CHAPTER 49.

An Act to empower the Admiralty to form a Harbour of Refuge at Peterhead, in the county of Aberdeen, and to execute and maintain breakwater piers and other works and conveniences in connection therewith; and for other purposes. [25th June 1886.]

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WHEREAS it is expedient to empower the Lord High Admiral of the United Kingdom or the Commissioners for executing the office of Lord High Admiral, in this Act referred to as the Admiralty, to form a harbour of refuge at Peterhead, in the county of Aberdeen, and for that purpose to construct and maintain the breakwater piers buildings and other works and conveniences by this Act authorised, and in connexion therewith to construct a short line of railway:

And whereas it is expedient to provide for the regulation of the said harbour and works, and to confer on the said Lord High Admiral or Commissioners such other powers as this Act contains:

And whereas convict labour may be usefully employed in the execution of the said works, and it is expedient to confer on the Prison Commissioners for Scotland such powers for the establishment and management of a prison for male Scotch convicts as this Act contains:

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

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Be it therefore 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 (that is to say):

Short title.

1. This Act may be cited as the Peterhead Harbour of Refuge Act, 1886.

Incorporation of general Acts.

2. The Lands Clauses Consolidation (Scotland) Act, 1845 (except sections one hundred and forty-two and one hundred and forty-three which relate to access to the special Act),—and the Lands Clauses Consolidation Acts Amendment Act, 1860,—and the Harbours Docks and Piers Clauses Act, 1847 (except the provisions thereof with respect to the accounts to be kept of the rates and of the vessels in respect of which they are payable, and with respect to access to the special Act),—are hereby (subject to any variation thereof in this Act expressed) incorporated with this Act.

In the construction of the said incorporated provisions the Admiralty shall be deemed to be "the promoters of the undertaking" or "the undertakers" as the case may require.

Interpretation.

3. In this Act, unless the context otherwise requires, words and expressions to which meanings are assigned by any Act incorporated therewith have the same respective meanings; Provided that in and for the purposes of this Act the expression "superior court," or "court of competent jurisdiction," or any other like expression in this Act, or any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Power to acquire lands.

4. For the purposes and subject to the provisions of this Act the Admiralty may from time to time enter upon, take, and use all or any of the lands shown on the deposited plan and described in the deposited book of reference.

Power of persons under disability to grant easements.

5. Persons empowered by the Lands Clauses Consolidation (Scotland) Act, 1845, to sell and convey or release lands, may, if they think fit, subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act, 1860, and of this Act, grant to the Admiralty any easement right or privilege, not being an easement of water, 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, so far as the same are applicable

in this behalf, shall extend and apply to such grants, and to such easements rights and privileges as aforesaid respectively.

Power to execute works.

6. Subject and according to the provisions of this Act the Admiralty may make and maintain in the parish of Peterhead, in the county of Aberdeen, and on the foreshore and bed of the sea there, and in the lines and according to the levels shown on the deposited plan and sections, a harbour of refuge and the works following; (that is to say):—

(*a.*) A breakwater pier to be situate in the parish of Peterhead, in the county of Aberdeen, and the bed of the sea, commencing at or near the south-east corner of the reclaimed land at Keith Inch, Peterhead, and thence proceeding in a south-westerly direction for a distance of one thousand feet or thereabouts and terminating in the bed of the sea;

(*b.*) A retaining wall or quay to be wholly situate in the said parish of Peterhead, commencing from the north-west side of the last-mentioned breakwater pier at a point about eighty yards from the commencement thereof and thence continuing for a distance of about one hundred and seventeen yards in a north-westerly direction to the south-west corner of the reclaimed land at Keith Inch aforesaid and there terminating, with power to level the land on and adjoining the north-west side of such retaining wall;

(*c.*) A breakwater pier to be situate in the said parish of Peterhead and the bed of the sea, commencing at a point seventeen yards or thereabouts eastward of the north-east corner of the wall surrounding the property at Salthouse Head, known as "Saint Catherines," and continuing in a north-easterly direction for a distance of three thousand two hundred feet or thereabouts and terminating in the bed of the sea at a point distant six hundred feet or thereabouts, measured in a south-westerly direction from the point of termination of the breakwater pier herein-before described.

And in connexion with the above works the Admiralty may make and maintain in the lines and according to the levels shown on the deposited plan and sections, the railway and road herein-after described (that is to say):—

A railway to be wholly situate in the said parish of Peterhead, commencing at the aforesaid point seventeen yards or thereabouts eastward of the north-east corner of the wall surrounding the property at Salthouse Head, known as "Saint Catherines," and

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terminating at Sterling Hill, at a point about four hundred and thirty yards or thereabouts south-south-east of the farm house of Whinbush, in the said parish, with all necessary stations junctions approaches sidings works and conveniences connected therewith:

A new road situate wholly in the said parish of Peterhead, commencing at a point in the road leading east-south-east from the farm house of Whinbush, and two hundred yards or thereabouts distant from the said house, and terminating at a point in the road leading west-north-west from the farm house at Sterling Hill, occupied by Jane Ogston or Mackenzie and others, and one hundred yards or thereabout distant from the said last-mentioned house.

Power to deviate.

7. In making the works to be constructed under the powers of this Act, the Admiralty may deviate from the levels shown on the deposited sections to any extent not exceeding five feet, and from the lines shown on the deposited plan to any extent within the limits of deviation marked thereon.

Power to make subsidiary works.

8. Subject and according to the provisions of this Act and within the limits of deviation marked on the deposited plan, the Admiralty may from time to time in connexion with or for the purposes of the breakwater, piers and works to be constructed under the powers of this Act make execute maintain enlarge alter and remove temporarily or permanently such entrances, jetties, groynes, quays, wharfs, viaducts, embankments, water and coaling stations, graving docks, work and other yards, warehouses, buildings, sheds, cranes, bridges, lifts, pontoons, roads, approaches, appliances, and conveniences, as they think fit.

Power to dredge, &c.

9. Subject to the provisions of this Act the Admiralty may from time to time in connexion with or for the purposes of the breakwater, piers and works to be constructed under the powers of this Act, and within the limits of deviation marked on the deposited plan, quarry stone, and may dredge scour and deepen the foreshore and bed of the sea within the said limits of deviation, and may remove carry away and dispose of any stone, gravel, sand, or other substance collected by means of that dredging or scouring.

Power to stop up roads within limits of deviation.

10. The Admiralty may stop up or divert any road, street, way, or path within the limits of deviation marked on the deposited plan and sections as intended to be stopped up or diverted in the manner shown on the said plan and sections, and the site and soil of any road, street, way, or path so stopped up or diverted shall vest in the Admiralty freed and discharged from any rights of way or

passage, whether public or private, over the same, so far as the Admiralty are the owners of the adjoining land on either side.

Maintenance of substituted roads.

11. All roads or footpaths or portions of roads or footpaths which may be substituted by the Admiralty for any existing roads or footpaths or portions of existing roads or footpaths stopped up or diverted under the powers of this Act, shall be maintained by and at the expense of the respective bodies or persons liable to maintain the said existing roads or footpaths or portions of existing roads or footpaths.

Extinction of fishing rights, &c.

12. All rights of fishing and other rights and privileges within the limits of the harbour authorised by this Act, which would impede or interfere with or are inconsistent with the objects of this Act, or any of them, are hereby extinguished as from the date of the passing of this Act.

Power to make bye-laws.

13. In addition to the power of making byelaws contained in the Harbours Docks and Piers Clauses Act, 1847, the Admiralty may, subject to the provisions contained in that Act, from time to time make, alter, and repeal byelaws for the following purposes (namely):—

For the protection management regulation and use of the harbour, breakwater piers, quay, and works connected therewith, authorised by this Act;

For the regulation and control of all persons animals and goods frequenting or using such harbour, breakwater piers, quay, and works.

Provided that no byelaw made by the Admiralty shall be of any effect until confirmed by the Board of Trade.

Limits of harbour-master's authority.

14. For the purpose of the provisions incorporated with this Act of the Harbours Docks and Piers Clauses Act, 1847, the prescribed limits within which the powers and authorities of harbour-masters and pier-masters from time to time appointed by the Admiralty may be exercised by them respectively and their respective deputies and assistants (which limits are in this Act referred to as "the limits of the harbour-master's authority") are as follows; (that is to say,) the harbour of refuge by this Act authorised, and all places within the limits of deviation shown on the deposited plan.

Within the limits of the harbour-master's authority as above defined, no other harbour-master or pier-master shall exercise any jurisdiction or authority.

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Power to levy rates.

15. The Admiralty may from time to time for the use of the harbour, breakwater piers, and quay authorised by this Act demand and recover in respect of vessels, boats, passengers, animals, fish, goods, and other matters and things such reasonable sums as the Admiralty may from time to time, with the sanction of the Commissioners of Her Majesty's Treasury, prescribe: Provided that the Admiralty shall not by virtue of this section be entitled to demand or recover any sum in respect of any vessel or boat using the said harbour merely as a means of access to or departure from any harbour of the Peterhead Harbour Trustees, nor in respect of any vessel or boat forced by stress of weather or other cause to make use of the harbour, breakwater piers, or other works, and not breaking bulk while making use thereof: Provided also, that until any debt properly incurred by the Trustees of the Harbours of Peterhead has been paid off any revenue which may be derived under this section shall (after payment of all expenses connected with the collection thereof) be applied to the same purposes as those to which the rates and duties levied under the Peterhead Harbours Act, 1873, and the Peterhead Harbours Amendment Act, 1876, are applicable and to the general purposes of those Acts in such proportions as shall from time to time be fixed by some competent person to be appointed by the Secretary for Scotland.

Power to appoint meters and weighers.

16. The Admiralty may appoint and license a sufficient number of persons to be meters and weighers at and within the harbour.

Provision instead of bond required by 8 & 9 Vict. c. 19. s. 84.

17. It shall be lawful for the Admiralty instead of giving the bond mentioned in section eighty-four of the Lands Clauses Consolidation (Scotland) Act, 1845, to give to the party who would otherwise be entitled to such bond a written undertaking under the hands of two or more Commissioners to do all the matters and things mentioned in the condition of such bond, and such undertaking shall have the same validity and effect as such bond would have had.

Power to sell, lease, exchange, &c.

18.—(1.) Subject to the provisions and for the purposes of this Act, the Admiralty may, with the concurrence of the Commissioners of Her Majesty's Treasury, from time to time sell, exchange, let, or in any manner dispose of, all or any of the lands from time to time acquired by them under the authority of this Act; and may for that purpose make execute and do such conveyances assurances acts and things as they may deem necessary or expedient.

(2.) All lands acquired by the Admiralty on any such exchange shall vest in the Admiralty for the purposes of this Act, in like manner as if they had been purchased under the powers of this Act.

Service of notices.

19.—(1.) All notices which under this Act are to be given by the Admiralty may be given under the hand of one of the secretaries of the Admiralty.

(2.) All notices which under this Act are to be given to or served on the Admiralty may be served on the Secretary of the Admiralty, by being left at or transmitted through the post to the Admiralty at Whitehall.

Power to transfer the harbour.

20.—(1.) It shall be lawful for Her Majesty, by Order in Council, at any time to transfer from the Admiralty to any department of Government, or to any harbour trust or other body of persons authorised or competent in law to become transferees, with or without valuable consideration, the harbour, breakwater, piers, and works authorised by, and any lands acquired under, this Act, subject to any charges or liabilities affecting the same respectively; and subject also to any reservations, conditions, exceptions, or provisions that may be specified in the Order in Council.

(2.) From the date of a transfer under this section the transferees shall, subject to the provisions of the Order in Council, have and exercise the powers and obligations conferred or imposed by this Act on the Admiralty.

(3.) An Order by Her Majesty in Council under this section may contain any provisions incidental or subsidiary to the transfer, or adapting the provisions of this Act so far as may be necessary for carrying into effect the transfer, and the provisions of such Order in Council shall be of the same validity as if enacted in this Act.

Protection of entrance to existing harbour.

21. If during the construction of the works by this Act authorised (herein called the new works) the entrance to the existing south harbour at Peterhead or the works of that harbour, or any vessel using that harbour, shall, by reason of such new works, be obstructed or interrupted or damaged, or the present existing area of said harbour, or the entrance thereof, shall by reason of such new works be rendered less deep than heretofore, the Admiralty shall forthwith, after notice in writing from the

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Trustees of the Harbours of Peterhead, remove or remedy such obstruction or interruption or damage.

Compensation for damage.

22. The Admiralty shall make compensation for the damage or injury (if any) which may be sustained by Her Majesty or any corporation or person in respect of any right of salmon fishing through the exercise of the powers of this Act. And in case of damage sustained by Her Majesty, if the amount of such compensation shall not be agreed upon the same shall be settled by two referees, one being appointed by the Commissioners of Woods, and one being appointed by the Admiralty, or by an umpire to be appointed by the said referees; the said compensation and the charges and expenses of such referees shall be paid by the Admiralty out of moneys to be provided by Parliament.

Power of Scotch Prison Commissioners to erect prison.

23. It shall be competent for the Prison Commissioners for Scotland, incorporated under the Prisons (Scotland) Act, 1877, under the directions of the Secretary for Scotland, and out of moneys to be provided by Parliament, to build on any portion of the lands authorised to be purchased under this Act, or otherwise acquired by them in terms of the Prisons (Scotland) Act, 1877, a prison for the detention of male convicts, which prison may be declared by Her Majesty in Council to be a general prison in terms of the provisions of the said Act; and the said Prison Commissioners shall, in addition to their powers under the said Act, and rules made or to be made in virtue thereof, possess and be entitled to exercise in regard to the said prison, and the officers thereof, and the convicts detained therein, all the powers at present competent to the Directors of Convict Prisons as constituted and appointed under the Act of the session of the thirteenth and fourteenth years of Queen Victoria, chapter thirty-nine, and Acts amending the same.

Provided that in the exercise of these powers the said Prison Commissioners shall be bound to conform to any directions which may from time to time be given to them by the Secretary for Scotland by any writing under his hand.

Power to contract for lighting the harbours and for supplying water and for the shipping.

24. It shall be lawful for the Admiralty and the Prison Commissioners for Scotland, or either of them, to contract and agree with any trustees, commissioners, companies, or other persons, for lighting the harbour, quays, docks, breakwaters, prison, railway, and other works with gas or otherwise, and for supplying the harbours,

quays, docks, prison, railway, and other works with water, and also with water for the use of the shipping resorting to and using the harbours, quays, docks, and other works, or being within the harbours, as the Admiralty or the Prison Commissioners, as the case may be, shall think necessary and proper. A.D. 1886.

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