CHAPTER c.

An Act to authorise the Trustees of the Harbour of Inverness to construct new Quays and other works and to confer further powers upon the Trustees and upon the Town Council of the Royal Burgh of Inverness and for other purposes. [13th July 1899.]

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WHEREAS by the Act 48 George III. chapter 41 (in this Act called "the Act of 1808") the magistrates and council of Inverness and their successors in office were authorised to erect a new pier or quay on the bank of the River Ness and to deepen widen scour and cleanse the harbour of Inverness and the River Ness and to carry out the other works therein authorised:

And whereas by the Inverness Harbour Act 1847 (in this Act called "the Act of 1847") the Trustees of the Harbour of Inverness (in this Act called "the Trustees") were constituted and incorporated for the management of the port and harbour of Inverness (in this Act called "the harbour") and for carrying into effect the required improvements thereon to continue the operations authorised by the Act of 1808 and to construct additional works:

And whereas by the Inverness Harbour Order 1883 (in this Act called "the Order of 1883") the Trustees were authorised to construct a new quay wall and other works:

And whereas the Trustees were by the Act of 1847 authorised to borrow a sum not exceeding twenty thousand pounds and by the Order of 1883 to borrow an additional sum not exceeding ten thousand pounds on the security of the rates leviable under the said Act and Order and the amount now due and owing by the Trustees under the said Act and Order is six thousand pounds:

And whereas the requirements of the trade in and of the shipping resorting to the harbour render it expedient that additional accommodation should be provided and that the Trustees should be authorised to execute the works herein-after mentioned and to acquire lands for the purposes thereof:

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And whereas it is expedient that the Trustees should be authorised to raise further money by mortgage bond cash credit or otherwise for the purchase of lands and the execution of the works by this Act authorised and for the general purposes of their undertaking and for repayment of any money borrowed under the authority of the Act of 1847 and the Order of 1883 and remaining unpaid:

And whereas it is expedient that some of the provisions of the Act of 1847 should be varied and amended as herein-after provided and that the further powers in this Act provided should be conferred on the Trustees:

And whereas it is expedient that the provost magistrates and town council of the royal burgh of Inverness (in this Act called "the Corporation") should be authorised to lend money to the Trustees and to the school board of the burgh of Inverness or either of them and to provide the money so to be lent by the creation and issue of Corporation stock or otherwise and to make provision for security repayment and discharge of any money so to be lent:

And whereas plans and sections showing the lines situation and levels of the works authorised by this Act and the lands and houses proposed to be acquired for the purposes thereof and a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands and houses which may be taken under the powers of this Act were duly deposited with the principal sheriff clerk for the county of Inverness and are herein-after respectively referred to as the deposited plans sections and book of reference:

And whereas the purposes of this Act 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 as the Inverness Harbour Act 1899 and this Act and the Act of 1808 (so far as applicable to the harbour) the Act of 1847 and the Order of 1883 may for all purposes be cited together as the Inverness Harbour Acts 1808 to 1899.

Incorporation of general Acts.

2. The following Acts (except where expressly varied by or inconsistent with this Act) are incorporated with and form part of this Act (that is to say):—

The Lands Clauses Acts;

The Harbours Docks and Piers Clauses Act 1847 except the sections with respect to the construction of works for the

accommodation of the officers of Customs with respect to lifeboats with respect to keeping a tide and weather-gauge (unless the Trustees shall be required by the Board of Trade to provide a lifeboat and tide and weather-gauge) with respect to buoys lighthouses and beacons and with respect to the police of the harbour dock or pier and except sections 22 25 and 26;

The Railways Clauses Consolidation (Scotland) Act 1845 with respect to the temporary occupation of lands near the railway during construction thereof and other interference therewith:

And the expression "company" or any like expression in the incorporated Acts means the Trustees the word "railways" or any like expression the works authorised by this Act and the words "centre of the railway" mean any part of the works authorised by this Act.

Interpretation.

3. The several words and expressions in this Act and in the Acts wholly or partially incorporated herewith to which meanings are assigned by the Inverness Harbour Acts or any of them have the meanings assigned to the same words and expressions respectively by those Acts unless there be something in the subject or context repugnant to such construction:

"The Act of 1808" means the Act 48 George III. cap. 41 intituled An Act for building a bridge over the River Ness at Inverness widening certain streets improving the present harbour extending the royalty supplying the inhabitants with water regulating the police and lighting the streets of the said burgh;

"The Act of 1847" means the Inverness Harbour Act 1847;

"The Order of 1883" means the Inverness Harbour Order 1883;

"The harbour" means the port and harbour of Inverness;

"The Inverness Harbour Acts" mean the Act of 1808 the Act of 1847 the Order of 1883 and this Act;

"The Trustees" mean the Trustees incorporated by the Act of 1847;

"The Corporation" means the provost magistrates and town council of the royal burgh of Inverness as such and as commissioners under the Burgh Police (Scotland) Act 1892.

Construction of works.

4. Subject to the provisions of this Act the Trustees may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works herein-after specified or some of them or some part or parts thereof together with all necessary roads drains sewers approaches accesses walls wharves embankments piers jetties quays cuts slips gates channels landing stages mooring buoys and posts cranes shears railway and tramway sidings and dock

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rails and other machinery appliances works and conveniences in connexion therewith and incidental thereto respectively and may enter upon take use and appropriate such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for these purposes and for the other purposes of the harbour.

Description of works.

5. The works herein-before referred to and authorised by this Act are the following (that is to say) :—

(1) A quay (Work No. 1) situate on and on the east side of the River Ness commencing at the north end of the concrete quay wall near Shore Street and extending seaward in a northerly and north-westerly direction for a distance of nine hundred and forty feet or thereby in one continuous curve corresponding with the general course of the river to a point between high-water mark and low-water mark thirty feet or thereby from high-water mark thence in an easterly direction and terminating at a point on the bank of the river two hundred and fifteen feet or thereby south-west from the south-west corner of the stone and lime building of the slaughter-house together with the filling up of that part of the harbour known as the old dock from the line of the proposed quay eastward and to close and discontinue the said dock :

(2) A diversion (Work No. 2) of part of the public road called Citadel Road leading along the coast line to the Longman commencing the said diversion in the centre of the existing roadway called Citadel Road at a point one hundred feet or thereby due south from the east end of the house known as Citadel House and extending in a north-westerly direction for a distance of nine hundred and forty feet or thereby and there terminating by a junction with the existing road called Citadel Road at a point two hundred and thirty feet or thereby in a north-westerly direction from the west or north-west corner of the foresaid slaughter-house :

(3) A quay (Work No. 3) situate on the west side of the River Ness commencing at the south end of the existing Thornbush Quay wall and extending for a distance of two hundred and twenty feet south-eastward in the same line as the existing quay and there terminating together with a deepening of the existing Thornbush Quay by sheet-piling and under-footing the foundation thereof for a distance of two hundred feet north-westward from the commencement of the proposed quay (Work No. 3) and also a deepening of the waterway of the harbour for a breadth of sixty feet in front of the proposed quay (Work No. 3) and of part of the said existing Thornbush

Quay the said deepening of the waterway extending to a total length of four hundred feet or thereby:

(4) A deepening and widening (Work No. 4) of part of the harbour and channel in the River Ness by excavation dredging or otherwise commencing at a point in the river seventy feet or thereby north from the north end of the groyne in the river near Shore Street Quay and extending north-westward in the channel of the river for a distance of one thousand nine hundred and thirty feet or thereby to a point in the front of Thornbush Quay two hundred and sixty feet or thereby north from the south end of Thornbush Quay and there terminating:

(5) A deepening (Work No. 5) of part of the channel on the west side of the channel of the River Ness by excavation dredging or otherwise commencing at a point in the river three hundred and seventy feet or thereby in a northerly direction from the north corner of the stone-built quay at the north end of Thornbush Quay and extending northward near the west side of the channel for a distance of one thousand one hundred and twenty feet or thereby and terminating at a point in the river three hundred and fifty feet or thereby in a southerly direction from the lamp post on the north end of the Carn Arc Embankment:

(6) A deepening and widening (Work No. 6) of the entrance channel of the harbour of Inverness at the mouth of the River Ness and in the Inner Moray Firth or Firth of Inverness and the sea by excavation dredging or otherwise commencing at a point three hundred feet or thereby due east from the lamp post on the north end of Carn Arc Embankment and extending seaward in a northerly direction for a distance of one thousand and twenty feet or thereby from the point of commencement and there terminating in the Inner Moray Firth or Firth of Inverness and the sea.

The said works will be situate in the royal burgh and parish of Inverness and county of Inverness and in the bed of the River Ness and on the foreshore and in the bed of the Inner Moray Firth or Firth of Inverness and in the sea ex adverso of the said burgh and parish.

Powers of deviation.

6. In the execution of the works by this Act authorised the Trustees may deviate laterally from the lines of such works within the limits of lateral deviation shown on the deposited plans and may deviate vertically from the levels of the said works as shown on the deposited sections to any extent not exceeding five feet upward and to any extent downward Provided that no deviation

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either lateral or vertical below high-water mark shall be made without the consent in writing of the Board of Trade.

Entry on lands. Subsidiary works &c.

7. The Trustees may enter upon any lands which they are authorised to purchase compulsorily for the purposes of this Act and they may on any lands belonging to them or to be taken and acquired by them under the powers of this Act make erect lay down use and maintain all walls quays roads docks rails lines and sidings tramways arches culverts and buildings for and in connexion with the several works herein-before described or any of them or any part thereof and the harbour undertaking and may also dredge and excavate the harbour and River Ness to such extent as may be necessary for the purposes of the works by this Act authorised and may remove and carry away and dispose of sand silt gravel and other obstructions Provided that the Trustees shall not lay down any rails sidings or tramways on any part of the diverted road (Work No. 2) by this Act authorised.

Period for compulsory purchase of lands.

8. The powers of the Trustees for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Power to purchase lands by agreement.

9. In addition to the lands to be acquired by the Trustees under the powers of this Act the Trustees may by agreement purchase and hold for the purposes of this Act and the harbour undertaking any lands not exceeding in the whole ten acres and the Corporation may sell to the Trustees at a price to be agreed on or to be fixed by arbitration any land lying adjacent to the harbour and belonging to the Corporation which may be suitable or convenient for any of the works or for harbour purposes but nothing in this Act shall exempt the Trustees from any indictment action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any land so acquired.

Power to take servitudes &c. by agreement.

10. The Trustees may take by agreement and persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Trustees any servitude right or privilege (not being a servitude right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges or feu duties so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively.

Trustees may sell lands &c.

11. The Trustees may at any time and in such manner and for such price or consideration as they think proper sell feu let or

otherwise dispose of so much or such parts of the lands and property acquired by them under the powers of this Act as may not be required for the purposes thereof and that either by public or private sale and the Trustees may enter into and carry out agreements with any person for or in connexion with the sale and purchase of any such lands and property.

Period for completion of works.

12. If the works by this Act authorised are not completed within ten years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Trustees for making and completing the same or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Alteration of work may be sanctioned by Board of Trade.

13. The Trustees with the consent of the Board of Trade may in the execution of the works below high-water mark by this Act authorised make deviations from or alterations in the deposited plans and sections to such extent and in such manner as may be found expedient for the progress of the works or for any other reason which the Board of Trade may deem sufficient Provided always that the Trustees before adopting or carrying out any such deviations or alterations shall submit plans and sections in each case to the Board of Trade and no such deviation or alteration shall be executed by the Trustees unless with the previous approval of the Board of Trade in writing.

Expiration of period not to prevent dredging &c.

14. Notwithstanding the expiration of the period by this Act limited for the completion of the works the Trustees may at any time and from time to time execute within the harbour all such dredging scouring and deepening and make and maintain all such incidental extensions and enlargements of and additions to the works so completed and all such accommodations and conveniences connected therewith as the Trustees deem requisite or convenient for the improvement of the harbour and for the safety and convenience of vessels resorting thereto.

Power to divert roads &c.

15. The Trustees may in the execution of the works authorised by this Act and for the purposes thereof and so far as necessary therefor and within the limits of deviation shown on the deposited plans temporarily cross alter stop up remove divert raise and lower or otherwise interfere with all roads highways footpaths streets streams watercourses railways tramways rivers bridges quays landing places landing stages sewers drains culverts ways telegraphs and telegraphic or telephonic apparatus gas water and other pipes and works which it may be necessary or convenient to cross alter stop up or divert or interfere with for the purposes of the works authorised by this Act providing when possible a proper temporary substitute before interrupting the traffic on any such street highway or railway or

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the flow of water gas sewage or electricity in any sewer drain watercourse canal or pipe and making full compensation to all persons injuriously affected thereby Provided that nothing in this Act shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 to 1890 to which the provisions of section 15 of the said Act of 1882 apply except in accordance with the provisions of that section Provided also that the Trustees shall not alter divert or in any way interfere with any electric cables or apparatus belonging to or used by the Postmaster-General except in accordance with the provisions of the Telegraph Act 1878.

Penalty for obstructing construction of works.

16. Every person who shall wilfully obstruct any person acting under the authority of the Trustees in setting out the lines of the works by this Act authorised or who shall pull up or remove any tide gauges or posts poles or stakes fixed into the ground on the land or in the water for the purpose of setting out the lines and levels of the said works or deface or destroy the said works or any part thereof or of the existing works of the harbour shall for every such offence be liable to a penalty not exceeding five pounds.

On completion of diverted portion of road site of existing road so far as superseded to vest in Trustees.

17. So soon as the substituted portion of the said Citadel Road by this Act authorised to be diverted is formed and ready for traffic and agreed to be taken over by the Corporation or certified by the sheriff as in the following section provided the Trustees may stop up and extinguish all rights of way over the portion of the said existing road between the points of the commencement and the termination of the said diversion thereof and they may appropriate for the purposes of this Act and the harbour works and undertaking the site of the said road so stopped up and diverted when they are owners of the property on both sides thereof.

Maintenance of diverted road.

18. Immediately upon the completion of the said substituted portion of road and unless the Corporation have agreed to take over the same the Trustees may make an application to the sheriff to certify as to the completion of the same and the Corporation shall be made parties to such application The said diverted portion of road when its completion is so certified (of which completion such certificate shall be conclusive evidence) shall become and the same shall thenceforth be part of the said public road and shall subject to the proviso herein-after contained be upheld and maintained by the Corporation Provided always that the harbour trustees shall pay to the Corporation the cost of upholding and maintaining the said diverted portion of said road for a period of twelve months after the date of the said certificate of completion or agreement with the

Corporation to take over the same or otherwise as the Trustees and the Corporation may agree.

Agreements.

19. The Trustees may make and carry out agreements with any person for the purchase of lands servitudes or other rights required for the purposes of this Act and for and in connexion with the construction of the works authorised by this Act and the harbour undertaking of the Trustees and that on such terms and under such conditions as may be agreed between the Trustees and any such person.

Restriction on taking houses of labouring class.

20. The Trustees shall not under the powers of this Act purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1897 ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Secretary for Scotland ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

If the Trustees acquire or appropriate any house or houses under the powers by this Act granted in contravention of the foregoing provision they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary for Scotland by action in the Court of Session and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the court may if it think fit reduce such penalty.

For the purposes of this section the expression "labouring class" means mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

Trustees entitled to require pilotage returns.

21. The Trustees as pilotage authority within the limits set forth in section 32 of the Order of 1883 shall in addition to the powers conferred by that Order and the Act of 1847 and the Merchant Shipping Act 1894 be entitled to require any pilot licensed by them to furnish to the Trustees in writing when called upon by the Trustees so to do the particulars set forth in section 585 subsection (E) of the Merchant Shipping Act 1894 to enable the Trustees to make the returns required from them by the Board of Trade under said section 585 of the said Act and in the event of any pilot so licensed refusing or failing to furnish such particulars within

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fourteen days after being called on to do so he shall be liable to a penalty of forty shillings which penalty may be recovered by the Trustees in any court of competent jurisdiction and the Trustees shall in addition thereto be entitled if they see fit to cancel the licence of such pilot.

Trustees may contract for supply of water and gas.

22. The Trustees may contract with the Corporation as commissioners under the Inverness Water and Gas Act 1875 or with any other person for the supply of water to vessels in the harbour and for the extinction of fires in such vessels and for the working of cranes and other machinery or conveniences at the harbour and also for the supply of gas or other means of lighting for the use of the harbour and the quays buildings and other property within the limits thereof and the Trustees may supply water to vessels in the harbour at such price as may be agreed on.

Trustees may purchase a dredging machine.

23. The Trustees may purchase such dredging machine or machines as they consider necessary for the use of the harbour and may lend the same on hire when not required for the purposes of the harbour and for such consideration as they think proper.

Works to be part of harbour undertaking.

24. The works authorised by this Act (other than Work No. 2) and the lands and property vested in or acquired by the Trustees for the purposes of this Act shall for all purposes including the levying and collecting of the rates tolls and duties authorised and prescribed by the Order of 1883 be deemed to be and be taken as part of the undertaking of the Trustees.

Power to borrow money.

25. The Trustees in addition to the sums already borrowed by them may from time to time borrow on mortgage or otherwise such money as may be required for the purposes of this Act and of the works authorised by this Act and for the purchase of lands and for the general purposes of the harbour undertaking not exceeding the sum of forty thousand pounds on the security of the rates authorised by the Order of 1883 and this Act and of the property and undertaking of the Trustees and any money borrowed under this Act and discharged otherwise than by means of a sinking fund may be reborrowed for the purposes of this Act and so from time to time.

Power to borrow on cash account.

26. The Trustees may accept and take from any bank or banking company in Scotland credit on a cash account to be opened and kept with such bank or banking company in the name of the Trustees according to the usage of bankers in Scotland to the extent of the sum which the Trustees are authorised to borrow or any part thereof and may assign the rates authorised to be levied by the Order of 1883 and this Act in security of the payment of the

amount of such credit or of the sums advanced from time to time on such cash account with interest thereon Provided that the whole money including money borrowed and remaining unpaid at the passing of this Act borrowed by the Trustees on mortgage or on cash account shall not at any time exceed the sum of forty-six thousand pounds.

Sinking fund.

27. The Trustees shall in the event of their borrowing otherwise than by way of repayment by instalments in every year appropriate and set apart out of the harbour revenues such a sum as will with the accumulations thereof by way of compound interest be sufficient to pay off the whole of the principal moneys borrowed under this Act within sixty years after the same are respectively borrowed.

Application of Act of 1847 and Order of 1883.

28. All the provisions of the Act of 1847 and the Order of 1883 (including the forms of security in the Act of 1847 and the schedule of rates annexed to the Order of 1883) so far as the same remain in force and are applicable shall subject to the provisions of this Act extend and apply to the purposes of and to the works authorised by this Act and to the money to be borrowed under this Act.

Recovery of penalties.

29. All penalties which are recoverable by the Trustees under the Inverness Harbour Acts may be recovered summarily under the provisions of the Summary Jurisdiction (Scotland) Acts.

Application of money borrowed.

30. All money borrowed by the Trustees under the powers of this Act other than money borrowed for current expenses shall be applied in and for the purchase of lands and the construction of the works authorised by this Act and in carrying into execution the other purposes of this Act and for the general purposes of the harbour undertaking to which capital is properly applicable.

Protection of lenders and others from inquiry.

31. Any person lending or paying money to the Trustees under the provisions of the Inverness Harbour Acts or any of them shall not be bound to inquire as to the observance by the Trustees of any provisions of the said Acts or of any Act incorporated therewith or be bound or entitled to see to the application of such money or of any part thereof or be answerable for any loss or non-application of the same.

Power to Corporation of Inverness to lend money and to create stock.

32.—(1) Subject to the provisions of this Act and of the Local Authorities Loans (Scotland) Acts 1891 and 1893 the Corporation may from time to time advance by way of loan to both or either of the following public bodies (herein-after respectively referred to as "the borrowing authority") that is to say the Trustees and the School Board of the Burgh of Inverness such sum or sums of money

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as the borrowing authority is by law for the time being or may be by law authorised to borrow or re-borrow and is desirous of borrowing from the Corporation upon the security of any property rates assessments rents revenues or funds which the borrowing authority is authorised to charge for the repayment of the money borrowed and every loan so advanced shall be for a period not exceeding the period for which the borrowing authority is authorised to borrow or re-borrow the same.

(2) Any sum or sums which the Corporation shall resolve to lend as aforesaid may be raised by the Corporation by the creation and issue of stock under and according to the provisions of the Local Authorities Loans (Scotland) Acts 1891 and 1893 and the Corporation shall for such purpose be deemed to have a statutory borrowing power within the meaning of the said Acts for such sum as they may so resolve to lend to the borrowing authority.

(3) The following provisions shall apply to moneys raised by the Corporation for the purpose of this section and to the payment of interest and principal in respect thereof:—

(A) The sum shall be lent by the Corporation to the borrowing authority for a period not exceeding that for which the borrowing authority is authorised to borrow or reborrow the same and with a provision for repayment by annual instalments or otherwise as the Corporation and the borrowing authority may agree:

(B) The sum shall be repaid by the Corporation within a period to expire not more than one year after that for which the same was lent by them to the borrowing authority:

(C) All sums received by the Corporation from the borrowing authority in repayment of principal and interest shall be paid into the loans fund provided for by the Local Authorities Loans (Scotland) Acts 1891 and 1893 and shall be applied as therein directed.

Protection of Corporation in case of certain loans.

33. Where under the authority of this Act the Corporation lend moneys to a borrowing authority the exercise of whose powers of borrowing is subject to the consent of any Government department the sanction of that department to the borrowing of such moneys shall in every case be conclusive evidence that the borrowing authority had power to borrow such moneys.

Corporation to keep separate accounts of loans.

34. The Corporation shall keep separate accounts for any loan or loans made by them to the borrowing authority or raised by them for that purpose and each account shall show—

(1) The sums advanced with the dates of each advance;

(2) The amount from time to time received by the Corporation in repayment of principal;

(3) The amount received from time to time on account of interest;

(4) The sums from time to time borrowed or raised for the purposes of the loan and the securities on which the same were respectively so borrowed or raised and the date of each mortgage or charge;

(5) The sums from time to time paid into the loans fund in respect of the loans in this section mentioned.

Priority of existing mortgages.

35. All mortgages assignations or other securities on the rates and charges leviable by the Trustees and granted by the Trustees before and subsisting at the passing of this Act shall during the continuance of such mortgages assignations or securities have priority over any mortgages assignations or securities on the same rates and dues granted after the passing of this Act Provided that all securities hereafter granted by the Trustees for money borrowed or raised under the Inverness Harbour Acts shall rank together pari passu without preference or priority the one over the other.

Appointment of a judicial factor.

36. The mortgagees of the Trustees may enforce payment of arrears of interest or principal or of principal and interest due on their mortgages by the appointment of a judicial factor and in order to authorise the appointment of a judicial factor in respect of arrears of principal the amount owing to the mortgagees by whom the application for the judicial factor is made shall not be less than three thousand pounds.

Annual return to Board of Trade.

37. The clerk to the Trustees shall within two months after the expiration of each year during which any sum is required to be set apart for a sinking fund transmit to the Board of Trade a return in such form as may be prescribed by that Board and verified by a statutory declaration if so required by them showing the amount which has been invested for the purpose of such sinking fund during the year preceding the making of such return and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund and the interest thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any wilful default in making such return the clerk shall be liable to a penalty not exceeding twenty pounds If it appears to the Board of Trade by such return or otherwise that the Trustees have failed to pay any instalment or set apart the sum required by this Act for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Act the Board of Trade may if they think fit and after hearing the

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Trustees if desiring to be heard by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund and such order shall be enforceable by decree of either Division of the Inner House of the Court of Session in Scotland pronounced on a summary application presented for that purpose.

Proceedings at elections of Trustees by shipowners and merchant traders.

38. And whereas doubts have arisen as to the intention of sections 3 and 9 of the Act of 1847 it is expedient to remove such doubts Be it enacted that from and after the passing of this Act the meetings required to be held on the third Monday of November in each year for the election of Trustees by shipowners and by merchant traders respectively may be held at any time on that day between the hours of ten o'clock in the forenoon and two o'clock in the afternoon as may be notified in the advertisement calling the said respective meetings Provided that in the event of not more than the required number of persons being proposed the preses of the respective meetings (who shall be appointed by and from among the electors present) shall thereupon declare such persons respectively duly elected Trustees and in the event of more than the number of persons required to be elected at such meetings respectively being proposed for election the preses of the said respective meetings shall thereupon proceed to take a vote of the duly qualified electors present and shall declare the persons who have the majority of votes of such electors to be duly elected Trustees as shipowners and merchant traders respectively and in the event of an equality of votes in either case the preses shall declare the same by his casting vote in terms of section 3 of the said Act.

Appointment of auditor.

39. The Act of 1847 is hereby amended as follows :—

Section 35 is hereby repealed and in lieu thereof the following provision shall have effect that is to say the Board of Trade shall after the passing of this Act appoint a permanent auditor for the purpose of auditing the accounts of the Trustees and may remove any auditor so appointed.

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

40. The Trustees 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 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 Trustees 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 Trustees and the amount of such costs and charges shall be a debt due from the Trustees to the Crown and shall be recoverable as a Crown debt or summarily.

Survey of works by Board of Trade.

41. If at any time the Board of Trade deems it expedient for the purposes of this Act to order a survey and examination of any work constructed by the Trustees under the powers of this Act on in over through or across tidal lands or tidal water or of the intended site of any such work the Trustees shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Trustees to the Crown and be recoverable as a Crown debt or summarily.

Abatement of work abandoned or decayed.

42. If any work constructed by the Trustees under the powers of this Act on in over through or across tidal lands or 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 Trustees and the amount of such expense shall be a debt due from the Trustees to the Crown and be recoverable as a Crown debt or summarily.

Lights on works during construction.

43. The Trustees shall on or near the works below high-water mark hereby authorised during the whole time of the constructing altering or extending the same exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) as the Board of Trade may from time to time require or approve.

If the Trustees fail to comply in any respect with the provisions of this section they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds.

Trustees to exhibit lights.

44. The Trustees shall at the outer extremity of their works below high-water mark exhibit and keep burning from sunset to sunrise such lights (if any) as the Commissioners of Northern Lighthouses shall from time to time direct.

If the Trustees 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.

Provision against danger to navigation.

45. In case of injury to or destruction or decay of the quays or other works by this Act authorised or any part thereof constructed on the shore of the River Ness the Trustees shall lay down such buoys exhibit such lights or take such other means for preventing so far as may be danger to navigation as shall from time to time

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be directed by the Commissioners of Northern Lighthouses and shall apply to those Commissioners for directions as to the means to be taken and the Trustees shall be liable to a penalty not exceeding ten pounds for every calendar month during which they omit so to apply or refuse or neglect to obey any direction given in reference to the means to be taken.

Extension of 10 & 11 Vict. c. 27 (ss. 28 99) as to exemption of Government Department officers &c.

46. Sections 28 and 99 of the Harbours Docks and Piers Clauses Act 1847 as incorporated with this Act shall apply to and for the benefit of any Government department in the same manner as they apply to and for the benefit of any Government Departments specially named in those sections.

Saving rights of Crown in foreshore.

47. Nothing contained in this Act shall authorise the Trustees 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.

Saving rights of Crown under Crown Lands Act.

48. 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 21 and 22 of the Crown Lands Act 1866 and belonging to or exerciseable on behalf of Her Majesty.

Saving rights of Caledonian Canal and Kessock Ferry.

49. Nothing in this Act contained shall alter lessen or take away any of the rights powers or privileges of the Caledonian Canal Commissioners or of the proprietor for the time being of Kessock Ferry.

Costs of Act.

50. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Trustees out of the moneys to be borrowed and received under the authority of this Act or out of the rates to be levied under the Order of 1883 and this Act.

Printed by Eyre and Spottiswoode,
FOR
T. Digby Pigott, Esq., C.B., the Queen's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
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