



CHAPTER xciv.

An Act to make provision with respect to the existing debt of the Commissioners of Warkworth Harbour in the county of Northumberland and to empower them to borrow additional moneys and for other purposes.

A.D. 1893.

[29th June 1893.]

WHEREAS by the Local and Personal Act 7 William IV. and 1 Victoria chapter lxxvii. certain persons were constituted Commissioners and empowered to make and maintain a harbour in the parish of Warkworth and to improve the navigation of the River Coquet and for that purpose to borrow any sum not exceeding one hundred thousand pounds:

7 Wm. IV.
and 1 Vict.
c. lxxvii.

And whereas by the Local and Personal Act 5 and 6 Victoria chapter lvii. the time for executing the said works was extended and the said Commissioners were authorised to raise a further sum of ten thousand pounds for the special purposes therein mentioned:

5 & 6 Vict.
c. lvii.

And whereas the said Commissioners put the said Acts into execution and raised by debentures the sum of seventy-nine thousand pounds part of the said sum of one hundred thousand pounds and the sum of six thousand pounds part of the said sum of ten thousand pounds but the same being insufficient to complete the said works the said two recited Acts were by the Warkworth Harbour Act 1847 (in this Act referred to as "the Act of 1847") repealed and a fresh body of Commissioners was appointed (in that Act and in this Act called "the Commissioners") and the undertaking of the former Commissioners was vested in the Commissioners and they were empowered to complete the formation of the harbour piers jetties and works at Warkworth then in progress in the manner in which they were laid out and planned and to scour cleanse deepen widen and otherwise improve the navigation of such part of the River Coquet as lies between Warkworth Bridge and the sea and to erect quays wharves embankments warehouses machinery and appliances for the convenience of shipping and for those purposes to raise by

10 & 11 Vict.
c. cxxviii.

A.D. 1893. mortgage of the tolls of the harbour an additional sum not exceeding together with the sum already raised the sum of two hundred thousand pounds :

And whereas the Commissioners raised by the issue of debentures an additional sum which together with the said sums of six thousand pounds and seventy-nine thousand pounds amount to the sum of one hundred and eighty-four thousand seven hundred pounds in this Act referred to as "the debenture debt" :

And whereas the debenture debt of one hundred and eighty-four thousand seven hundred pounds is still owing on the security of the said debentures together with a large arrear of interest thereon and Hugh Andrews of Swarland Hall in the county of Northumberland is the registered owner of the said debentures and as such owner claims to be entitled to the said arrear of interest :

And whereas the Commissioners also borrowed on mortgage from the Public Works Loan Commissioners the sum of fifteen thousand pounds whereof the sum of eleven thousand five hundred pounds is still owing but there is no arrear of interest thereon :

And whereas the further deepening of the harbour would be of public and local advantage and it is expedient that the Commissioners be authorised to borrow additional moneys for that purpose and for the improvement of the harbour :

And whereas in order to facilitate the borrowing of such moneys the said Hugh Andrews has consented in writing to abandon all claim to the said arrear of interest and also the sum of fourteen thousand seven hundred pounds part of his said debt of one hundred and eighty-four thousand seven hundred pounds on the terms in this Act appearing :

And whereas the purposes aforesaid 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 for all purposes as the *Warkworth Harbour Act 1893.*

Incorporation of Acts. 2. The provisions of the Commissioners Clauses Act 1847 with respect to the mortgages to be executed by the Commissioners (except section 84) as far as the same are applicable for the purposes of and not varied by or inconsistent with this Act are incorporated with this Act.

3. In this Act unless the context otherwise requires—

A.D. 1893.

Words and expressions to which meanings are assigned in enactments incorporated with this Act or which have therein special meanings have the same respective meanings;

Interpretation.

“Harbour revenue” means and includes all tolls rates rents charges and moneys not being capital moneys leviable by or payable to the Commissioners :

And in this Act and for the purposes of this Act in any enactment incorporated with this Act—

The term “court of competent jurisdiction” shall have effect as if the debt or demand with respect to which it is used was a simple contract debt and not a debt or demand created by statute and the term “superior courts” shall include any court of competent jurisdiction.

4. All arrears of interest up to the thirty-first day of December one thousand eight hundred and ninety-two owing to or claimed by the said Hugh Andrews in respect of the debenture debt of one hundred and eighty-four thousand pounds are hereby cancelled.

Arrears of interest cancelled.

5. Forthwith after the passing of this Act the said Hugh Andrews his executors administrators or assigns shall hand over and surrender to the Commissioners debentures issued by them to the amount of fourteen thousand seven hundred pounds part of the debenture debt of one hundred and eighty-four thousand seven hundred pounds and the said debentures shall upon such surrender ipso facto become void and shall be cancelled by the Commissioners.

Cancellation of 14,700*l.* of debenture debt.

From and after such surrender the debt of the Commissioners represented by the mortgage to the Public Works Loan Commissioners for the said sum of eleven thousand five hundred pounds and by the remainder of the said debentures amounting to the sum of one hundred and seventy thousand pounds shall be and be deemed the then subsisting debenture debt of the Commissioners created or authorised by the Act of 1847 and all power to borrow further moneys under the powers of that Act is hereby extinguished.

6. Nothing in this Act shall prejudice or affect the said debt of eleven thousand five hundred pounds owing to the Public Works Loan Commissioners or the payment thereof or the payment of any interest thereon.

Saving for debt to Public Works Loan Commissioners.

7. The Commissioners in addition to the moneys they are authorised to borrow by the recited Acts may from time to time borrow under the powers of this Act on the security of the harbour revenue for the purposes of the harbour thirty thousand pounds.

Power to borrow.

A.D. 1893.
 As to the re-
 payment of
 borrowed
 moneys.

8. The Commissioners shall pay off all moneys borrowed by them under the powers of this Act and the said debt of one hundred and seventy thousand pounds within the following periods (that is to say) :—

As regards moneys borrowed to defray the costs of this Act within any period not exceeding ten years from the date of the borrowing thereof ;

As regards moneys borrowed under and for the purposes of this Act within any period not exceeding forty years from the date of the borrowing thereof ;

As regards the said debt of one hundred and seventy thousand pounds within any period not exceeding sixty years from the passing of this Act :

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 :

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

It shall be formed by setting apart in every year out of the harbour 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 said moneys and debt so far as they are respectively repayable by means of a sinking fund within the periods by this Act prescribed in relation thereto respectively ;

The first payment to the sinking fund for repayment of money borrowed for paying the costs of this Act shall be made not later than the first day of January next following the expiration of one clear year after the date of the borrowing of such money ;

The first payment to the sinking fund for repayment of moneys borrowed for the purposes of this Act shall be made not later than the first day of January next after the expiration of five years after the passing of this Act ;

The first payment to the sinking fund for repayment of the said debt of one hundred and seventy thousand pounds shall be made not later than the first day of January next after the expiration of five years after the passing of this Act ;

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 Commissioners may from time to time apply the whole or any part of the sinking fund in or towards the discharge of the principal

moneys for the discharge of which such fund shall have been established Provided as follows:— A.D. 1893.

No portion of the sinking fund shall be applied in or towards the repayment of any money borrowed under the powers of this Act until the whole of the said debenture debt of one hundred and seventy thousand pounds shall have been repaid;

The Commissioners shall in each year pay into the fund and accumulate until the whole of the principal moneys in respect of which it shall have been accumulated shall have been discharged a sum equivalent to the interest which would have been produced by the sinking fund or part of sinking fund so applied at the rate per centum on which the equal annual payments are based;

Whenever and so long as the yearly income arising from the sinking fund shall be equal to the annual interest of such principal moneys then outstanding and to be paid off by means of such fund the Commissioners 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 by this Act required to be so paid thereto.

9. The yearly sums to be appropriated to the sinking fund shall be invested from time to time and accumulated in the way of compound interest by investing the same respectively in such securities as trustees are by law for the time being authorised to invest trust moneys in or on the security of mortgages debentures debenture stock or annuity certificates granted or issued under any Act by any local authority as defined by section 34 of the Local Loans Act 1875. Investment
of sinking
funds.

10. The Commissioners shall not be bound to see to the execution of any trust whether express 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 Commissioners shall from time to time be a sufficient discharge to the Commissioners in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Commissioners have had express or implied notice of any such trust or of any charge lien or incumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered on their register and the Commissioners shall not be bound to see to the application of the money paid on any such receipt or be answerable or Commis-
sioners not
to regard
trusts.

A.D. 1893. — accountable for any loss misapplication or non-application of any of such moneys.

Protection of lenders from inquiry.

11. A person lending money to the Commissioners shall not be bound or entitled to inquire as to the observance by them of any provision of the recited Acts or this Act or to see to the application or be answerable for any loss mis-application or non-application of any of such money.

Receipt in case of persons not sui juris.

12. If any money is payable to a mortgagee being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Commissioners.

Power to reborrow.

13. The Commissioners may from time to time borrow at interest on mortgage as aforesaid any money necessary for repaying the said debts of eleven thousand five hundred pounds and one hundred and seventy thousand pounds or either of those debts or any part thereof respectively or any principal money borrowed under the powers of this Act on the same respectively becoming repayable or for the paying off of the said debts of eleven thousand five hundred pounds and one hundred and seventy thousand pounds or either of such debts or any such principal money as they can reborrow at a lower rate of interest Provided as follows:—

The time for the repayment of any moneys so reborrowed shall not be extended beyond the unexpired portion of the term in that behalf by this Act prescribed;

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

The Commissioners shall not reborrow 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 moneys received on capital account other than borrowed moneys.

For appointment of a receiver.

14. All provisions as to the appointment of a receiver for mortgagees of the Commissioners are hereby repealed without prejudice to any appointment made or proceedings taken thereunder prior to the passing of this Act and the mortgagees of the Commissioners may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver 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 ten thousand pounds.

As to application for receiver.

15. Every application for a receiver shall be made to two justices and on such application such justices by order in writing

after hearing the parties may appoint some person to receive the whole or a competent part of the harbour revenue until the amount so in arrear and in respect whereof the receiver is appointed and all costs including the costs of receiving such revenue be fully paid and upon such appointment being made all such revenue shall be paid to and received by the person so appointed who is hereby empowered to give good and sufficient discharges for the same and the money so to be received shall be so much money received by or to the use of the several mortgagees or persons interested in the same and shall be distributed by the receiver accordingly and after all moneys so in arrear and costs shall have been paid the power of the receiver shall cease.

A.D. 1893.

16. The money borrowed under this Act shall be applied only for the purposes for which it was borrowed being objects to which capital money is properly applicable and for no other purpose.

Application of borrowed money.

17. The Commissioners shall apply moneys received by them from the sale of any lands and houses belonging to them and not required for the purposes of the harbour undertaking in the extinguishment of loans raised by them under the powers of the Act of 1847 and subject thereto in extinguishing any other loan of the Commissioners 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 Board of Trade.

Proceeds of sale of surplus lands.

18. The Commissioners 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 Commissioners in manner by this section authorised shall be a charge upon and shall be paid out of the harbour revenue and such 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 All sums paid into any sinking fund formed for the purpose of such discharge shall be as soon as may be invested by the Commissioners in the manner in which sinking funds are by this Act authorised to be invested or applied The first payment to such sinking fund shall be made at the respective dates herein-before mentioned for such payment to the sinking fund prescribed by the section of this Act the marginal note whereof is "As to the repayment of borrowed moneys."

Power to borrow under Local Loans Act 1875.

A.D. 1893.

As to loans
by Public
Works Loan
Commis-
sioners.

19. Nothing in this Act shall operate to empower the Commissioners to borrow any loan from the Public Works Loan Commissioners Provided that if the Public Works Loan Commissioners advance any loan to the Commissioners under the Harbours and Passing Tolls &c. Act 1861 and the Acts amending the same—

(1.) That loan and the security therefor shall not have priority over any loan previously borrowed under this Act or any other special Act or the security therefor except so far as the mortgage creditors consent to such priority under the Public Works Loans Act 1875 or otherwise but shall have priority over any loan subsequently borrowed in pursuance of this Act or any special Act and the security therefor; and

(2.) The amount which the Commissioners are authorised by this Act or any other special Act to borrow shall be diminished by the amount of any loan borrowed from the Public Works Loan Commissioners under the Harbours and Passing Tolls &c. Act 1861 and the Acts amending the same.

Annual
return to
Board of
Trade with
respect to
sinking fund.

20. The clerk 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 Board of Trade 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 clerk shall be liable to a penalty of not exceeding twenty pounds recoverable summarily on the prosecution of the Board of Trade and not otherwise If it appear to the Board of Trade by such return or otherwise that the Commissioners 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 Board of Trade 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 Board of Trade out of the High Court and the provisions of this

Act shall apply mutatis mutandis to appropriations or annual repayments. A.D. 1893.

21. The Commissioners shall apply the harbour revenue as follows (that is to say):— Application
of harbour
revenue.

Firstly. In payment of the working and establishment expenses and cost of maintenance of the harbour not exceeding together in any one year the sum of seven hundred pounds except with the consent of the Public Works Loan Commissioners and the holders of not less than three-fourths of the said debenture debt of one hundred and seventy thousand pounds;

Secondly. In payment of the interest on and the yearly instalments of principal in respect of the said debt to the Public Works Loan Commissioners;

Thirdly. In payment of the interest on the said debenture debt of one hundred and seventy thousand pounds;

Fourthly. In payment of the costs charges and expenses of and incidental to the borrowing of money under this Act;

Fifthly. In payment of the interest on moneys borrowed by the Commissioners under this Act;

Sixthly. In providing the requisite instalments appropriations annual repayments or sinking fund for the repayment of the said debenture debt of one hundred and seventy thousand pounds as prescribed by this Act;

Seventhly. In providing the requisite instalments appropriations annual repayments and sinking fund for the repayment of the moneys borrowed by the Commissioners under the powers of this Act;

Eighthly. In payment of the cost of works for the improvement of the harbour and of executing such of the powers of the recited Acts as may not have been paid as firstly herein-before provided and in payment of any other expenses (if any) legally incurred and not so paid as aforesaid;

Ninthly. 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 such securities as trustees are for the time being authorised to invest in and accumulating the same at compound interest until the fund so formed shall amount to thirty thousand pounds which fund shall be applicable from time to time to answer any deficiency at any time happening in the income of the Commissioners 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:

A.D. 1893. The surplus (if any) in each year shall be expended as the Commissioners think fit in improving or otherwise for the benefit of the harbour and in no other way.

Expenses of execution of Act.

22. All expenses incurred by the Commissioners in carrying into execution the provisions of this Act (except such of them as are to be paid out of borrowed money) shall be paid out of the harbour revenue.

Separate accounts of capital and revenue.

23. The Commissioners shall keep separate accounts on capital and revenue account of all receipts and expenditure under this Act.

Saving rights of Duke of Northumberland.

24. Nothing in this Act contained shall extend or be deemed or construed to extend to take away lessen prejudice alter or in anywise affect sections 43 and 44 of the Act of 1847 but such sections shall be and remain of as full force and virtue as if this Act had not been passed.

Saving rights of Leslie's Trustees.

25. Nothing in this Act contained shall extend or be deemed or construed to extend to take away lessen prejudice alter or in anywise affect the rights powers jurisdictions liberties privileges advantages and authorities and the deeds mentioned in section 45 of the Act of 1847 but such section shall be of as full force and virtue as if this Act had not been passed.

Provision for Merchant Shipping Act and general Acts.

26. Nothing in this Act contained shall exempt the harbour or the Commissioners from the provisions of the Merchant Shipping Act 1854 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 rates or duties by the recited Acts authorised.

Costs of Act.

27. 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 shall be paid by the Commissioners.

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