



CHAPTER xxx.

An Act to enable the Trustees of the Borough Market (Southwark) to borrow money and for other purposes. A.D. 1892.

[20th May 1892.]

WHEREAS under and by virtue of a Royal Charter granted in the reign of King Edward the Sixth and the provisions of the following Acts of Parliament (that is to say):—

Charter
Edward VI.

28 George II. chapter xxiii. ;

28 Geo. 2.
c. xxiii.

30 George II. chapter xxxi. ;

30 Geo. 2.
c. xxxi.

4 George IV. chapter xxxiv. ; and

4 Geo. 4.
c. xxxiv.

10 George IV. chapter cxix.

10 Geo. 4.
c. cxix.

(which Acts are hereinafter referred to collectively as “the former Acts” and separately as an Act of the year in which the same was passed) the market held in the parish of Saint Saviour in the borough of Southwark known as the Borough Market (in this Act referred to as “the market”) is now vested in the churchwardens overseers of the poor and certain inhabitants of the said parish and their successors as Trustees for the inhabitants of the said parish and the said Trustees (in this Act referred to as “the Trustees”) are empowered to hold the market and to receive and take rents tolls and sums of money in respect thereof and to exercise other powers conferred on them by the said Acts and are directed to apply the net profits of the said market in aid of the rates of the said parish as shall be determined by the majority of the inhabitants thereof in vestry assembled on Easter Tuesday and the twenty-ninth day of September in every year :

And whereas by the Act of 1754 and the Act of 1756 the Trustees were authorised to borrow money by means of annuities to be paid out of the said tolls and it is provided by the Act of 1756 that in case the said tolls should be insufficient for the purpose any deficiency

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And whereas by the Act of 1829 (section 42) the Trustees were empowered to alter enlarge extend and improve the market and to purchase land by agreement for the purpose :

And whereas owing to the great increase of the population in the said borough it is expedient that the area of the market should be enlarged and that the roads in and through the same should be improved and that for those purposes the Trustees should be empowered to borrow money :

And whereas the Trustees are not indebted on mortgage or bond or by way of annuities :

And whereas it is expedient that the other provisions hereinafter contained should be made :

And whereas the purposes of this Act cannot be effected 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) :—

Short title. 1. This Act may be cited as the Borough Market (Southwark) Act 1892 and the former Acts and this Act may be cited together as the Borough Market (Southwark) Acts 1754 to 1892.

Incorporation of part of Commissioners Clauses Act. 2. The provisions of the Commissioners Clauses Act 1847 with respect to the mortgages to be executed by the Commissioners (except sections 80 and 84) 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.

Interpretation. 3. In this Act unless the subject or context otherwise requires—
“Market revenue” means all moneys received by the Trustees for or in relation to the market other than borrowed moneys and other moneys which ought to be carried to capital account:

And for the purposes of this Act in the provisions of the Commissioners Clauses Act 1847 incorporated with this Act—

“The commissioners” and “the clerk to the commissioners” mean respectively the Trustees and the clerk to the Trustees.

Power to trustees to borrow. 4. The Trustees may from time to time borrow at interest for the following purposes on the security of the market undertaking

any sum or sums of money not exceeding in the whole the following (that is to say) :— A.D. 1892.

For the purpose of paying the costs of this Act as hereinafter defined the sum requisite for that purpose ;

For the purposes of the former Acts any sum or sums not exceeding one hundred thousand pounds.

5. The Trustees shall pay off all moneys borrowed by them under the powers of this Act within the following periods (that is to say) :— Repayment
of borrowed
moneys.

As regards money borrowed to defray the costs charges and expenses preliminary to and incidental to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto within any period not exceeding ten years from the time of the borrowing thereof :

As regards money borrowed for all other purposes within any period not exceeding fifty years from the time of the borrowing thereof :

And such repayments shall be made 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.

6. The following provisions shall apply as to the sinking fund :— As to
sinking fund.

It shall be formed by setting apart in every year out of the market revenue such equal annual sums as will with the accumulations thereof at compound interest (at a rate not exceeding three pounds per centum per annum) be sufficient after payment of all expenses to pay off the moneys borrowed (so far as they are repayable by means of sinking funds) within the periods by this Act prescribed in relation thereto respectively ;

The first payment to the sinking fund shall be made on or before the twenty-fifth day of March next following the expiration of one clear year after the date of the borrowing of the money in respect of which such payment is to be made ;

The sums to be annually appropriated and set apart in respect of the sinking fund exclusive of accumulations shall be equal throughout the whole period allowed for repayment ;

The Trustees may at any time apply the whole or part of the sinking fund in or towards the repayment of the borrowed moneys for the repayment of which the sinking fund was set apart in such order and manner as they deem proper Provided as follows :—

That in such case they pay into the sinking fund in each year afterwards and accumulate as hereinafter prescribed until the whole of such borrowed moneys are discharged a sum equal to the interest

A.D. 1892. — which would have been 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 ;

That whenever and so long as the yearly income arising from the sinking fund shall be equal to the annual interest of such borrowed moneys then outstanding the Trustees may in lieu of investing the said yearly income apply the same in payment of such interest ;

That if and as often as the income derived from such investment is not equal to the income which would be derived therefrom at the rate per centum on which the equal annual payments to the fund are based any deficiency shall be made good out of the market revenue ;

That when the amount standing to the credit of the sinking fund shall be equal to the amount of the loan outstanding for the repayment of which it was set aside the Trustees 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 such sinking fund of the yearly sums required to be so paid thereto.

Power to re-borrow.

7. If the Trustees pay off any part of any money borrowed by them under the powers of this Act otherwise than by means of instalments appropriations or annual repayments or a sinking fund or out of fines or premiums on leases or other moneys received on capital account not being borrowed moneys they may re-borrow the same and so from time to time Provided that all moneys so re-borrowed shall be repaid within the period prescribed for the repayment of the moneys in lieu of which such re-borrowing shall have been made and any amounts from time to time re-borrowed shall be deemed to form the same loan as the moneys in lieu of which such re-borrowing shall have been made and the obligations of the Trustees with respect to the repayment of such moneys shall not be in any way affected by such re-borrowing.

Sinking funds may be adjusted in certain events.

8. If the Trustees out of any moneys received on capital account other than borrowed moneys repay any principal moneys borrowed under the powers of this Act the payments to any sinking fund applicable to the repayment of such principal moneys may be reduced to such extent and upon such terms as may from time to time be approved by the Local Government Board.

Power to borrow under Local Loans Act 1875.

9. The Trustees 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 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 Trustees in manner by this section authorised shall be a charge upon the market undertaking and shall be paid out of the market revenue and the market revenue shall 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 by this Act.

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10. All sums paid into the sinking fund under this Act or the Local Loans Act 1875 and the annual income thereof shall be accumulated at compound interest and shall be as soon as may be invested in any manner in which Trustees are by law for the time being authorised to invest trust moneys or in any debenture stock or other security issued under the authority of any Act of Parliament by any local authority as defined by section 34 of the Local Loans Act 1875.

Sinking fund how to be invested.

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

Protection of lenders from inquiry.

12. The Trustees 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 Trustees shall be a sufficient discharge to the Trustees in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Trustees 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 Trustees 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.

The Trustees not bound to regard trusts of moneys lent them.

13. The mortgagees of the Trustees under this Act may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver and in order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one thousand pounds in the whole.

For appointment of receiver.

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As to
deficiency
in market
revenue.

14. Any deficiency in the market revenue shall be from time to time made good by and out of a rate to be made and levied in accordance with the provisions contained in section 7 of the Act of 1756 except that the said rate shall be assessed on the full net annual value of the property liable to be rated as ascertained by the valuation list for the time being in force (or if there be none then by the rate for the relief of the poor made next before the making of the assessment under the provisions of this section) and not on the yearly rent of such property as ascertained and rated to the land tax.

Application
of money
borrowed.

15. All money borrowed under this Act shall be applied for the purposes only for which it is by this Act authorised to be borrowed and to which capital is properly applicable and not otherwise.

Annual
return to
Local
Government
Board with
respect to
sinking
funds.

16. The clerk to the Trustees 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 purpose 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 said clerk shall be liable to a penalty of 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 Trustees 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 sinking 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 extend and apply mutatis mutandis to appropriations and to annual repayments.

17.—(1) The Trustees shall not purchase or acquire twenty or more houses in any parish which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until they shall have obtained the approval of the Secretary of State for the Home Department to a scheme for providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of December last or for such number of persons as the Secretary of State shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such persons and to all the circumstances of the case.

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Restrictions
on dis-
placing
persons of
labouring
class.

(2) The approval of the Secretary of State to any scheme under this section may be given either absolutely or conditionally and after the Secretary of State has approved of any such scheme he may from time to time approve either absolutely or conditionally of any modifications in the scheme.

(3) Every scheme made under this section shall contain provisions prescribing the time within which it shall be carried out and shall require the new dwellings proposed to be provided under the scheme to be completed fit for occupation before the persons residing in the houses in respect of which the scheme is made are displaced:

Provided that the Secretary of State may dispense with any of the requirements in this sub-section mentioned subject to such conditions (if any) as he may see fit.

(4) Any provisions of any scheme under this section or any conditions subject to which the Secretary of State may have approved of any scheme or of any modifications of any scheme or subject to which he may have dispensed with any such requirements as aforesaid shall be enforceable by a writ of mandamus to be obtained by the Secretary of State out of the High Court.

(5) If the Trustees acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions or in contravention of the requirements of the scheme displace or cause to be displaced the persons residing in any house or houses they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary of State by action in the High Court and shall be carried to and form part of the Consolidated Fund of the United Kingdom:

Provided that the court may if it think fit reduce such penalty.

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(6) For the purpose of carrying out any scheme under this section the Trustees may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require.

(7) The Trustees may on any lands belonging to them or purchased or acquired under this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell demise or let or otherwise dispose of such dwellings and any lands purchased or acquired as aforesaid :

Provided that all lands on which any buildings have been erected or provided by the Trustees in pursuance of any scheme under this section shall for a period of twenty-five years from the passing of this Act be appropriated for the purpose of dwellings and every conveyance demise or lease of such lands and buildings shall be endorsed with notice of this enactment :

Provided also that the Secretary of State may at any time dispense with all or any of the requirements of this sub-section subject to such conditions (if any) as he may see fit.

(8) All buildings erected or provided for the purpose of any scheme under this section shall be subject to the provisions of the Metropolitan Building Act 1855 and the Metropolis Management Act 1855 and any Act or Acts amending those respective Acts.

(9) The Secretary of State may direct any inquiries to be held by any persons appointed by him as inspectors which he may deem necessary in relation to any scheme under this section and may give effect to any of the provisions of this section and every such inspector shall for the purposes of any such inquiry have all such powers as inspectors of the Local Government Board have for the purposes of inquiries directed by that Board under the Public Health Act 1875.

(10) The Trustees shall pay to the Secretary of State a sum to be fixed by him in respect of any expenses incurred by him in relation to any inquiries under this section including the expenses of any witnesses summoned by the inspector and a sum to be fixed by the Secretary of State for the service of such inspector.

(11) 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. A.D. 1892.

18. The Trustees shall apply all moneys received from the sale of lands or from fines or premiums on leases or other moneys in the nature of capital not being borrowed moneys in extinguishment of any loan raised by them under the powers of this Act and such application shall be in addition to and not in substitution for any other mode of extinguishment by this Act provided except to such extent and upon such terms as may be approved by the Local Government Board. Proceeds of
sale of
surplus
lands.

19. All costs charges and expenses of and incident to the preparing 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 Trustees out of the market revenue or out of moneys to be borrowed by them for the purpose under the powers of this Act. Costs of Act.

Printed by EYRE and SPOTTISWOODE,

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