CHAP. xcvii.

An Act to authorise the Belfast Harbour Commissioners to sell their surplus lands, and to make leases. A.D. 1870.

[4th July 1870.]

WHEREAS by "The Belfast Harbour Act, 1847," the Belfast Harbour Commissioners (in this Act called "the Commissioners") were incorporated, with power to execute certain works, and for that purpose to borrow money and acquire lands: 10 & 11 Vict. c. lii.

And whereas by "The Belfast Port and Harbour Conservancy Act, 1852," the Commissioners were empowered to execute further works and acquire further lands, and were also empowered within ten years from the passing of that Act to grant in fee-farm or lease such lands as would not in their judgment be required for the purposes of their undertaking, and were directed within five years from the making of such leases or grants to sell the rents thereby to be reserved: 15 & 16 Vict. c. cxxi.

And whereas by "The Belfast Dock Act, 1854," the Commissioners were authorised to execute further works, and for that purpose to borrow more money and to acquire additional lands, but no power was by that Act given them to sell or lease any lands: 17 & 18 Vict. c. xlv.

And whereas the Commissioners have borrowed money, acquired lands, and executed certain of the works by the several recited Acts respectively authorised, and there are now vested in them certain lands which are not now and which will not hereafter be required for any of the purposes of the said recited Acts, and a certain fee-farm rent reserved out of a portion of the lands so acquired by them as aforesaid, and there are also vested in them certain other lands which may from time to time be let consistently with the execution of the several recited Acts:

And whereas it is expedient that the Commissioners be authorised to sell absolutely or grant in fee-farm the lands which will not be so required; also to sell the said fee-farm rent, and to demise the lands which may be demised consistently with the due execution of the provisions of the several recited Acts:

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And whereas, on parts of such last-mentioned lands, the tenants now holding under the Commissioners, or those through whom they have derived, have erected buildings and made improvements of a permanent nature, which it is expedient the Commissioners be allowed to take into consideration in fixing the rents to be reserved on any demise of such parts:

And whereas the objects 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:

Short title.

1. This Act may be cited for all purposes as "The Belfast Harbour Act, 1870."

Interpretation, "Lands."

2. The word "lands" shall include messuages, tenements, and hereditaments, with the buildings and fixed and movable machinery and implements used thereon and appertaining thereto.

Power to sell lands not required for purposes of recited Acts for gross sum or on fee-farm rents.

3. After the passing of this Act the Commissioners may from time to time sell for a sum in gross, or in consideration of an annual fee-farm rent charged upon and issuing out of the lands sold, or partly in consideration of such a fee-farm rent, and partly of a fine or fines, all or any part of the lands for the time being vested in them under the recited Acts, or any or either of them, which in the judgment of the Commissioners shall not be required for any of the purposes of the recited Acts respectively.

Fee-farm rents to be sold within ten years of their creation.

4. The Commissioners shall within ten years after the making of any grant in fee-farm sell the rent or rents reserved by such grant, and shall within ten years after the passing of this Act sell any rent which at the time of the passing of this Act shall be payable to them under any then existing fee-farm grant.

Mode of sale.

5. Every sale under the foregoing powers may be made either by public auction or by private contract, and subject to any stipulations as to title or evidence, or commencement of title, or other conditions of sale or contract for sale of the said premises or any part thereof; and the Commissioners may buy in, or rescind, or vary any such contract for sale, and resell, without being responsible for any loss that may be thereby occasioned.

Power to lease lands not required for purposes of Act.

6. After the passing of this Act the Commissioners may from time to time demise, for any term not exceeding thirty-one years, in consideration of a fine or fines, or an annual rent, or partly of a fine or fines and partly of an annual rent, any lands for the time being

vested in the Commissioners under the recited Acts, or any or either of them, which at the time of the passing of this Act are in their own occupation, or in the occupation of any person or persons as a tenant or tenants to the Commissioners, and which may in their judgment be used or enjoyed by the lessees or occupiers thereof consistently with the objects and provisions of the recited Acts respectively.

Commissioners may make contracts for sale or lease.

7. The Commissioners may enter into preliminary contracts for any such sale, grant, or lease, and any of the terms of such contracts may be varied in the grants and leases respectively by which such contracts are intended to be carried into effect.

How rent to be reserved on any grant in fee-farm or demise.

8. Upon every grant in fee-farm or demise made under the authority of this Act there shall be reserved to the Commissioners the best yearly rent that can reasonably be gotten for the same, taking into consideration as follows; (that is to say,)

In the case of any grant or demise, the amount of any fine or fines payable thereon respectively, or the amount which the grantee or lessee may by such grant or lease be bound to lay out or expend in building or making permanent improvements on the lands therein to be comprised:

In the case of any grant or demise made on any surrender of a former lease, the value of the lessee's estate and interest under the surrendered lease:

In the case of any demise of any premises which may be in the occupation of any person or persons as tenant or tenants to the Commissioners, the value at the date of the execution of such lease of any buildings or improvements of a permanent nature which had theretofore been made by him or them, or by any person or persons through or from whom he or they may claim or derive, in the same manner and to the same extent as if a fine equal in amount to such value was then paid to the Commissioners by such tenant or tenants; provided that in such last-mentioned demise such reserved rent be never less than the highest rent which has been paid to the Commissioners out of the premises thereby demised for any year of the three years preceding the execution of such lease:

And every such grant or demise shall be by deed under the common seal of the Commissioners, and shall contain a covenant by the grantee or lessee for the payment within a reasonable time to be therein specified of the rent or rents thereby reserved, and a proviso for re-entry by the Commissioners on nonpayment thereof, or on breach of any covenant or condition therein contained, and by such grantee or lessee to be observed or performed; and the grantee or lessee shall execute a counterpart of such grant or lease.

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Evidence of execution of grant or lease by grantee or lessee.

9. The execution of any grant or lease by the Commissioners shall be sufficient evidence that a counterpart of such grant or lease has been duly executed by the grantee or lessee as required by this Act.

Land to be sold or let by tender or public auction.

10. The Commissioners shall, twenty-one days at least before making any sale, grant, or demise, under the authority of this Act, advertise in at least two papers published in the town of Belfast for tenders from persons who may be willing to become grantees or tenants of the lands or works so proposed to be sold, granted, or let as aforesaid, or that such premises will be put up to public auction at a time and place to be specified in such advertisement; and the Commissioners shall, subject to the provisions of this Act, make such sale, grant, or demise to the person or persons who, by tender or at auction, shall make the highest offer for the said premises by way of purchase money or rent, or fine and rent, as the case may be, if such offer shall exceed the minimum price or rent, or fine and rent, as the case may be, fixed by the Commissioners: Provided always, that on any conveyance, assignment, or sub-lease of any premises comprised in any such sale, grant, or lease the purchaser, assignee, or sub-lessee shall not be bound to inquire whether the provisions herein-before made as to such advertisements, tenders, or auctions were duly complied with: Provided also, that this enactment shall not be applicable to any lands which are at the passing of this Act, and shall have been for one year previous thereto, in the occupation of any person or persons as tenant or tenants to the Commissioners, and upon which any buildings or improvements of a permanent nature shall have before the passing of this Act been made by him or them, or by any person or persons through whom he or they may claim or derive.

Leases may be surrendered and renewed.

11. Any lease made under the authority of this Act may be surrendered either for the purpose of obtaining a renewal thereof or not, and new leases or grants may be made of the whole or any part of the property comprised in any surrendered lease.

Subject to provisions of the Act, Commissioners may grant and lease as they think fit.

12. Subject to the provisions of this Act, the Commissioners may make grants in fee-farm or leases, under the authority of this Act, upon such terms, and with, under, and subject to such covenants, conditions, and agreements as they think fit.

Effect of the word "grant" in conveyance.

13. In every conveyance of lands or of any fee-farm rent, and in every fee-farm grant or demise, made by the Commissioners under this Act, the word "grant" shall operate as an express covenant by the Commissioners for themselves and their successors with the respective grantees or lessees therein named, and the successors, heirs, executors, administrators, and assigns of such grantees or

lessees, according to the quality or nature of such grants, and of the estate or interest therein expressed to be thereby conveyed, as follows, except so far as the same shall be restrained or limited by express words contained in such conveyance, grant, or demise; (that is to say,)

A covenant that notwithstanding any act or default of the Commissioners they were at the time of the execution of such conveyance, grant, or demise seised or possessed of the lands, rents, or premises thereby granted or demised for an indefeasible estate of inheritance in fee simple free from all incumbrances done or occasioned by them:

A covenant that the grantee or lessee of such lands or rents, his heirs, executors, administrators, or assigns (as the case may be), shall quietly enjoy the same against the Commissioners and their successors, and all other persons claiming under them, according to the terms and provisions of such conveyance, grant, or demise, and be indemnified and saved harmless by the Commissioners and their successors from all incumbrances created by the Commissioners:

A covenant for further assurance of such lands or rents, according to the terms and provisions of such conveyance, grant, or demise, at the expense of such grantee or lessee, his heirs, successors, executors, administrators, or assigns (as the case may be), by the Commissioners or their successors, and all other persons claiming under them:

And all such grantees and lessees, and their several successors, heirs, executors, administrators, and assigns respectively, according to their respective quality or nature, and the estate or interest in such conveyance expressed to be conveyed, may in all actions brought by them assign breaches of covenants as they might do if such covenants were expressly inserted in such conveyance.

Secretary's receipt for money payable by reason of the Acts to be good discharge.

14. The receipt of the secretary to the Commissioners for any purchase money, fine, or rent, or any money payable to the Commissioners by reason of the execution of any of the powers of this Act, shall effectually discharge the person or persons paying the same respectively therefrom, and from being bound to see to the application or being answerable for the loss or misapplication thereof.

Application of purchase money and fines.

15. The net moneys received by the Commissioners as consideration for any lands or fee-farm rents sold, or by way of fine on the execution of any grant or lease of any lands granted or demised under the authority of this Act, shall be applied by the Commissioners in discharging, according to their several priorities, the bond debts borrowed or to be borrowed under the herein-before recited Acts

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and for the time being owing, and from and after their payment in discharging, according to their several priorities, all other principal moneys (if any) for the time being owing on the security of the undertaking of the Commissioners, and shall, until so applied, be set apart for that purpose, and the interest or dividends thereof received by the Commissioners shall be part of the revenue of the Commissioners, and shall be applied accordingly, and to the extent of the debt and principal moneys so paid off the borrowing powers of the Commissioners under the said recited Acts shall cease: Provided always, that in case and when any lease shall be made, under the authority of this Act, of any lands on which any buildings or improvements of a permanent nature shall have been theretofore made by any tenant or tenants of the Commissioners to any person or persons other than the tenant or tenants by whom such buildings or improvements have been made, or the person or persons deriving under him or them, the Commissioners may, out of any fine received by them on the making of such lease of such lands, pay to the tenant or tenants by whom such buildings or improvements may have been theretofore made, or to the person or persons deriving under him or them, the then value of such buildings and improvements: Provided also, that the rent reserved in such lease shall not be less than the highest rent which has been paid to the Commissioners out of such lands for any year of the three years previous to the execution of such lease.

Application of rents.

16. All fee-farm and other rents received by the Commissioners under any grant or lease shall be part of the revenue of the Commissioners, and shall be applied accordingly.

Saving rights of the Crown.

17. Nothing herein contained shall take away, lessen, alter, or prejudice any of the royalties, jurisdictions, estates, rights, powers, or authorities of Her Majesty, her heirs or successors, in right of her Crown.

Act not to apply to lands set apart for the purposes of public park.

18. Nothing in this Act contained shall authorise the Commissioners to sell or lease any portion of the lands set apart for the purposes of a public park under the provisions of "The Belfast Dock Act, 1854."

Saving rights of Lord Templemore.

19. Nothing in this Act contained shall take away, lessen, alter, or prejudice any of the estates, rights, powers, or privileges of Lord Templemore, his heirs or assigns.

Saving rights of Thomas McClure, Esq.

20. Nothing in this Act contained shall take away, lessen, alter, or prejudice any of the estates, rights, powers, or privileges of Thomas McClure, Esquire, his heirs or assigns.

Nothing to exempt harbour from

21. Nothing in this Act contained shall exempt the harbour and docks belonging to or under the management or control of the

Commissioners from the provisions of any general Act now in force, or hereafter to be passed, relating to docks and harbours, or to merchant shipping.

provisions of general Acts.

22. All the costs, charges, and expenses of and incident to the obtaining and passing of this Act shall be paid by the Commissioners.

Expenses of Act.

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