CHAPTER 13.

An Act for the Improvement of Arklow Harbour.

A.D. 1882.

[19th June 1882.]

WHEREAS by an Act of the Parliament of Ireland of the thirty-second year of the reign of George the Third, chapter twenty-four, intituled "An Act for the better enabling certain persons to open and work mines, and to raise coal, culm, minerals, and fossils in this kingdom, and to open and improve the harbour of Arklow in the county of Wicklow, and to form a canal from the said harbour of Arklow to the Meetings Bridge, and to extend the same towards the Kilkenny collieries and the Glenmalur mines," the Hibernian Mine Company were incorporated with divers powers for working mines and for opening and improving the harbour of Arklow, and for making and maintaining canals and navigation works, with power to take tolls, rates, and duties for vessels using their harbours and canals: 32 G. 3. c. 24. (I.)

And whereas by an Act passed in the twenty-sixth year of the reign of Her Majesty the Queen, intituled "An Act for the Amalgamation of the Hibernian Mine Company with the Wicklow Copper Mine Company (Limited), and for other purposes;" after reciting amongst other things the said Act, and that the property of the Hibernian Company comprised the quays of the harbour of Arklow, with all the wharves and buildings thereon held in fee; and that the Hibernian Company had expended more than seventeen thousand pounds on works for the improvement of the said harbour and for making it fit for the reception of vessels and the landing and shipping of goods; and reciting that on the second day of February one thousand eight hundred and fifty-eight the Wicklow Copper Mine Company was registered under the Joint Stock Companies Act, 1856, as a Company with limited liability; and that the two Companies were desirous and it was expedient that the two Companies and their respective undertakings, property, and effects should be amalgamated, it is enacted that on the first day of September one thousand eight hundred and sixty-three the two Companies should be thereby 26 & 27 Vict. c. ccix. 19 & 20 Vict. c. 47.

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amalgamated into a new Company, which, by the name "the "Wicklow Copper Mine Company," should be one body corporate with the powers thereby given; and that the recited Act of the Parliament of Ireland of the thirty-second year of George the Third, chapter twenty-four, relating to the Hibernian Company should be repealed, and that all the estates and property, including the harbour of Arklow, of which the two Companies respectively were seised or possessed, should be vested in the Wicklow Copper Mine Company:

And whereas one of the objects for which the Wicklow Copper Mine Company was incorporated was the maintaining, repairing, and improving of the harbour of Arklow, and the channel, embankments, piers, quays, wharves, buildings, and other works and conveniences of and connected with the harbour, and the regulating and controlling of the user of the same, and for any of those purposes; and also for the purpose of erecting sluices and other works for the improvement of the said harbour the Company may at all times use the bridge of Arklow, provided they make good any injury the bridge may sustain by their operations:

And whereas the said harbour of Arklow is an important station and place of refuge for vessels employed in prosecuting the sea fisheries on the east coast of Ireland, but the said harbour has of late years been gradually silting up, and a bar is frequently formed across the entrance thereto, whereby its value and usefulness are materially injured:

And whereas it is expedient that the said harbour should be deepened, extended, and otherwise improved, and the Wicklow Copper Mine Company, being unable to undertake the execution of the necessary works for that purpose, have agreed, in consideration of the sum of five thousand pounds, to be paid as herein-after mentioned, to transfer to the Commissioners of Public Works in Ireland (in this Act referred to as "the Board,") all their estate, interest, and property in the said harbour of Arklow, and the quays, wharves, and buildings connected therewith, as the same are delineated in red in the tracing now deposited in the office of the Board of Works in Dublin, and to which the seal of the Board has been affixed, and all their rights in the same:

And whereas it is expedient that the Board should be authorised to undertake the execution of the said works, and for that purpose to advance by way of grant the sum of fifteen thousand pounds, being one moiety of the estimated cost thereof, and to advance by way of loan, on the security provided by this Act, the sum of twenty thousand pounds, being five thousand pounds for the price to be paid to the Wicklow Copper Mine Company, together with the

other moiety of the estimated cost of the said works; and, if by reason of unforeseen circumstances the said estimated sum proves insufficient for the full completion of the works, to advance by way of further loan on the security of the rates leviable by the Town Commissioners of the town of Arklow such sum as may be necessary for that purpose: A.D. 1882.

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

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 Arklow Harbour Act, 1882. Short title.

Advance of Money and Execution of Works.

2. A special meeting shall be held in the Court House in Arklow on some day to be appointed by the Board within two months after the passing of this Act, of the justices and associated cesspayers, entitled to attend at the presentment sessions of the baronies of Arklow and Ballinacor South in the county of Wicklow, and of Gorey in the county of Wexford. Notice of such meeting shall be given once in each of two consecutive weeks before the day fixed for the same in two or more newspapers circulating in each of the counties of Wicklow and Wexford. At such meeting a person nominated by the Board shall preside, and the justices and associated cesspayers for each barony shall separately declare their opinion as to the expediency of charging the rates of the barony with the repayment of the whole or of a specified part of the said loan of twenty thousand pounds, with interest thereon, payable in the manner appearing in this Act. Special meeting to consider as to charging baronial rates with loan.

If the justices and associated cesspayers of one only of the baronies declare their opinion to be in favour of such charge, they shall then proceed to declare their desire as to the period (not exceeding fifty years) within which the loan should be made repayable, having regard to the rate of interest fixed by the Treasury, by their minute dated the sixteenth day of August one thousand eight hundred and seventy-nine, for loans to which section two of the Public Works Loans Act, 1879, applies. 42 & 43 Vict. c. 77.

If the justices and associated cesspayers of more than one of the baronies declare their opinion to be in favour of such charge, they shall proceed jointly to declare their desire as to such period of repayment, having regard to the considerations aforesaid.

The chairman presiding at the meeting shall, by taking a vote in such manner as he thinks fit, ascertain and report to the Board

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what are the resolutions of the justices and associated cesspayers with reference to the loan.

Charge upon baronies. Payment to Wicklow Copper Mine Company. Transfer of Harbour to Board.

3. If the Commissioners of Her Majesty's Treasury (in this Act referred to as the Treasury) are satisfied with the security offered by the justices and associated cesspayers of the three baronies or of any of them at such meeting, they may authorise the Board to carry this Act into effect, and to advance out of the moneys placed in their hands by Parliament the sum of fifteen thousand pounds by way of grant, and the sum of twenty thousand pounds by way of loan, and may by order declare the said baronies or some or one of them to be charged with the payment of the said sum of twenty thousand pounds, and interest. In case the justices and associated cesspayers of one only of the said baronies have agreed to charge the rates of the barony with the payment of the loan, the order shall declare that barony only to be charged. In case the justices and associated cesspayers of more than one barony have agreed to charge the rates of the baronies with the payment of specified portions of the loan, the order shall apportion the charge upon the same baronies accordingly. The barony or baronies declared by such order to be charged with any payments shall by virtue of this Act become charged with such payments accordingly.

All sums declared by the Treasury to be charged upon any barony shall be repayable within such period as the Treasury may at their discretion determine, at such rate of interest as the Treasury have fixed for loans to which section two of the Public Works Loans Act, 1879, applies; and otherwise upon the same terms and conditions as apply to loans made by the Board for purposes like to the purposes of this Act, under the Act of the session of the first and second years of the reign of King William the Fourth, chapter thirty-three, intituled, "An Act for the Extension and Promotion of Public Works in "Ireland.

42 & 43 Vict. c. 77.

The Board may, upon being so authorised, out of any moneys placed in their hands by Parliament, lodge in the Bank of Ireland to the credit of the Wicklow Copper Mine Company the sum of five thousand pounds.

On such lodgment being made all the said harbour of Arklow, and the lands, piers, quays, wharves, and buildings thereof, or in any manner connected therewith (in this Act referred to as the harbour), as the same are delineated in red in the tracing now deposited in the office of the Board in Dublin, and to which the seal of the Board has been affixed (subject, however, to the reservation herein-after contained), and all rights and easements connected therewith, shall be and the same are hereby transferred to and vested in the Board of Works for the purposes herein-after mentioned;

discharged from all estates, rights, titles, charges, and incumbrances whatsoever of the Wicklow Copper Mine Company, and of every other person, other than those of Her Majesty, her heirs and successors: A.D. 1882.

Provided, however, that the tramways, turntables, and weighing houses belonging to the Wicklow Copper Mine Company in connexion with the harbour, existing at the time of the passing of this Act, shall remain vested in the Company, with the exclusive right to use the same.

Authority to execute works.

4. The Board may proceed with all necessary works for deepening, extending, and improving the harbour, and with such other works appertaining thereto, as they may deem fit and proper; and for that purpose, may do any matter or thing and shall have and may, if they think fit, exercise any right, power, or authority, with reference to such works which they might do, or would have if the work were undertaken by them under the provisions of the Act of the session of the ninth and tenth years of the reign of Her present Majesty, chapter three, and any Act amending the same, and may expend for that purpose, out of the moneys placed in their hands by Parliament, any sum not exceeding the sum of thirty thousand pounds.

Special meeting to consider as to charging town rates with expenditure in excess of estimate.

5. If at any time before the completion of the said works the Board reports to the Treasury that it would be desirable to expend any further sum in excess of the sum of thirty thousand pounds for the completion of the works, and recommends that a loan should be offered for that purpose upon the security herein-after mentioned, and the Treasury thinks fit to sanction such loan, then a special meeting of the Town Commissioners of the town of Arklow shall be held on some day to be appointed by the Board, at which the Town Commissioners shall declare their opinion as to the expediency of charging the rates of the town with the repayment of such further loan as may be offered to be advanced by the Board for the completion of the harbour in excess of the sum of thirty thousand pounds, or with such limited sum for the like purpose as the Town Commissioners think proper to approve.

For the assistance of the Town Commissioners, a person nominated by the Board shall be present at such meeting.

If the Town Commissioners pass a resolution in favour of such charge, the Treasury may by order declare all property in the town rateable by the Town Commissioners under the powers conferred on them by the Towns Improvement (Ireland) Act, 1854, to be charged with the payment of the whole of such further loan and interest, or with such limited sum and interest as 17 & 18 Vict. c. 103.

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the Town Commissioners shall, by their resolution, have approved. And such rateable property shall by virtue of this Act become charged with such payment accordingly. All sums declared by the Treasury to be charged upon the town shall be repayable within such period as the Treasury may at their discretion determine, at such rate of interest as the Treasury have fixed for loans to which section two of the Public Works Loans Act, 1879, applies; and otherwise upon the same terms and conditions as apply to loans made by the Board for purposes like to the purposes of this Act, under the Act of the session of the first and second years of the reign of King William the Fourth, chapter thirty-three, intituled, "An Act for the Extension and Promotion of Public Works in "Ireland."

42 & 43 Vict. c. 77.

Payments by baronies.

6. On the completion of the works, or at such other time as the Treasury may direct, the Board shall make an order declaring the sums payable by the said baronies, or some or one of them, on account of the loan referred to in this Act.

Such sums shall be raised from time to time by grand jury presentments, the first of which shall be made at the assizes next after the making of the order by the Board.

And the Board shall, before each assizes, make out a certificate for each of the counties of Wicklow and Wexford, or for one of them, as the case may be, specifying the amount then payable by any barony in such county under this Act. The Board shall transmit the certificate to the secretary of the grand jury of the county, to be laid before the grand jury, and thereupon the grand jury shall, without any previous application to presentment sessions, make a presentment for the amount specified in such certificate as payable by the barony or baronies therein specified; and in default of such presentment the amount shall be raised by an order of the judge of assize, which shall have the force of a presentment.

The amount raised in such presentment shall be paid to the Board in such manner as the Treasury may from time to time direct.

Payments by town of Arklow.

7. In case any further loan in excess of the estimated sum of thirty thousand pounds has been advanced by the Board for the completion of the harbour, and the rateable property in the town of Arklow has been declared by the order of the Treasury to be charged with the payment of any sum on account thereof, the Board shall, on the completion of the works, or at such other time as the Treasury may direct, make an order declaring the sums payable by the town on account of such further loan. The Board shall annually, or at such intervals as they think fit, make out a certficate specifying the amount then payable by the town under this Act. The Board shall transmit the

certificate to the town clerk to be laid before the Town Commissioners. The sums specified in such certificate shall be raised from time to time by the Town Commissioners, by a special rate, to be in addition to any rates which they are empowered to make under the Towns Improvement (Ireland) Act, 1854. The provisions of the said Act relative to the making and enforcement of rates, and the partial exemption of certain classes of property, shall apply to any rate made under this Act.

Every certificate of the Board under this Act shall be conclusive evidence of all facts and circumstances necessary to authorise the making of it.

Transfer of harbour to Harbour Commissioners.

8. Upon the completion of the works authorised to be constructed by the Board under this Act, or at such other time as the Treasury may direct, the Board may, with the consent of the Treasury, by order under their seal, declare that the harbour shall from a time to be named in such order be vested in the Harbour Commissioners constituted under this Act; and thereupon the harbour, and all the property connected therewith by this Act transferred to the Board shall, without any conveyance thereof, be transferred to and vested in the Harbour Commissioners, for the purposes of this Act.

Constitution and Powers of Harbour Commissioners.

Incorporation of Harbour Commissioners.

9. For the purposes of this Act there shall be Harbour Commissioners, not exceeding seven in number, which Commissioners and their successors are hereby constituted a body corporate by the name of the Arklow Harbour Commissioners, and by that name shall be one body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of land and other property for the purposes but subject to the restrictions of this Act.

Appointment and election of the several Harbour Commissioners, originally and on vacancies; tenure of office.

10. The appointment and election of the several Commissioners forming the Harbour Commission, and their tenure of office, shall be regulated as follows:—

(1.) One Commissioner shall be appointed by the Treasury; one Commissioner shall be appointed by each barony upon which any charge is imposed under this Act; and three Commissioners shall be appointed by the Town Commissioners of the town of Arklow: Provided, that if only one barony becomes chargeable under this Act, that barony shall appoint two Commissioners; and in that event, and also in the event of only two baronies becoming chargeable under this Act, the number of Commissioners to be appointed by the Town Commissioners of the town of Arklow shall be reduced to two:

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(2.) The first appointment of each such Commissioner shall be made within twelve months after the passing of this Act. The appointment of a Commissioner for a barony shall be made by the justices and associated cess-payers of the barony at any ordinary presentment sessions held for that barony:

(3.) Each vacancy in the office of any Commissioner shall be filled up by an appointment made by the same authority as appointed or was entitled to appoint the vacating Commissioner:

(4.) Each appointment of any Commissioner shall be determinable at any time by the authority which appointed that Commissioner, and (subject thereto and to the other provisions of this Act) shall be operative for five years and thenceforth until the next ordinary meeting of the authority which appointed him; but at the end of the term of five years an out-going Commissioner shall be capable of re-appointment:

(5.) In case the Town Commissioners of the town of Arklow fail to make any appointment, which they are from time to time required to make in conformity with this Act, within one month after being required by the Treasury to do so, and in case the justices and associated cesspayers of any barony fail to make any such appointment at the next ordinary presentment sessions for the barony after they have been required by the Treasury, by notice addressed to the secretary of the grand jury of the county, to do so, then the Treasury, instead of the authority so failing, shall for that turn appoint a Commissioner or Commissioners. The powers of the Commissioners shall not be dependent upon the whole number of Commissioners being at any one and the same time in office.

Incorporation of parts of 10 & 11 Vict. c. 16.

11. The Commissioners Clauses Act, 1847, shall be incorporated with this Act, and shall (so far as the same may be applicable and not inconsistent with any of the provisions of this Act) apply to the Harbour Commissioners (for the purposes of which Act this Act shall be deemed to be the special Act); except the clauses with respect to accounts and byelaws, and recovery of damages and penalties; and section one hundred and nine thereof shall be read as subject to the provisions of this Act expressly affecting such of the rights or things therein mentioned as are specified in this Act; and with reference to section thirty-nine, the prescribed number (forming a quorum) of the Commissioners shall be three.

Power to levy tolls, &c.

12. It shall be lawful for the Harbour Commissioners to levy or cause to be levied and paid for the use of the harbour such tolls, wharfage rates, licence duties, and charges as the Treasury shall from time to time approve of.

The power vested by this section in the Harbour Commissioners shall, immediately after the passing of this Act, and until the transfer of the harbour to the Harbour Commissioners, be vested in the Board.

Accounts and annual report of Harbour Commissioners.

13. The accounts of the receipts, expenditure, credits, and liabilities of the Harbour Commissioners shall be kept and audited, and the same, or proper abstracts thereof, shall be published, in such form and manner, and at such times as the Treasury from time to time directs or approves; and a proper abstract of all such accounts, together with a report of the Harbour Commissioners on their proceedings, and on the works executed by them, and on the state of the harbour, shall be annually furnished by them to the Treasury, who shall lay the same before both Houses of Parliament.

Incorporation of parts of 10 & 11 Vict. c. 27.

14. The provisions of the Harbours, Docks, and Piers Clauses Act, 1847, with respect to watchhouses, boathouses, warehouses and cranes, and legal quays; and with respect to the rates to be taken by the undertakers and exemption therefrom; and with respect to the collection of rates; and with respect to harbour masters, dock masters, and pier masters; and with respect to the discharge of cargoes and removal of goods; and with respect to the protection of the harbour, dock, and pier; and with respect to lighthouses, beacons, and buoys; and with respect to byelaws; and with respect to the recovery of damages and penalties; and also sections twelve and thirteen of the said Act as the same are amended by any Act or Acts, shall be incorporated with this Act, so far as the same may be applicable and not inconsistent with any of the provisions of this Act, and for the purpose of such incorporation this Act shall be deemed to be the special Act, and the Board until the transfer of the Harbour to the Harbour Commissioners shall be taken to mean the undertakers, and after such transfer the Harbour Commissioners shall be taken to mean the undertakers; Provided, that the rates to be fixed by the Harbour Commissioners shall be subject to the approval of the Treasury.

Abatement of work abandoned or decayed.

15. If a work constructed by the Board or the Harbour Commissioners on, in, over, through, or across tidal lands or a tidal water is abandoned or suffered to fall into decay, the Board of Trade may abate and remove the work or any part of it, and restore the site thereof to its former condition at the expense of the Board or Harbour Commissioners, and the amount of such expense shall be a debt due from the Board or Harbour Commissioners to the Crown, and recoverable accordingly with costs, or the same may be

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recovered with costs as a penalty is recoverable from the Board or Harbour Commissioners.

Lights to be exhibited during construction of works.

16. The Board or the Harbour Commissioners shall on or near the works below high-water mark hereby authorised, during the whole time of the construction, altering, or extending thereof, exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) as the Board of Trade from time to time requires or approves, and (notwithstanding the enactments for the time being in force respecting lighthouses) shall also on or near the work when completed always maintain, exhibit, and keep burning at their own expense every night from sunset to sunrise such lights (if any) for the guidance of ships as the Board of Trade from time to time requires or approves.

If the Board or the Harbour Commissioners fail to comply in any respect with the provisions of the present section, they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds.

Survey of works by Board of Trade.

17. If at any time the Board of Trade deems it expedient for the purposes of this Act to order a survey and examination of a work constructed by the Board or the Harbour Commissioners on, in, over, through, or across tidal lands or tidal water, or of the intended site of any such work, the Board or the Harbour Commissioners shall defray the expense of the survey and examination, and the amount thereof shall be a debt due from the Board or the Harbour Commissioners to the Crown and be recoverable accordingly with costs, or the same may be recovered with costs as a penalty is recoverable from the Board or the Harbour Commissioners.

Lights to be exhibited on permanent works.

18. The Harbour Commissioners shall at the outward extremity of the works of Arklow Harbour exhibit and keep burning from sunset to sunrise such light or lights (if any) as the Commissioners of Irish Lights shall from time to time require.

Bridge to be maintained for purposes of tramway.

19. The swivel bridge on the north side of the harbour shall be maintained by the Harbour Commissioners as an opening bridge. And the Wicklow Copper Mine Company shall have a right of way over the same for the purposes of their tramways and general business, subject to any rules or byelaws of the Harbour Commissioners.

Application of tolls.

20. The tolls, rates, and charges payable under the provisions of this Act shall be applied by the Harbour Commissioners from time to time in repairing and maintaining the harbour, and the overplus thereof, if any, shall be applied for indemnifying any barony charge-

able with any payment under this Act against such charge or liability and for indemnifying the town of Arklow if it becomes chargeable with any payment under this Act against such charge or liability, in such manner as may from time to time be directed by the Treasury, and subject to the aforesaid provisions shall be applied in such manner as may from time to time be directed by the Treasury.

Powers of Board of Works prior to transfer of harbour.

21. All the rights and powers conferred by this Act upon the Harbour Commissioners shall, until the date of the transfer of the harbour to the Harbour Commissioners under this Act, be vested in the Board. Whenever the whole amount of the loan or loans advanced by the Board under this Act is discharged the Treasury may, if they think fit, by order transfer to any public body or person the right conferred on them by this Act to appoint a Harbour Commissioner; and upon the making of such order all the other rights and powers in relation to the harbour vested in the Treasury under this Act shall cease and determine.

Termination of powers of Treasury.

Saving rights of the Crown in the foreshore.

22. Nothing contained in this Act shall authorise the Board or the Harbour Commissioners, to take, use, or in any manner interfere with any portion of the shore or bed of the sea, or of any river, channel, creek, bay, or estuary, or any right in respect thereof, belonging to the Queen's most Excellent Majesty in right of Her Crown, and under the management of the Board of Trade, without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give); neither shall anything contained in this Act extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in, or enjoyed, or exerciseable by the Queen's Majesty, her heirs or successors.

Saving rights of Crown under 29 & 30 Vict. c. 62.

23. Nothing contained in this Act, or to be done under the authority thereof, shall in any manner affect the title to any of the subjects, or any rights, powers, or authorities, mentioned in or reserved by sections twenty-one and twenty-two of the Crown Lands Act, 1866, and belonging to or exerciseable on behalf of Her Majesty, her heirs or successors.

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