CHAPTER clxx.

An Act to give further Powers to the Dublin Port and Docks Board. A.D. 1879.

[21st July 1879.]

WHEREAS it is expedient that the powers of the Dublin Port and Docks Board (who are herein-after called "the Board") for the improvement of the port of Dublin should be enlarged, and that the provisions of the Dublin Port and Docks Act, 1869, should be in certain respects varied, and especially— 32 & 33 Vict. c. c.

That the Board should have power to acquire the portion herein-after defined of the estuary of the River Liffey;

That the provisions contained in the Act of 1869 with respect to tonnage rates should be extended;

That the Board should be enabled to borrow a further sum of money for the improvement of the port of Dublin and upon the security of the port fund; and

That the other provisions herein-after contained should be made:

And whereas a plan of that part of the port of Dublin which it is intended that the Board should acquire under the powers of this Act, and also a book of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of that part of the port, were duly deposited with the clerk of the peace for the county of Dublin and with the clerk of the peace for the county of the city of Dublin respectively, and are herein-after respectively referred to as the deposited plan and book of reference:

And whereas the objects of this Act 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 Dublin Port and Docks Act, 1879. Short title.

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Incorporating 8 & 9 Vict. c. 18. and 23 & 24 Vict. c. 106.

2. The Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, are incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the term "the Act of 1869" means the Dublin Port and Docks Act, 1869, and all terms used in this Act have the same respective meanings as are assigned to them in the Act of 1869; provided that the term "quays" in this Act includes not only the quays and dock quays as defined by the Act of 1869, but also all other quays and walls now or hereafter under the control of the Board.

Power of Board to dredge, &c. the estuary of River Liffey, and to take and use certain lands, &c.

4. The Board may, within the limits shown on the deposited plan, dredge and deepen the estuary of the River Liffey and the foreshore thereof, and exercise all the powers and authorities granted to them by the Act of 1869 and by this Act with respect to the port, and may for the purposes aforesaid enter upon, take, and use the lands delineated on the deposited plan and described in the deposited book of reference: Provided that the powers of the Board for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of five years from the passing of this Act: Provided also, that nothing in this Act shall authorise the Board to enter upon, use, or take any land or foreshore between the Great Northern Railway on the west and the land of the Board on the east, and within one thousand feet of the sea-wall running along the south shore of Clontarf township between those points, except in so far as may be necessary for the construction of a breakwater to a point distant five hundred feet south of the said sea-wall.

As to providing site for a battery.

5. If the Board, under the powers of the Act of 1869 or of this Act, shall extend the North Wall Quay to or eastward of the western boundary of the Pigeon House Basin, they shall forthwith provide and set apart a site for a battery at the easternmost extremity of such extension to the satisfaction of and to be vested in Her Majesty's Secretary of State for the War Department, together with a necessary and convenient approach thereto, and shall forthwith after so providing vest the said site in the said Secretary of State in trust for the Crown; provided that if within three years from the vesting of such site the erection of a battery be not commenced and subsequently completed in due course, the said site shall revert to the Board, and all rights of the said Secretary of State under this section shall cease.

Masters of vessels may obtain ballast elsewhere

6. Sections 47, 48, 50, 51, 52, and 53 of the Act of 1869 are hereby repealed, and, notwithstanding anything contained in the Act of 1869, any master or owner of a vessel may obtain ballast

elsewhere than from the Board, and in such case the ballast dues under the said Act or this Act shall not be payable; provided that nothing herein contained shall authorise such master or owner or any other person to dredge or raise ballast within the port.

than from the Board.

Ballast dues.

7. The Board may demand and take in respect of the supply of ballast and of services rendered by them in relation thereto and to matters connected therewith, instead of the ballast dues mentioned in the Fourth Schedule to the Act of 1869, ballast dues not exceeding those specified in the schedule to this Act, and the same shall be paid and received subject and according to the regulations contained in such schedule.

Separate account to be kept of payments and receipts for ballast, &c.

8. The Board shall keep a separate account of the moneys received and expended by them in respect of the supply to and removal from ships of ballast, and of dredging, and shall arrange the payments demanded and received by them for such supply and removal so that such payments shall not in any year exceed their expenditure in the supply and removal of and dredging for ballast, and the Board of Trade at any time and from time to time, on being satisfied that the moneys received by the Board for the supply and removal of ballast exceeds their expenditure for the same purpose, including the cost of dredging for ballast, may reduce the rates leviable by the Board for such supply and removal, with power from time to time to raise them again to not exceeding the amounts authorised by the Act of 1869 and this Act, and the account under this section shall be part of the accounts which are to be published under the Act of 1869.

As to removal of obstructions, &c. from quays.

9. The powers conferred on the Board by the Act of 1869 with respect to the removal of the matters or things therein mentioned from off the quays of the Board shall apply to all such matters or things placed, or being upon the quays as defined by this Act, as well as those landed on the quays, and may be exercised by the harbour-master or other person to be appointed by the Board; and the 82nd section of the said Act shall be read as though the notices therein required might be given by the harbour-master or other person so appointed as well as by the Board.

Providing against damage to property of Board.

10. The provisions of the Act of 1869 against injury to the harbour, docks, or quays of the Board, or to any of the works and conveniences in and upon the same, shall be read as though the said provisions had extended to injury done to the quays as defined by this Act, and also to any lighters, plant, machinery, and property of the Board within the port.

Tonnage rates on vessels lying up, &c.

11. So much of the 104th section of the Act of 1869 as enables the Board to demand and take the several rates and charges specified

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in Table A. in the Fifth Schedule to the said Act in respect of vessels entering, using, and frequenting the custom house docks is hereby repealed, and the said Table A. shall from the passing of this Act be of no avail, and in the stead thereof the Board may demand and take upon every vessel remaining or lying in the port of Dublin for a longer consecutive period than six weeks, one halfpenny per ton for every ton of the tonnage of such vessel for every week she shall so remain or lie after the said period of six weeks; provided that this charge shall not be applicable to any vessel so long as she remain or lie in the docks of the Grand Canal Company.

Power to borrow on security of port fund.

12. The Board may from time to time, in addition to the debenture and mortgage debts existing or authorised at the time of the passing of this Act, borrow at interest on the security of the port fund, as defined in the 224th section of the Act of 1869, any sum not exceeding in the whole two hundred and fifty thousand pounds, and may from time to time mortgage the port fund to secure repayment thereof with interest accordingly.

Provisions of 32 & 33 Vict. c. c. as to borrowing applied to this Act.

13. The several provisions contained in the Act of 1869 with reference to borrowing powers and debentures under that Act shall be applicable, mutatis mutandis, to borrowing powers under this Act, and section 236 of the Act of 1869, saving the rights and priorities of all debentures or other securities existing at the time of the passing of that Act, shall, as respects the money to be borrowed under the powers of this Act, apply to all debentures or other securities existing at the time of the passing of this Act, and nothing in this Act shall prejudicially affect any such debentures or other security.

Sinking fund to be created.

14. The Board shall yearly set apart and appropriate out of the port fund, as a sinking fund applicable to the repayment of money in each year borrowed under this Act, a sum not less than one-fiftieth part of the sum so borrowed in such year, and such sinking fund shall, with respect to the amount borrowed in each year, commence at the expiration of twelve months from the expiration of such year: Provided that any yearly instalments of the said borrowed money which the Board may pay in pursuance of any agreement with the lender shall, to the extent of the instalments so paid, relieve the Board from the necessity of setting apart that amount by way of sinking fund: Provided also, that the Board shall not be at liberty to re-borrow the sums so paid off, but their power to borrow money under the powers of this Act shall, to the extent of such instalments, be diminished.

Annual return to Board of

15. The secretary of the Board shall, within twenty-one days after the expiration of each year during which any sum is required

to be set apart for the said sinking fund under this Act, transmit to the Board of Trade a return, in such form and verified in such manner as that Board may from time to time prescribe, showing the amount which has been invested for the purpose of such sinking fund, or the instalments which have been paid during the year next preceding the making of such return, and the description of the securities upon which the same or the interest thereof has been invested, and the purposes to which any portion of the moneys invested for the sinking fund or the interest thereof has 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 said secretary shall be liable to a penalty not exceeding twenty pounds. If it appear to the Board of Trade, by such return or otherwise, that the Board have failed to set apart the sum required by this Act for the sinking fund, after taking credit for any instalments which may have been paid as aforesaid, 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 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 or applied by the Board as part of the sinking fund, and any such order may be enforced by Mandamus to be obtained by the Board of Trade.

Trade with respect to sinking fund.

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

Act not to empower Board to borrow from Public Works Loan Commissioners.

(1.) That loan and the security therefor shall not have priority over any loan previously borrowed by the Board, or the security therefor, except so far as the 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 by the Board, and the security therefor; and

24 & 25 Vict. c. 47.

38 & 39 Vict. c. 89.

(2.) The amount which the Board are authorised 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.

17. From and after the passing of this Act the two hundred and thirty-ninth section of the Act of 1869 shall be and is hereby re-

Repealing 32 & 33 Vict. c. c. s. 239.

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pealed; provided that this repeal shall not affect anything duly done or suffered under the enactments hereby repealed, nor the right of any auditor appointed under the authority of the said section to be paid any money due to him for work done in execution of the said section, nor any other right or liability acquired or incurred under the enactments hereby repealed.

Audit of accounts.

18. Notwithstanding the repeal of the 239th section of the Act of 1869, the accounts of the Board down to and inclusive of the 30th day of June 1879 shall be audited in the manner prescribed by the said section, and the accounts of the Board as from and inclusive of the 1st day of July 1879 shall be audited by such auditor of the accounts relating to the relief of the poor in Ireland as the Local Government Board for Ireland shall appoint for the purpose. An auditor shall, with respect to the accounts of the Board under this section, have the like powers and be subject to the like obligations in every respect as in case of the audit under the Local Government (Ireland) Act, 1871, as amended by the Local Government Board (Ireland) Act, 1872, and by any other Act or Acts, and any person aggrieved by the decision of the auditor shall have the like rights and remedies as in the case of such last-mentioned audit. All the provisions of the said Acts relative to the duties and powers of the Local Government Board in relation to the auditing of the accounts of public bodies in Ireland, and for the punishment of persons giving false evidence or neglecting to attend or give evidence at such audit, or being guilty of any other offence in relation thereto, and with respect to allowances, disallowances, and surcharges, and the proceedings to be taken in reference thereto, and, generally, all the provisions of the said Acts relative to the audit of the accounts of public bodies, shall apply to the audit of the accounts of the said Board as fully as if the said Board were a governing body whose accounts are authorised to be audited in the manner prescribed by the said Acts. The Local Government Board shall from time to time ascertain and determine what proportion of the salary paid to any auditor employed under this Act to audit the accounts of the said Board should be charged to the Board in respect of such audit, and the amount so ascertained shall be payable by the Board and shall be paid accordingly to such bank or to such person as the Commissioners of Her Majesty's Treasury shall direct; provided that the auditor shall not be permitted to inquire into the expediency of any works executed or proposed to be executed by the Board for the maintenance and improvement of the port, and that the Board in carrying on their business as warehousemen, wharfingers, or storekeepers, may make such allowances and deductions from their

34 & 35 Vict. c. 109.
35 & 36 Vict. c. 69.

accounts as are customary in such business, such allowances and deductions being subject to the audit provided in this Act.

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

19. 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, 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.

Saving rights of Crown in foreshore,&c.

20. Nothing in this Act contained shall authorise the Board 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 in this Act contained 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 certain rights of Secretary of State for War.

21. Nothing in this Act or in the Act of 1869 shall be construed to abridge or in any manner interfere with the estate and interest of Her Majesty's Principal Secretary of State for the War Department, as the owner of the Pigeon House tenements and premises, conveyed by the Corporation, for preserving and improving the port of Dublin, to the late Board of Ordnance by indenture of 6th December 1813, nor to prejudice, diminish, or alter any rights, powers, or authorities which, save for such Acts, the said Principal Secretary would, as the owner of the Pigeon House tenements and premises, have been entitled to exercise or enjoy.

Protecting sewers, &c.

22. In the execution of the works by this Act authorised the Board shall not close or stop up or prevent the flow of sewage through the sewers or drains, or any or either of them, belonging to the Corporation which at present pass through the East Wall and discharge into the river or estuary of the River Liffey.

Construction of free bathing place.

23. The Board shall not remove or interfere with the bathing place which at present exists at the Smoothing Iron on the East Wall until they have constructed in lieu thereof a suitable bathing place and approaches, to be used by the public free of charge, and shall thereafter maintain and keep the same or some other bathing place in good repair.

Saving rights and interests of

24. Save as in this Act otherwise expressly provided, nothing in this Act shall take away, lessen, alter, or prejudicially affect any

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municipal corporation.

rights, interests, claims, powers, privileges, authorities, or immunities of the right honourable the lord mayor, aldermen, and burgesses of Dublin in respect of the port dues or duties commonly known as slippage and anchorage payable to them, or in respect of the roads, streets, highways, passages, and places over which they have the lawful control or management, or of their waterworks made for the supply of the city and suburbs of Dublin, or in any other respect whatsoever.

Protecting Clontarf Township Commissioners.

32 & 33 Vict. c. lxxxv.

25. Nothing herein contained shall deprive, take away, prejudice, diminish, or injuriously affect any estate, right, privilege, power, or authority of whatsoever nature vested in the commissioners of Clontarf township by virtue of the Clontarf Township Act, 1869.

Expenses of Act.

26. All the costs, charges, and expenses preliminary to and of and incidental to the preparing, applying for, obtaining, and passing of this Act shall be paid by the Board.

SCHEDULE.

Ballast Dues.

For every ton of ballast supplied to any vessel within the port, the sum of two shillings.

For heaving or loading ballast on board any vessel within the port, the sum of threepence per ton.

For heaving ballast on board any vessel of 100 tons and upwards within the port, which vessel has not a ballast port, twopence extra per ton.

For heaving ballast on board any vessel within the port, whereby it becomes necessary that one or more stages should be rigged, twopence extra per ton per stage.

For every ton of ballast which shall be taken out of any vessel within the port, the sum of one shilling.

Regulation.

The master of any vessel within the port declining or delaying to take on board ballast when furnished shall pay one shilling per hour for the delay so caused.

LONDON : Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1879.