



CHAPTER 1v.

An Act to transfer to and vest in the Urban District Council of the Urban District of Brixham in the County of Devon the undertaking of the Commissioners for improving the Harbour and Market of Brixham to dissolve those Commissioners and for other purposes. A.D. 1896.

[2nd July 1896.]

WHEREAS by the Act 39 George III. chapter vi. intituled "An Act to enable the lords of the manor of Brixham in the County of Devon to repair and enlarge or rebuild the pier or quay at Brixham Quay within the said manor to improve the harbour there to regulate the moorings of vessels therein and to establish a market there" (in this Act called "the Act of 1799") powers were conferred upon the lords and ladies of the said manor for improving the quay and harbour of Brixham and establishing a market there and levying rates and borrowing money on the security thereof:

And whereas by the local and personal Act 1 Victoria chapter lxxv. intituled "An Act for improving enlarging and maintaining the pier harbour and market of Brixham in the County of Devon and for the formation of a breakwater in Torbay" (in this Act called "the Act of 1837") the lords and ladies of the said manor therein named and such other lords and ladies of the said manor as should thereafter be possessed of or entitled to one undivided twenty-fourth part of the whole of the said manor together with fifteen rated inhabitants of the parish of Brixham aforesaid were appointed commissioners for putting the Act of 1799 and that Act into execution by the name of "The Commissioners for improving the Harbour and Market of Brixham" (in this Act called "the commissioners") and powers were conferred upon them for improving the harbour of

A.D. 1896. Brixham and for building and completing a new breakwater and for building a new market house and for borrowing money for the purposes aforesaid :

And whereas by the Brixham Harbour Order 1875 (in this Act called "the Order of 1875") confirmed by the Pier and Harbour Orders Confirmation Act 1875 (No. 3) the commissioners were incorporated and further powers of levying rates with respect to their harbour undertaking were conferred upon them and they were authorised to borrow money for constructing enlarging and repairing the breakwater and works authorised by the Act of 1837 :

And whereas by the Brixham Harbour Order 1877 (in this Act called "the Order of 1877") confirmed by the Pier and Harbour Orders Confirmation Act 1877 (No. 1) further powers of levying rates with respect to their harbour undertaking were conferred upon the commissioners :

And whereas the harbour of Brixham is much resorted to by fishing and other vessels and large quantities of fish are landed and sold there and many of the inhabitants of Brixham are engaged in the fishing trade and the prosperity of Brixham is entirely dependent thereon :

And whereas the breakwater authorised by the Act of 1837 has not been completed by the commissioners and there is urgent need in the interests of the fishing trade and for the protection of those engaged therein that the said breakwater should be extended and repaired and the harbour of Brixham further improved :

And whereas the commissioners were authorised by the Order of 1875 to borrow on mortgage of the rates thereby authorised the sum of twenty-five thousand pounds and the commissioners have under the powers of the said Order borrowed on the security of the said rates the sum of fifteen thousand pounds or thereabouts leaving an unexercised borrowing power in respect of the harbour undertaking of the sum of ten thousand pounds or thereabouts :

And whereas the commissioners have wholly failed to raise the further moneys authorised by the Order of 1875 and by reason of such failure are unable to undertake the necessary works for extending and repairing the breakwater and improving the harbour :

And whereas the commissioners have borrowed under the Act of 1837 and still owe in respect of their market undertaking the sum of two thousand three hundred and eighty pounds or thereabouts :

And whereas Brixham is an urban district under the local government of the urban district council of the urban district of Brixham and it is expedient that the commissioners should be dissolved and their undertaking transferred to and vested in the district council and that the district council in order to raise moneys for the purposes aforesaid under the Order of 1875 should be authorised to mortgage the district fund and general district rate of the said district as well as the rates authorised by the Order of 1875 : A.D. 1896.

And whereas an absolute majority of the whole number of the district council at a meeting of that body held on the third day of December one thousand eight hundred and ninety-five after ten clear days' notice by public advertisement of such meeting and of the purposes thereof in the Western Morning News a local newspaper published or circulating in the said district such notice being in addition to the ordinary notice required for summoning such meeting resolved that it was expedient to promote the Bill for this Act :

And whereas such resolution was published twice in the said Western Morning News and in respect of matters within the jurisdiction of the Local Government Board has received the approval of that 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 district council at a further special meeting held in pursuance of a similar notice on the fourth day of February 1896 being not less than fourteen days after the deposit of the Bill in Parliament :

And whereas the owners and ratepayers of the district by resolution in the manner provided in the third schedule to the Public Health Act 1875 have consented to the promotion of the Bill for this Act :

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 :—

1. This Act may be cited as the Brixham Harbour and Market Act 1896. Short title.

A.D. 1896.

Interpreta-
tion.

2. In this Act the following words and expressions have the meanings hereby respectively assigned to them unless the context otherwise requires (that is to say) :—

“The district council” means the Urban District Council of the Urban District of Brixham ;

“The district” means the Urban District of Brixham ;

“The district fund” and “the general district rate” mean respectively the district fund and the general district rate of the district ;

“The commissioners” means the commissioners for improving the harbour and market of Brixham ;

“The recited Acts and Orders” means the Act of 1799 the Act of 1837 the Order of 1875 and the Order of 1877 ;

“The harbour” means the harbour of Brixham as defined by the Act of 1837 ;

“The existing undertaking of the commissioners” means and includes the whole of their harbour and market undertakings and all their property and assets of every description (real and personal) and all the rights powers privileges jurisdiction and authorities vested in or belonging to or enjoyed by the commissioners under the recited Acts and Orders or otherwise as the same shall stand at the date of transfer.

Transfer to
district
council of
undertaking
of commis-
sioners.

3. On the second Wednesday after the passing of this Act (in this Act called “the date of transfer”) the commissioners shall be dissolved and on and from that date the existing undertaking of the commissioners and all their powers rights duties obligations authorities and jurisdiction shall be transferred to and vested in the district council subject to the debts contracts and liabilities affecting the same and the provisions of the recited Acts and Orders shall so far as applicable and subject to the provisions of this Act apply to the district council and to the existing undertaking of the commissioners as vested in them as fully and effectually as if the district council had been named therein instead of the commissioners.

Actions not
to abate.

4. No action suit or other proceeding civil or criminal to which at the date of transfer the commissioners were parties shall abate determine or be prejudicially affected by reason of the transfer of the existing undertaking of the commissioners to the district council but may be continued by or against the district council as the case may be as fully and effectually as the same might have been continued by or against the commissioners.

5. All contracts deeds instruments purchases or sales made or entered into by the commissioners before the date of transfer shall be effectual to all intents in favour of or against the district council after such date.

A.D. 1896.
Contracts &c. preserved.

6. The existing mortgage or bonded debt of the commissioners and the interest thereon shall after the transfer continue to be charged on the same rates tolls or revenues as the case may be and in the same manner in all respects as before the transfer.

Debenture debt to continue charged as heretofore.

7. All persons who immediately before the date of transfer owed any money to the commissioners or to any person on their behalf shall pay the same with all interest (if any) due or accruing upon the same to the district council and all debts and moneys which immediately before the date of transfer were due or recoverable from the commissioners or for the payment of which the commissioners were or but for this Act would be liable shall be recoverable with all interest (if any) due or accruing upon the same from the district council and shall be payable and paid out of the same rates funds or other property which would have been liable for the payment of the same if this Act had not been passed.

As to payment of debts owing before date of transfer.

8. All documents books and writings which would have been receivable in evidence in respect of any matter relating to the existing undertaking of the commissioners for or against the commissioners shall after the date of transfer be admitted as evidence in respect of the same or the like matter for or against the district council.

Books &c. to be evidence.

9.--(1.) Compensation shall be paid by the district council to James Winsor Wheaton the harbour master and to William Philaethes Spark the clerk to the commissioners in respect of the loss of the whole or part of their emoluments in consequence of the passing of this Act provided that if the said James Winsor Wheaton or the said William Philaethes Spark is employed or offered suitable employment by the district council he shall to the extent of the salary and emoluments attached to such employment be deemed to have waived all right to compensation under this section.

Compensation to officers of commissioners.

(2.) Any such compensation may (at the option of the district council) be by way of annuity or by payment of a sum in gross and in case of difference between the district council and either of such officers as to the amount of compensation payable to him the amount shall be fixed by the Local Government Board who shall

A.D. 1896. have regard to the conditions on which his appointment was made to the nature of his employment to the duration of his service and to all the other circumstances of the case.

Power to dredge.

10. The district council may from time to time dredge scour deepen and cleanse the harbour and the approaches thereto and the bed and foreshore thereof.

District council may exercise borrowing powers of commissioners with collateral charge on general district rate.

11. The district council may exercise all the powers of borrowing and re-borrowing conferred on the commissioners by the Order of 1875 and to secure the repayment of any sums borrowed or re-borrowed by the district council whether under the still unexercised borrowing powers under that Order or for the repayment of moneys borrowed under that Order they may mortgage not only the rates authorised by that Order but also as a collateral security so much of the district fund and general district rate as arises from and is leviable upon rateable property within the area described in the schedule to this Act and shown on the plan herein-after referred to and thereon coloured yellow (of which plan signed in duplicate by the Right Honourable the Lord Egerton the Chairman of the Committee of the House of Lords to whom the Bill for this Act was referred one copy has been deposited with the Clerk of the Parliaments and another at the office of the district council) but no rate shall be levied upon the portion of the district coloured red on the said plan in respect of any moneys borrowed or re-borrowed under the Order of 1875 or under the powers of this section or in respect of any interest thereon nor shall any portion of the moneys arising from any assessment of the district outside the area coloured yellow and within the area coloured red on the said plan be applied to any of the purposes of the harbour undertaking and in order effectually to secure the aforesaid exemption the district council shall in making any rate clearly specify the portion of any general district rate which it is necessary to levy for the purposes aforesaid. Provided that the sums borrowed and re-borrowed under this section shall not at any one time exceed the sum of twenty-five thousand pounds authorised to be borrowed by the Order of 1875.

As to mortgages granted by district council.

12.—(1.) All mortgages granted by the district council under the Order of 1875 and this Act shall rank together without any priority on account of the dates of the respective mortgages or on any other account.

(2.) 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 under this Act except where any such provisions are expressly altered or varied by this Act and for the purposes of such application the term "local authority" in the said provisions shall be construed to mean the district council and the term "rates" shall be construed to mean the rates authorised by the Order of 1875 and the district fund and general district rate.

A.D. 1876.

13. The district council may raise the whole or any part of the moneys which they are authorised to borrow under the Order of 1875 and this Act by the issue of debentures or debenture stock under the Local Loans Act 1875. Any moneys borrowed by the district council in manner by this section authorised shall be a charge upon and shall be paid out of the same rates funds and revenues as they would be charged upon and paid out of if raised by way of mortgage under the Order of 1875 and this Act and such rates funds and revenues shall be deemed to be the local rate as defined by the Local Loans Act 1875 and all moneys so borrowed shall be discharged in manner provided by the next following section.

Money may be raised under Local Loans Act 1875.

14.—(1) All moneys borrowed by the commissioners under the Order of 1875 and still outstanding at the passing of this Act and all moneys borrowed or re-borrowed by the district council for the payment off of the same shall be repaid by means of the sinking fund provided by section twenty-one of the Order of 1875 and in accordance with the provisions of that Order.

Repayment of borrowed moneys.

(2) All other moneys borrowed by the district council under the Order of 1875 and this Act shall be repaid within fifty years from the borrowing of the same by equal yearly or half-yearly instalments of principal or of principal and interest or by means of a sinking fund as herein-after in this Act provided or partly by such instalments and partly by a sinking fund.

15. The following provisions shall apply to any sinking fund that may be created under this Act :—

As to sinking fund.

It shall be formed by setting apart in every year out of the harbour revenues 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 to pay off the moneys borrowed so far as they are

A.D. 1896.

repayable by means of a sinking fund within the period by this Act prescribed :

In case in any year the harbour revenues are not sufficient to provide the annual sum hereby required to be paid thereout into the sinking fund the same shall be paid out of so much of the district fund and general district rate as arises from and is leviable upon rateable property within the area described in the schedule to this Act and shown on the plan herein-before referred to and thereon coloured yellow Provided that the amount so paid shall be a debt due from the harbour undertaking to the district fund and shall be repaid to that fund in the same manner as provided by the section of this Act of which the marginal note is "Liabilities of harbour undertaking and general liabilities of district council to be separate" :

The first payment to the sinking fund for repayment of borrowed moneys 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 district council 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 shall pay into the sinking fund in each year afterwards and accumulate as herein-after prescribed until the whole of such borrowed moneys shall be discharged a sum equal to the interest 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 district council 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.

Sinking
fund how to
be invested.

16. All sums paid into any sinking fund that may be created under this Act and the annual income thereof shall be

A.D. 1896.

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 not being a security transferable by delivery issued under the authority of any Act of Parliament by any local authority as defined by section thirty-four of the Local Loans Act 1875 other than the district council.

17. If the district council pay off any part of any money borrowed by them under the Order of 1875 and this Act otherwise than by means of instalments appropriations or annual repayments or a sinking fund or out of the proceeds of the sale exchange or disposition of lands 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 district council with respect to the repayment of such moneys shall not be in any way affected by such re-borrowing.

Power to re-borrow.

18. The powers of borrowing or raising money conferred by this Act shall not be restricted by any of the regulations contained in the Public Health Act 1875 and in calculating the sum which the district council may borrow under that Act or any other Act any sums which they may borrow under this Act or which are charged on the harbour undertaking or the market undertaking by this Act transferred to them shall not be reckoned.

Regulations of Public Health Act 1875 not to apply to borrowing powers.

19. All mortgages and securities granted by the district council in pursuance of the powers of any Act of Parliament before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages and securities have priority as regards the rates funds and revenues thereby charged over any mortgages and other securities granted under this Act.

Priority of principal moneys secured by existing mortgages.

20. No person lending money to the district council shall be bound to inquire as to the observance by the district council of any provision of this Act or be bound to see to the application or be answerable for any loss or non-application of such money or any part thereof.

Protection of lender from inquiry.

A.D. 1896.

Liabilities of
harbour
undertaking
and general
liabilities of
district
council to be
separate.

21. The harbour undertaking and the revenues arising therefrom shall not be liable in respect of any claim or demand against or any liability of the district council arising otherwise than in respect or by reason of the harbour undertaking and all liabilities incurred in respect of the harbour undertaking and all claims and demands against the district council arising in respect or by reason of the harbour undertaking shall be enforceable against the harbour undertaking and its revenues only and no other revenues funds or property of the district council shall be liable in respect thereof. Provided that nothing in this section shall prejudice or affect the rights or remedies of the holder of any mortgage comprising the district fund and general district rate made under the section of this Act of which the marginal note is "District council may exercise borrowing powers of commissioners with collateral charge on general district rate":

Provided that any moneys paid out of the district fund or general district rate in respect of any such mortgage shall be a debt due from the harbour undertaking to the district fund and shall be repaid to that fund together with interest at the rate of three pounds per centum per annum out of the surplus revenues of the harbour undertaking at such time as the district council shall determine.

Separate
accounts to
be kept.
Audit of
same.

22. The district council shall keep separate accounts of their receipts and expenditure from or in respect of their harbour undertaking on capital and revenue account and where any expenses are incurred in respect of the harbour undertaking and any other account jointly they shall apportion such expenses between the harbour undertaking and such other account and the harbour accounts shall be audited in each year in the same manner as the other accounts of the district council are audited and subject to the provisions relating thereto.

Application
of harbour
revenues.

23. Without prejudice to the rights of any creditor under any mortgage of the rates authorised by the Order of 1875 and made before the passing of this Act the district council shall apply all rates and other revenues coming to their hands from the harbour undertaking in the order following and not otherwise (that is to say):—

- (1) In paying year by year the interest on money borrowed under the Order of 1875 and this Act:
- (2) In paying the cost of the maintenance repair management and regulation of the harbour undertaking:

(3) In repayment by instalments or by means of a sinking fund or otherwise of the principal moneys borrowed under the Order of 1875 or this Act in the manner provided by this Act :

A.D. 1896.

(4) In paying the cost of constructing enlarging repairing and maintaining the breakwater and works authorised by the Act of 1837 and in the general improvement of the harbour and in carrying into effect the provisions of the recited Acts and Orders and of this Act so far as they relate to the harbour undertaking and in repaying to the district fund any moneys due thereto from the harbour undertaking.

24. The clerk to the district council 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 or any sinking fund is required to be applied 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 or applied as a sinking fund during the year next 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 (if any) 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 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 district council have failed to pay any such 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 other purposes 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 default shall have been made shall be set apart and invested or applied by the district council as part of the sinking fund and any such order may be

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

A.D. 1896. — enforced by mandamus to be obtained by the Local Government Board out of the High Court and the provisions of this section shall apply mutatis mutandis to appropriations and annual repayments.

Appoint-
ment of
harbour
committee
by district
council.

25. The district council from time to time may appoint out of their own body a harbour committee consisting of not more than six persons for the execution of such of the purposes of this Act and of the recited Acts and Orders relating to the harbour undertaking (other than the borrowing of money or making of rates) as in the discretion of the district council would be better regulated and managed by means of such committee and may delegate to the harbour committee such of the powers and duties (other than as aforesaid) of the district council relating to the harbour undertaking under this Act and the recited Acts and Orders as they think fit and the acts and proceedings of every such committee within the limits of such delegation shall be deemed the acts and proceedings of the district council. Provided that the acts of every such committee shall if the district council so order and to such extent as the district council prescribe be valid without being submitted to the district council for their approval and the quorum of any such committee shall be such as the district council direct and the district council may from time to time make any such regulations as they think fit for the guidance of any such committee and the district council may from time to time remove any members of any such committee and appoint in the stead of them or any of them other members of the district council and the rules applicable to committees of district councils contained in Schedule I. Part Four to the Local Government Act 1894 shall apply to the harbour committee and to the proceedings thereof.

Purposes of
market
undertaking
to be pur-
poses of
Public
Health Act.

26. The purposes of the market undertaking shall be deemed to be purposes of the Public Health Act 1875 and the district council shall not exercise any of the unexhausted borrowing powers of the commissioners for market purposes under the Acts of 1799 and 1837 without the consent of the Local Government Board.

Moneys for
payment off of
debt of market
undertaking
may be
charged on
district rate.

27. If the district council at any time under the powers of section 61 of the Act of 1837 desire to pay off and discharge any securities now charged on the tolls or revenues of the market undertaking they may to secure the repayment of any moneys borrowed for that purpose mortgage the district fund and

general district rate and all or any of their rates or revenues other than the rates and revenues of their harbour undertaking :

Provided that any moneys borrowed under this section shall be repaid within fifty years from the borrowing of the same 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 provisions of the sections of this Act of which the marginal notes are "As to sinking fund" "Sinking fund how to be invested" and "Power to re-borrow" shall mutatis mutandis apply to such moneys and to any sinking fund created for the repayment of the same and the equal annual sums to be paid as instalments or as contributions to any such sinking fund shall be set apart out of the district fund and general district rate.

28. The district council shall if so required by the Local Government Board keep separate accounts of their receipts and expenditure from or in respect of their market undertaking on capital and revenue account and the same shall be audited in the same manner as the other accounts of the district council.

Accounts of market undertaking.

29. Nothing in this Act shall prejudice or affect any existing mortgage granted by the commissioners under the Act of 1837 or the Order of 1875 so long as the same is undischarged or the rights or remedies of any holder thereof.

Saving for existing mortgages of the commissioners.

30. The district council shall not under the powers of this Act construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of such approval being signified as last aforesaid and where any such work may have been constructed the district council shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals. If any such work be commenced or completed contrary to the provisions of this Act the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the costs and charges of the district council and the amount of such costs and charges shall

Works below high-water mark not to be commenced without consent of Board of Trade.

A.D. 1896. be a debt due from the district council to the Crown and shall be recoverable accordingly with costs.

Saving
rights of the
Duchy of
Cornwall.

31. Nothing contained in this Act shall extend to authorise the district council to take use enter upon or interfere with any land soil or water or any rights in respect thereof belonging to Her Majesty Her heirs or successors in right of the Duchy of Cornwall without the consent in writing of some two or more of such of the regular officers of the said Duchy or of such other persons as may be duly authorised under the provisions of the Duchy of Cornwall Management Act 1863 section thirty-nine to exercise all or any of the rights powers privileges and authorities by the said Act made exercisable or otherwise for the time being exercisable in relation to the said Duchy or belonging to the Duke of Cornwall for the time being without the consent of such Duke testified in writing under the Seal of the Duchy of Cornwall first had and obtained for that purpose or to take away diminish alter prejudice or affect any property rights profits privileges powers or authorities vested in or enjoyed by Her Majesty Her heirs or successors in right of the Duchy of Cornwall or in or by the Duke of Cornwall for the time being.

Costs of
Act.

32. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto (including the costs incurred by the district council in complying with the provisions of the Act thirty-five and thirty-six Victoria chapter ninety-one with respect to the Bill for this Act) as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the district council and in the first instance the district council may pay the same out of any of their funds and revenues but they shall be recouped by and charged to the moneys to be borrowed by the district council under the Order of 1875 and this Act Provided that any moneys borrowed for the purposes aforesaid shall be apportioned between the harbour and market undertakings as the district council think just and shall be repaid by equal yearly or half-yearly instalments or by means of equal yearly or half-yearly payments to a sinking fund within ten years from the borrowing of the same.

The SCHEDULE referred to in the foregoing Act.

A.D. 1896.

So much of the district of the district council as lies northward of a line commencing at a point on the boundary line dividing the parishes of Brixham and Churston Ferrers where that boundary crosses the road leading from the main road from Brixham to Paignton and Torquay to Laywell House proceeding thence in a south-easterly direction along the centre of the said road to a point on such road one hundred yards southward of the said Laywell House and thence proceeding in a south-westerly direction to a point on the road leading from Lupton Farm to the main road from Brixham to Dartmouth three hundred and eighty yards north-westward of the junction of those roads and thence proceeding in a south-easterly direction along the centre of the said road from Lupton Farm to the aforesaid point of junction and thence proceeding in a south-westerly direction along the centre of the said main road for a distance of fifty yards to the junction of Mill Lane with the same main road thence along the centre of Mill Lane in a south-easterly direction to its junction with Challycroft Road thence in an easterly direction along the centre of the said Challycroft Road to Southdown Cross thence in a northerly direction along the centre of the road known as Chiseldon Hill to a point thereon fifty yards southward of the bench mark shown on the six-inch ordnance map for the parish of Brixham indicating a level of 221·8 feet above ordnance datum thence in an easterly and southerly direction along the northern boundary of the lands known as the Redwell Lands to the occupation road leading from such lands to Chiseldon Lane thence in a south-easterly direction along the centre of the said occupation road to its junction with Chiseldon Lane thence in a southerly and south-easterly direction along the centre of the said Chiseldon Lane to the place known as Ford thence in a southerly and south-easterly direction to and along the present boundary between the lands known as Upton and Southdown Estates to the seashore The boundary line as defined by the before-mentioned description is delineated on the signed plan by a blue line and the portion above referred to is shown on the signed plan by the colour yellow.

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