



CHAPTER lxiii.

An Act for vesting the Barking Town Wharf at Barking in the county of Essex in the Barking Town Local Board and for other purposes. A.D. 1893.
[9th June 1893.]

WHEREAS by an Act of Parliament passed in the twenty-sixth year of His late Majesty King George the Third chapter one hundred and fifteen intituled "An Act for providing a proper workhouse and better regulating the poor within the parish of Barking in the county of Essex and for regulating the common wharf within the town of Barking" (hereinafter referred to as "the Act of 1786") provision was made for the appointment of directors for the purposes of the Act and the directors were empowered to make rules and regulations for the use and protection of the public wharf at Barking Creek adjoining the town of Barking aforesaid :

And whereas by another Act passed in the fifty-first and fifty-second year of the reign of Her Majesty Queen Victoria chapter forty-six and known by the short title of "the Barking Parish Act 1888" all powers and duties conferred or imposed by the Act of 1786 upon the directors therein mentioned in respect of the said public wharf and creek were vested in certain conservators to whom powers were given for maintaining the same and it was enacted in effect that the expense of such maintenance and of carrying the rules into effect should be a charge on the poor rates of the parishes of Barking and Ilford in certain proportions :

And whereas from the passing of the Act of 1786 for a very considerable period the wharf was used almost exclusively by the inhabitants of the town the farmers in the parish and the fishing fleet sailing from Barking but at the present time it is almost entirely used by persons residing outside the parishes of Barking and Ilford :

And whereas it is expedient that the cost of repairing and maintaining the wharf and creek should not be paid out of the poor rates levied in the said parishes :

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And whereas it is expedient that the wharf should be vested in the Barking Town Local Board (hereinafter called "the Local Board") and that the Local Board should be constituted the conservators in respect of the said wharf and creek with power to levy tolls on barges boats and vessels using the said wharf for the purpose of providing a fund for keeping the same in repair and that any deficiency in such fund should be made good out of the general district rates of the Local Board:

And whereas the objects aforesaid cannot be attained 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 for all purposes as the Barking Town Wharf Act 1893.

Incorporation of general Act.

2. The Harbours Docks and Piers Clauses Act 1847 with the exception of sections 16 17 18 and 19 (which shall not be in force for the purposes of this Act save so far as from time to time the same may be required by the Board of Trade) is incorporated with and shall form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or in part incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction and the expression "wharf undertaking" means the wharf undertaking of the Local Board by this Act authorised. And for the purposes of the Act the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partially incorporated herewith shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Partial repeal of Acts.

4. Section 38 of the Act of 1786 and sections 18 and 19 of the Barking Parish Act 1888 are hereby repealed.

Wharf and property of the conservators vested in Local Board.

5. From and immediately after the passing of this Act the said wharf (hereinafter called "the wharf") together with the embankments and other works and all other (if any) the real and personal estate of the conservators constituted under the Barking Parish Act 1888 by virtue of that Act or the Act of 1786 and all other the rights privileges and remedies of the conservators in respect thereof

shall be by virtue of this Act transferred to and vested in the Local Board and shall be held by the Local Board for the purposes and subject to the provisions of this Act. A.D. 1893.

6. From and after the passing of this Act all rights and powers and authorities of the conservators in or over the wharf or creek are hereby transferred to and vested in the Local Board upon the terms and subject to the provisions of this Act and may be had exercised and enjoyed by the Local Board and their officers and servants accordingly and the conservators as constituted by the Act of 1888 shall be and are hereby dissolved and shall cease to exist and are by virtue of this Act freed and discharged from all liabilities claims demands actions suits or other proceedings present or future affecting the conservators. Powers of conservators vested in Local Board.

7. Subject to the provisions of this Act all debts and liabilities of the conservators and all claims upon their real or personal estate immediately before the passing of this Act shall be respectively paid borne and fulfilled by the Local Board and the Local Board shall become in reference thereto substituted for the conservators in all respects. Provisions as to debts &c. of conservators.

8. Subject to the provisions of this Act no action suit prosecution or other proceeding shall abate or be discontinued or prejudicially affected by the repeal of the sections hereby repealed of the Act of 1786 or of the Barking Parish Act 1888 and all penalties incurred by or for any offence against the provisions of the repealed sections or any byelaws of the conservators may be recovered and all offences which may have been committed against the provisions of such repealed sections or any such byelaws may be prosecuted in such manner to all intents and purposes as the same might have been sued for and prosecuted respectively if the said sections had not been hereby repealed the Local Board being with reference to all such matters substituted for the conservators. Actions not to abate.

9. Subject to the provisions of this Act nothing herein contained shall be held to prejudice or affect any right or cause of action or suit or any remedy which the conservators have against any person or which any person has against the conservators at the time of the passing of this Act but all such rights causes and remedies may be enforced or prosecuted by or against the Local Board in like manner and within the same periods of time as the same might have been enforced or prosecuted by or against the conservators if this Act had not been passed. Saving rights of action.

10. All byelaws of the conservators shall continue in full force until repealed or altered by the Local Board and such byelaws Byelaws to continue till altered.

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may be enforced and all proceedings thereon may be continued or taken and all penalties thereunder may be recovered accordingly by the Local Board.

Documents
&c. to be
evidence.

11. All documents books and writings by the Act of 1786 or the Barking Parish Act 1888 directed or authorised to be kept and which if this Act had not been passed would have been receivable in evidence shall be admitted as evidence in all courts of law and equity and elsewhere accordingly.

Debts owing
to conserva-
tors to be
paid to
Local Board.

12. All companies and persons who immediately before the passing of this Act owed any moneys to the conservators or to any person on their behalf shall pay the same with all interest if any due or accruing in respect of the same to the Local Board.

Limits of
conser-
vancy.

13. The limits of the conservancy for the purposes of this Act and within which the Local Board shall be the conservators and to which the provisions of this Act and the power to levy tolls shall extend shall comprise the wharf and so much of the Barking Creek and the mill pool as is situate within the district of the Local Board.

Power to
improve the
wharf creek
and mill
pool at or
near the
same.

14. Subject to the provisions of this Act the Local Board may within the limits of the conservancy from time to time repair maintain and improve the wharf and may from time to time set out boundaries and widen deepen straighten dredge protect and otherwise improve Barking Creek and the lay-by adjoining the said wharf and the mill pool in front thereof and remove all obstructions to the free access to and the use of the said wharf.

Appoint-
ment of
wharf
keepers.

15. The Local Board shall have the appointment of wharf keepers meters and weighers and all other officers or servants in connection with the wharf.

Disposal of
dredging.

16. All sand mud and other materials dredged up or removed from the creek lay-by and mill pool within the limits of the conservancy shall become and be the property of the Local Board who may from time to time sell or otherwise dispose of the same and all money arising therefrom after payment of the expenses connected therewith shall be applied as tolls receivable under this Act are applicable.

Power to
take tolls.

17. The Local Board may subject and according to the provisions of this Act and notwithstanding the 25th section of the Harbours Docks and Piers Clauses Act 1847 for the use of the wharf and works and conveniences connected therewith demand and take in respect of the vessels barges and boats described in the schedule to this Act any sums not exceeding the tolls in such schedule

mentioned but no tolls shall be payable in respect of any craft employed by the conservators of the River Thames. A.D. 1893.

18. The Local Board may from time to time vary confer or extinguish exemptions from and enter into composition with any person or persons with respect to the payment of tolls or duties authorised by this Act but so that no preference be in any case given to any persons or person. Power to compound for tolls.

19. The Local Board shall apply all the tolls and duties and other revenue received under this Act for the purposes and in order following and not otherwise (that is to say):— Application of tolls and income.

- (1.) In paying the expenses of the maintenance and repair of the wharf and the improvement and management thereof and of the creek and mill pool;
- (2.) In paying year by year the interest accruing on money which after the passing of this Act may be borrowed thereunder or may otherwise become a charge on the tolls and duties authorised by this Act;
- (3.) In providing for the discharge of any moneys borrowed under this Act or advanced out of the general district rate as herein-after mentioned :

If the revenue arising from the wharf undertaking in the hands of the Local Board shall at any time be insufficient to meet the expenses of maintenance and management of the same and the payment of interest on moneys borrowed by the Local Board for the purposes thereof and for providing for the discharge of such moneys the deficiency shall be supplied out of the general district rate and the Local Board are hereby authorised and empowered to levy and recover from time to time as part of the general district rate such sums as may be required for the purpose.

20. The Local Board shall keep separate accounts of the moneys received and expended by them under this Act and such accounts shall be subject to the same provisions as to audit as other accounts of the Local Board. The Local Board shall forward annually to the Board of Trade an abstract of the accounts of the moneys received and expended by them under this Act and if the Local Board refuse or neglect to comply with this provision they shall for every such refusal or neglect be liable to a penalty not exceeding twenty pounds. Separate accounts to be kept.

21. The Local Board shall from time to time with the sanction of the Board of Trade revise the tolls and duties chargeable by them under this Act so that the total produce thereof may always be as far as practicable sufficient and not more than sufficient for Tolls to be revised.

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the purposes of this Act provided that the tolls specified in the schedule to this Act shall not in any case be exceeded.

Power to borrow.

22. The Local Board may with the sanction of the Local Government Board from time to time (in addition to any moneys which they are now authorised to borrow or which they may be authorised to borrow under the provisions of any public or local Act) borrow at interest on mortgage of the following securities and for the following purposes being in all cases purposes to which capital is properly applicable but not otherwise the following sums (that is to say):—

On the security of the revenue of their wharf undertaking and of the district fund and general district rate—

For the repair and improvement of the wharf undertaking such sum as the Local Government Board shall think fit;

For the payment of the costs of this Act such sums as may be required.

Further power to borrow and time of repayment.

23. Subject to the provisions of this Act the Local Board are also hereby authorised from time to time to borrow with the sanction of the Local Government Board such further sums as they may from time to time require for the purposes of their wharf undertaking (including the purchase of land) and the development of the traffic thereto and thereon. All sums so borrowed shall be repaid within such periods as shall in each case be sanctioned by the Local Government Board.

Provisions as to mortgages.

24. Subject to the provisions of this Act the provisions contained in sections 236 to 239 of the Public Health Act 1875 with respect to the mortgages to be executed by a local authority shall apply in the case of all mortgages granted by the Local Board under this Act and for the purposes of such application the term local authority in the said provisions shall be construed to mean the Local Board.

Mode of discharge of borrowed moneys.

25. The Local Board shall pay off all moneys borrowed by them under this Act as to moneys borrowed for the repair and improvement of the wharf undertaking within such period as the Local Government Board shall prescribe and as to moneys borrowed for the purpose of paying the costs of this Act within a period not exceeding ten years by equal yearly or half-yearly instalments of principal or principal and interest or by means of a sinking fund or sinking funds created invested and applied in manner provided by the Local Loans Act 1875 and section 15 of that Act shall apply accordingly. Provided that any moneys repaid by the Local Board otherwise than by means of a sinking fund or instalments or out of the proceeds of the sale of surplus lands or other moneys received

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on capital account before the expiration of the period prescribed may be re-borrowed from time to time so that they may be finally discharged within the said periods respectively and for the purposes of repayment and of section 15 of the Local Loans Act 1875 the moneys re-borrowed and the moneys originally borrowed shall be deemed to form the same loan Provided that nothing in this section contained shall authorise the Local Board to invest any sinking fund or sinking funds created under this section in their own securities.

26. All moneys borrowed by the Local Board shall be applied by them only to purposes for which they are respectively authorised by this Act to be raised and to which capital is properly applicable.

Application of borrowed moneys.

27.—(1.) All moneys borrowed under this Act shall as between the several revenue funds or rates comprised in the mortgage or other instrument securing the same be charged first on all the revenues of the wharf undertaking of the Local Board and secondly on the district fund and general district rate.

Order of charge as between revenue and rates.

(2.) But this enactment is without prejudice to the right of any mortgagee or other creditor of the Local Board to enforce if need be all the powers and remedies in respect of any revenue fund or rate comprised in his mortgage or other security.

28. The clerk of the Local Board 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 a 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 clerk 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 a summary manner.

Annual return to Local Government Board.

If it appear to the Local Government Board by such return or otherwise that the Local Board have failed to pay any instalments 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

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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.

Power to
make and
alter bye-
laws.

29. Subject to the provisions of this Act the Local Board may make and from time to time alter byelaws for the purpose of levying the tolls and duties payable under this Act and for the regulation and control of the persons vessels barges and boats goods and traffic using the wharf and creek and may impose penalties for the breach of the same but such byelaws shall not come into operation until the same have received the allowance and confirmation of the Board of Trade which shall be sufficient for all purposes and a copy of such byelaws signed by a secretary or assistant secretary of the Board of Trade shall be conclusive evidence in all courts of the validity of such byelaws.

Inquiries
by Local
Government
Board.

30. The Local Government Board may direct any inquiries to be held by their inspectors which they may deem necessary for giving effect to any of the provisions of this Act and the inspectors of the Local Government Board shall for the purposes of any such inquiry have all such powers as they have for the purposes of inquiries directed by that Board under the Public Health Act 1875 The Local Board shall pay to the Local Government Board any expenses incurred by that Board in relation to any inquiries under this section including the expenses of any witnesses summoned by the inspector holding the inquiry and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector.

For the
protection
of the
Havering
and Dagen-
ham &c.
commis-
sioners of
sewers.

31. Nothing in this Act shall extend to prejudice diminish alter or take away any of the jurisdiction rights and powers or the limits of the jurisdiction vested or to be vested in the commissioners of sewers for the levels of Havering and Dagenham Ripple Barking East Ham Leyton and Walthamstow in the respective counties of Essex Middlesex and Kent for the time being or their successors or shall authorise the conservators to interfere with or to execute works interfering in any way with any bank wall sewer or other work or defence or anything necessary to the maintenance support or existence thereof but all such jurisdiction rights and powers shall be as valid and effectual as if this Act had not been passed Provided nevertheless that this shall not prevent the conservators altering the wharf by raising or strengthening it.

32. Nothing in this Act or in the recited Acts contained shall authorise the Local Board to construct any works on or in the bed or shore of Barking Creek and mill pool or to dredge therein or to interfere in any manner with the bed or shore of the said creek and pool or with the navigation thereof without the consent in writing of the conservators of the River Thames or render the said conservators liable to any charges or expenses whatever and nothing herein and no power by this Act or the incorporated Acts conferred on the Local Board and no byelaw continued or to be altered or made by the said Board under this Act or the incorporated Acts shall extend or be construed to extend to take away alter interfere with abridge prejudice affect or derogate from any of the rights titles powers privileges franchises jurisdictions or authorities of the conservators of the River Thames but all such rights powers and jurisdictions shall remain and be exercised and be of full force and effect.

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For protection of the conservators of the River Thames.

33. All the costs charges and expenses preliminary to and of and incidental to the preparing and obtaining of this Act or otherwise in relation thereto shall after taxation by the taxing officer of the House of Lords or the House of Commons be paid by the Local Board in the first instance out of the general district rates and ultimately out of money to be borrowed for the purposes of this Act.

Costs of Act.

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The SCHEDULE to which the foregoing Act refers.

TOLLS ON VESSELS AND BARGES USING THE WHARF.

	£	s.	d.
Upon all barges not exceeding fifty tons register using the wharf for the purpose of loading or unloading or otherwise for every forty-eight hours or part thereof a sum not exceeding	-	0	10 0
And for every twenty-four hours or part thereof beyond such forty-eight hours an additional sum not exceeding	-	-	0 10 0
Upon all steam or other vessels not included in the above description for every forty-eight hours or part thereof a sum not exceeding	-	-	1 0 0
And for every twenty-four hours or part thereof beyond such forty-eight hours an additional sum not exceeding	-	-	1 0 0

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