the accumulations thereof by way of compound interest at a rate not exceeding three pounds per centum per annum be sufficient to pay off the principal moneys borrowed (so far as the same are repayable by means of a sinking fund) within the prescribed period :

The first payment by instalments or to the sinking fund shall—

In respect of moneys borrowed under this Act be made prior to the twenty-fifth day of March next following the time of such borrowing; and

In respect of the existing debt of the commissioners and of the Corporation under the recited Acts be made prior to the twenty-fifth day of March one thousand eight hundred and ninety-three :

Provided as follows:—

The yearly sums so to be appropriated and set apart shall be invested from time to time and accumulated in the way of compound interest by investing the same and the dividends interest and annual income thereof respectively in any security in which trustees are by law authorised to invest or in mortgages debentures debenture stock or other securities issued by any local authority as defined in section 34 of the Local Loans Act 1875 other than the Corporation and if and as often as the rate of interest by investment is not equal to the prescribed rate of accumulation any deficiency arising thereby shall be made good out of the respective funds or rates which are liable to contribute to the sinking fund :

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The Corporation may at any time apply the whole or part of the sinking fund in or towards the repayment of the borrowed moneys in such order and manner as they deem proper Provided that in such case they pay into such sinking fund in each year afterwards and accumulate as herein-before prescribed until the whole of such borrowed moneys are discharged a sum equal to the interest produced by the sinking fund or part thereof so applied at the rate per centum on which the equal annual payments to the sinking fund are based Provided also that whenever and so long as the yearly income arising from the sinking fund would if the sinking fund were invested at the same rate of interest as is payable on the borrowed moneys then outstanding be equal to the annual interest of such borrowed moneys the Corporation may in lieu of investing the said yearly income apply the same in payment of such interest and may during such periods discontinue the payment to the sinking fund of the yearly sums required to be so paid thereto.

Annual
return to
Local Go-
vernment
Board with
respect to
sinking fund.

36. The borough accountant shall within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund or any instalment is required to be paid under this Act transmit to the Local Government Board a return in such form as may be prescribed by that Board and verified by statutory declaration if so required by them showing the amount which has been paid as an instalment or invested for the purposes of such sinking fund during the year preceding the making of such return and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund and the interest thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any wilful default in making such return the borough accountant shall be liable to a penalty not exceeding twenty pounds which shall be paid to the Local Government Board and shall be recoverable by that Board in the same manner as penalties recoverable under the Public Health Act 1875 in a summary manner may be recovered by parties aggrieved within the meaning of that Act If it appear to the Local Government Board by such return or otherwise that the Corporation have failed to pay any instalment or to set apart the sum required by this Act for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Act the Local Government Board may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made

shall be set apart and invested as part of the sinking fund and such order shall be enforceable by writ of mandamus to be obtained by the Local Government Board out of the High Court. The provisions of this section shall apply mutatis mutandis to appropriations and annual repayments. A.D. 1892.

37. The Corporation may from time to time borrow at interest as aforesaid any money necessary for repaying any principal moneys borrowed under the powers of this Act on the same becoming repayable or for the paying off of any of such principal moneys as they can re-borrow at a lower rate of interest and so from time to time. Power to re-borrow.
Provided as follows:—

The time for the repayment of any moneys so re-borrowed shall not be extended beyond the unexpired portion of the term in that behalf prescribed;

For the purpose of repayment the moneys re-borrowed and the moneys originally borrowed shall be deemed the same loan;

The Corporation shall not re-borrow any moneys paid off by means of instalments or a sinking fund or appropriations or annual repayments or out of the proceeds of the sale of land or out of premiums or fines on leases or out of other moneys received on capital account not being borrowed moneys.

38. All moneys borrowed by the Corporation under the powers of this Act shall be applied only to the purposes for which they are respectively authorised to be borrowed and to which capital is properly applicable. Application of borrowed moneys.

39. The Corporation shall not be bound to see to the execution of any trust whether expressed or implied or constructive to which any loan or security for loan given by them may be subject but the receipt of the person in whose name any loan or security for loan stands in the register book of the Corporation shall be a sufficient discharge to the Corporation in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Corporation have had express or implied notice of any such trust or of any charge or incumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered in their register and the Corporation shall not be bound to see to the application of the money paid on any such receipt or be answerable or accountable for any loss misapplication or non-application of any of such money. Corporation not to regard trusts.

40.—(1) The Corporation may if they think fit borrow any moneys which they are by this Act authorised to borrow under the powers and subject to the provisions of the Local Loans Act 1875 Power to borrow under Local Loans Act 1875.

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by means of a loan or loans to be raised by the issue of debentures debenture stock or annuity certificates or partly in one way and partly in another Any moneys borrowed by the Corporation in manner by this section authorised shall be a charge upon and shall be paid out of the same funds and rates as they would be charged upon and paid out of if raised by way of mortgage under this Act and such funds and rates shall in each case be deemed to be the local rate as defined by the Local Loans Act. 1875 Every such loan shall be discharged within the time prescribed in that behalf.

(2) All moneys paid into the sinking fund formed for the purpose of such discharge shall be invested and applied by the Corporation in the manner herein-before provided.

Protection of lenders from inquiry.

41. A person lending money to the Corporation shall not be bound to inquire as to the observance by the Corporation of any provision of this Act or be bound to see to the application or be answerable for any loss mis-application or non-application of the money lent by him or of any part thereof.

PART V.—ALTERATION OF WARDS &c.

Division of borough into wards.

42. The borough shall be divided into four wards the names and boundaries whereof are set forth in the Third Schedule to this Act and shown on the ward plan but if there be any discrepancy between that plan and the said description the description shall prevail.

Deposit of ward plan.

43. A ward plan signed in duplicate by the Right Honourable the Earl of Morley the Chairman of the Committee of the House of Lords to whom the Bill for this Act was referred shall within one week after the passing of this Act be deposited as to one copy in the Office of the Clerk of the Parliaments and as to the other copy with the town clerk at his office and copies thereof certified by the town clerk shall be sent as soon as may be after such deposit to the Director-General of Her Majesty's Ordnance Survey and to the Local Government Board.

Copies of deposited ward plan to be evidence.

44. Copies of the ward plan deposited with the town clerk or any extract therefrom certified by him to be true shall be received by all courts of justice or elsewhere as primâ facie evidence of the contents of such plan and such plan shall at all reasonable times be open to the inspection of the persons liable to any rate leviable within the borough and all persons so liable shall be entitled to a copy of or extract from such plan certified by the town clerk on payment of a reasonable fee for every such copy or extract.

45. The borough shall have eight aldermen and twenty-four councillors and each of the several wards shall return six councillors.

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Number of
the council.

46.—(1) The first councillors for the four wards and the dates of their several retirements shall be as set forth in the Fourth Schedule to this Act.

As to assign-
ment &c. of
councillors.

(2) On the first day of November one thousand eight hundred and ninety-two there shall be elected three councillors for the North Ward three councillors for the South Ward two councillors for the East Ward and four councillors for the West Ward.

(3) Every existing councillor who shall go out of office on the first day of November one thousand eight hundred and ninety-two and shall be then re-elected shall hold office until the first day of November one thousand eight hundred and ninety-five and subject thereto the following provisions shall have effect (that is to say) :—

(A) Of the three councillors to be elected on the first day of November one thousand eight hundred and ninety-two for the North Ward one to be determined by the council at their quarterly meeting on the ninth day of November one thousand eight hundred and ninety-two shall go out of office on the first day of November one thousand eight hundred and ninety-four and the remaining two shall go out of office on the first day of November one thousand eight hundred and ninety-five ;

(B) Of the three councillors to be elected on the first day of November one thousand eight hundred and ninety-two for the South Ward one to be determined by the council at their quarterly meeting on the ninth day of November one thousand eight hundred and ninety-two shall go out of office on the first day of November one thousand eight hundred and ninety-four and the other two shall go out of office on the first day of November one thousand eight hundred and ninety-five ;

(C) The two councillors to be elected for the East Ward on the first day of November one thousand eight hundred and ninety-two shall go out of office on the first day of November one thousand eight hundred and ninety-five ;

(D) Of the four councillors to be elected for the West Ward on the first day of November one thousand eight hundred and ninety-two two to be determined by the council at their quarterly meeting on the ninth day of November one thousand eight hundred and ninety-two shall go out of office on the first day of November one thousand eight hundred and ninety-three and the other two shall go out of office on the first day of November one thousand eight hundred and ninety-five.

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Election of additional aldermen.

47. On the ninth day of November one thousand eight hundred and ninety-two the council shall elect two additional aldermen one of whom as the council shall at the time of election determine shall go out of office on the election of aldermen in the year one thousand eight hundred and ninety-five and the other of them shall go out of office at the election of aldermen in the year one thousand eight hundred and ninety-eight.

Returning officer.

48. The council shall at a meeting to be held within seven days after the passing of this Act assign to each of the four wards an alderman of the borough to be the returning officer therefor.

Further provisions as to elections &c.

49. Anything to be done under the provisions of the Municipal Corporations Acts the Ballot Act 1872 and any other Act or Acts in relation to elections and other matters incidental thereto or by the mayor aldermen or town clerk in relation to each of the said four wards before the first day of November one thousand eight hundred and ninety-two may be done in like manner as if such wards were and had been wards of the borough existing at the time of the passing of this Act.

As to elections and rotations generally.

50. Subject to the provisions of this Act all elections vacations of office and rotations shall be governed by the Municipal Corporations Acts.

Ward rolls.

51. For the purposes of the ward rolls to be made after the passing of this Act under the Municipal Corporations Acts and in relation to the functions and offices of the mayor town clerk and other officers under those Acts the borough shall be deemed to have always been divided into the said four wards Provided that no such ward roll so to be made as aforesaid shall be deemed to be invalid by reason only that the same shall not have been made and published or any notice or notices given at the time or times required prior to the passing of this Act if such roll or notice or notices be made given or published as soon after the passing of this Act as may be practicable.

Application of Municipal Corporations Acts.

52. Subject to the provisions of this Act all the provisions of the Municipal Corporations Acts with respect to the division of the borough into wards or the alteration of wards shall apply to the borough.

PART VI.—MISCELLANEOUS.

Provision for Merchant Shipping Act and general Acts.

53. Nothing in this Act contained shall exempt the harbour or the Corporation from the provisions of the Merchant Shipping Act 1854 or any Acts amending the same or any general Acts relating

to docks or dues on shipping or on goods carried in ships now in force or which shall be passed during the present or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the dock rates or duties by this Act authorised. A.D. 1892.

54. All the costs charges and expenses preliminary to and of and incident to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation out of the harbour revenue borough fund and borough rate or out of money to be borrowed for the purpose under the powers of this Act. Costs of Act.

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The SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

TONNAGE RATES.

VESSELS OUTWARDS AND INWARDS WHETHER COASTWISE OR OTHERWISE.

							s.	d.
Under 50 tons	-	-	-	-	not exceeding		0	2 per ton
From 50 to 60	”	-	-	-	”	”	0	3 ”
” 60 to 70	”	-	-	-	”	”	0	4 ”
” 70 to 80	”	-	-	-	”	”	0	5 ”
” 80 to 90	”	-	-	-	”	”	0	6 ”
” 90 to 100	”	-	-	-	”	”	0	7 ”
” 100 to 125	”	-	-	-	”	”	0	8 ”
” 125 to 150	”	-	-	-	”	”	0	9 ”
” 150 to 200	”	-	-	-	”	”	0	10 ”
” 200 to 300	”	-	-	-	”	”	0	11 ”
All above 300	”	-	-	-	”	”	1	0 ”

Vessels bringing coals only and departing in ballast to pay only half the above-mentioned tonnage dues respectively.

Vessels bringing or taking away returned empty packages to pay only half the above-mentioned tonnage dues respectively.

Coal vessels bringing other goods to be charged full tonnage duty for the quantity of goods on board in the proportion the same goods bears to the register tonnage of such vessels.

THE SECOND SCHEDULE.

WHARFAGE RATES

RATES ON PASSENGERS ANIMALS AND GOODS.

						s.	d.
GRAIN &c.							
For every quarter (containing 8 bushels) of wheat	barley	beans	peas	oats			
rape and other seeds	-	-	-	-	-	0	0½
” ton of flour	-	-	-	-	-	0	3

	s.	d.
For every ton of meal middlings sharps pollard and bran - - -	0	0½
„ sack of 2½ hundredweight of clover trefoil and other heavy seeds - - - - -	0	1
„ ton of linseed oil cake - - - - -	0	3
„ „ cotton cake - - - - -	0	2
„ pack of wool cotton &c. containing 240 lbs. - - -	0	2

LEATHER.

For every hundredweight of tanned hides and calf skins - - -	0	0½
„ „ raw hide - - - - -	0	0½
„ „ pelts - - - - -	0	0¼
„ ton of tan or bark - - - - -	0	4

WOOLLEN GOODS.

For every ton of woollen and other similar goods - - -	0	4
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ALE PORTER CIDER PERRY AND VINEGAR.

For every barrel of 36 gallons - - - - -	0	0½
Per dozen bottles (equal to 2 gallons) in package - - -	0	0½

MANURES.

Guano and artificial manures per ton - - - - -	0	2
Street stable and other manure „ - - - - -	0	1

TIMBER AND DEALS.

For every load of 50 cubic feet of oak teak elm pine beech and fir - - -	0	3
„ „ „ „ deals and battens - - - - -	0	3
„ „ „ „ lathwood and firewood - - - - -	0	2
„ „ „ „ poles and staves - - - - -	0	2

(All British timber at same rate.)

MAHOGANY.

For every ton of mahogany and any other furniture wood - - -	0	2
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HEMP.

For every ton of hemp cordage and yarns - - - - -	0	3
„ „ rags or paper or waste - - - - -	0	2
„ „ old jute rope or twine - - - - -	0	2

GENERAL GOODS.

For every ton of rice or sugar - - - - -	0	3
„ hundredweight of tea coffee and spices - - - - -	0	1
„ „ oranges lemons and citrons - - - - -	0	0½
„ ton of molasses - - - - -	0	2
„ „ fishery salt and agricultural salt - - - - -	0	1
„ „ dried fruits bacon cheese butter pork hams and tongues	0	4
„ hundredweight of arrowroot farina and other like commodities	0	1
„ „ „ spices - - - - -	0	1
„ „ „ biscuits salt tallow soap candles and all heavy grocery goods not here specified - - -	0	2

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	s.	d.
For every 10 hundredweight of madder - - - - -	0	1
„ ton of pipe clay - - - - -	0	2

MACHINERY.

For every ton - - - - -	0	4
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TAR PITCH RESIN.

For every 4 hundredweight of pitch tar grease or resin - - - - -	0	0½
„ ton of coal tar - - - - -	0	2

SPIRITS AND WINES.

For every 25 gallons - - - - -	0	1
Per dozen bottles in cases (equal to 2 gallons) - - - - -	0	0½

VEHICLES.

For every 4-wheeled vehicle - - - - -	1	0
„ 2 „ „ - - - - -	1	0
„ tricycle - - - - -	0	6
„ bicycle and others of this class - - - - -	0	4

STONE SLATE BRICKS &c.

For every ton of stone - - - - -	0	1
„ „ slate - - - - -	0	1½
„ „ plaster of Paris - - - - -	0	3
„ „ marble - - - - -	0	4
„ „ cement - - - - -	0	0½
„ 1,000 bricks and paving tiles - - - - -	0	2
„ 1,000 gutter pan and plain tiles - - - - -	0	3

METALS.

For every ton of copper pewter brass lead antimony or other metal - - - - -	0	3
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EMPTIES.

For every dozen empty casks - - - - -	0	0¼
(Return empty packages free.)		

GLASS.

For every hundredweight of glass - - - - -	0	0½
„ ton of broken glass - - - - -	0	2

FISH.

For every hundredweight of cured pickled or salt herrings haddock or other fish - - - - -	0	0½
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SAND CHALK LOAM AND GRAVEL.

For every ton of sand chalk loam and gravel - - - - -	0	2
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	s.	d.	A.D. 1892.
FRUIT.			
For every hundredweight of apples or raw fruit - - - - -	0	0½	
TOBACCO.			
For every ton of unmanufactured tobacco - - - - -	0	6	
" hundredweight manufactured - - - - -	0	2	
" " of cigars - - - - -	0	2	
POULTRY.			
For every dozen fowls and other kind of poultry - - - - -	0	0½	
ANIMALS.			
For every horse mare or gelding - - - - -	0	3	
" ox - - - - -	0	1	
" cow - - - - -	0	1	
Per score of sheep - - - - -	0	4	
" lambs - - - - -	0	2	
For every calf - - - - -	0	0½	
" pig - - - - -	0	0½	
PASSENGERS.			
For every passenger - - - - -	0	1	
COAL COKE &c.			
For every ton of coal coak culm or cinders - - - - -	0	2	
AGRICULTURAL PRODUCE.			
For every ton of potatoes carrots turnips onions mangold wurzel and other roots - - - - -	0	1	
OILS.			
For every ton of linseed and other oils - - - - -	0	3	
IRON &c.			
For every ton of pig or unwrought iron - - - - -	0	1½	
" " bar iron steel plates and bars - - - - -	0	2	
" " old iron - - - - -	0	1	
" " anchors and chains - - - - -	0	2	
HAY &c.			
For every ton of hay straw and clover - - - - -	0	3	
" " moss litter - - - - -	0	2	
MISCELLANEOUS.			
For every carboy not exceeding 8 gallons of vitriol - - - - -	0	0½	
" organ - - - - -	5	0	
" pianoforte harp or bass viol - - - - -	2	6	
" other musical instrument - - - - -	0	3	

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	s.	d.
For every ten of acids - - - - -	0	3
" " alkali - - - - -	0	2
" " asphaltum - - - - -	0	2
" " gasoline - - - - -	0	2
" " baggage - - - - -	0	4
(Bags returned empty free.)		
" " bagging and bags not returned empties - - - - -	0	2
" " bulbs and flower roots - - - - -	0	3
" " ice - - - - -	0	2
" " canvas - - - - -	0	2

Except otherwise provided in this schedule all goods articles and things if weighing less than half a ton to be charged at not less than half a ton and if weighing more than half a ton but less than a ton to be charged as a ton.

THE THIRD SCHEDULE.

NAMES AND BOUNDARIES OF WARDS.

NORTH WARD.

So much of the borough as is included within a line commencing at the centre of the floodgates at Middle Mill and proceeding thence along the boundary of the parish of Saint Michael Mile End to its junction with the borough boundary in the Ipswich Road thence north and west along the borough boundary to the centre of Saint Botolph's Bridge thence direct to the stile eastward of that bridge and along the footway leading past the wood there to Baker's Lane thence along the centre of Baker's Lane to the stile southward of Baker's Bridge thence along the footway past Lexden Lodge farm buildings to the Chaseway and along the centre of the Chaseway and footway running therefrom to and over the Sheepen footbridge thence along the centre of Water Lane to its junction with the roadway leading to Sheepen Farm thence along the footway towards Union Meadows as far as the north fence of the gardens numbered 425 on the 25-inch ordnance map thence along and to the east end of the said fence thence along the boundaries dividing the following mentioned parishes viz. Lexden and Saint Mary-at-the-Walls Saint Peter and Saint Mary-at-the-Walls Saint Peter and the Holy Trinity Saint Runwald and the Holy Trinity Saint Nicholas and the Holy Trinity Saint Nicholas and Saint Botolph and Saint Nicholas and All Saints to Mill Road and thence along the centre of Mill Road to and terminating at the centre of the floodgates at Middle Mill aforesaid.

SOUTH WARD.

So much of the borough as is included within a line commencing at the centre of the steps at the top of Scheregate and proceeding thence across Saint John's

Street and along the centre of Abbeygate Street to the east end of the Folley leading from Saint John's Green to Butt Road thence along the said Folley as far as the fence enclosing the barracks from the Abbey Field thence along the said fence and the southern boundary of the barracks to the Layer Road thence along the centre of the Layer Road to and along the boundary between the parish of Saint Mary-at-the-Walls and the detached portion of the parish of the Holy Trinity to the borough boundary thence along the borough boundary by Kingsford Bridge Charlotte's Grove Cleveland's Farm and Rowhedge as far as the fleet outfall into the River Colne nearly opposite the "Maltster's Arms" public-house thence along the boundaries dividing the following mentioned parishes and parts of parishes respectively viz. Greenstead and Saint Giles Greenstead and Saint Botolph Saint Botolph and Saint Leonard Saint Botolph and Saint Mary Magdalen Saint Mary Magdalen and the detached portion of Saint Giles Saint James and the said detached portion of Saint Giles Saint James and Saint Botolph All Saints and Saint Botolph Saint Nicholas and Saint Botolph and the Holy Trinity and Saint Botolph to the centre of Eld Lane and thence along the centre of Eld Lane to and terminating at the centre of the steps at the top of Scheregate aforesaid.

EAST WARD.

So much of the borough as is included within a line commencing at the centre of the floodgates at Middle Mill and proceeding thence along the south-east boundary of the North Ward to the borough boundary in the Ipswich Road thence along the borough boundary through Bullock Wood Fox Street Shaw's farm buildings Crockleford Bridge and Wyvenhoe Park to the fleet outfall into the River Colne nearly opposite the "Maltster's Arms" public-house thence along the boundary of the South Ward to the junction of the boundaries between the parishes of Saint Nicholas and All Saints and thence along the boundary of the North Ward to and terminating at the centre of the floodgates at Middle Mill aforesaid.

WEST (OR HEAD) WARD.

So much of the borough as is included within a line commencing at the centre of the top of the steps at Scheregate and proceeding thence along the north-western boundary of the South Ward to the borough boundary thence along the borough boundary by Shrub End Bottle End Chitt's Hill and New Bridge to Saint Botolph's Bridge thence along the southern boundary of the North Ward to the junction in Long Wyre Street of the boundary between the parishes of Saint Nicholas and Holy Trinity and thence along the boundary of the South Ward to and terminating at the top of the said steps at Scheregate.

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THE FOURTH SCHEDULE.

NAMES OF FIRST COUNCILLORS AND DATES OF RETIREMENT.

Name of Ward.	Names of Councillors.	Date of Retirement (in every case the 1st November).
North - -	Daniell, Joseph Brabrook - - - -	1892
	Grimes, Joseph - - - -	1892
	Hazell, George Pung - - - -	1893
	Potter, James William - - - -	1893
	Cant, Benjamin Revett - - - -	1894
	And one person to be elected on the first day of November 1892	
South - -	Kavanagh, John - - - -	1892
	Moore, George - - - -	1893
	Peck, William - - - -	1893
	Butcher, William - - - -	1894
	And two persons to be elected on the first day of November 1892	
East - -	Watts, Lent John - - - -	1892
	Goody, James Frederick - - - -	1893
	Paxman, James Noah, J.P. - - - -	1893
	Marriage, Wilson, J.P. - - - -	1894
	Prior, Asher - - - -	1894
	And one person to be elected on the first day of November 1892	
West (or Head) -	Benham, William Gurney - - - -	1892
	Sanders, Edwin Joseph, J.P. - - - -	1892
	Laver, Henry, J.P. - - - -	1894
	Shenstone, James Chapman - - - -	1894
	And two persons to be elected on the first day of November 1892	

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