CHAPTER clvi.

An Act to confirm a Provisional Order made by the Board of Trade under The General Pier and Harbour Act, 1861, relating to Waterford. [6th August 1872.]

A.D. 1872.

WHEREAS a Provisional Order made by the Board of Trade under The General Pier and Harbour Act, 1861, is not of any validity or force whatever until the confirmation thereof by Act of Parliament: 24 & 25 Vict. c. 45.

And whereas the Board of Trade have made a Provisional Order relating to Waterford which has been amended by Parliament, and it is expedient that the said Order as so amended and set out in the schedule to this Act be confirmed by Act of Parliament:

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:

Confirmation of Order in schedule.

1. The Order set out in the schedule to this Act shall be and the same is hereby confirmed, and all the provisions thereof in manner and form as they are set out in the said schedule shall, from and after the passing of this Act, have full validity and force.

Short title.

2. This Act may be cited as the Pier and Harbour Orders Confirmation Act, 1872 (No. 3).

A.D. 1872.

SCHEDULE.

Waterford.

WATERFORD.

Order for the Improvement of the Port and Harbour of Waterford.

Undertakers.

1. The Commissioners for the purposes of the Act of the ninth and tenth years of the reign of Her Majesty, cap. two hundred and ninety-two (local), intituled "An Act for improving, preserving, maintaining, and better regu- "lating the Port and Harbour of Waterford, and for other purposes relating "thereto," (in this Order called the Local Act,) together with two of the Commissioners for the time being acting under "The New Ross Port and Harbour Amendment Act, 1861," (herein-after called the New Ross Act,) to be appointed as herein-after provided, shall be the Undertakers for carrying this Order into execution; and the expression the "Commissioners," used in this Order, shall mean the Commissioners under the Local Act, and the two New Ross Commissioners to be appointed as herein-after provided.

Appointment of two persons by New Ross Commissioners.

2. The Commissioners acting under the New Ross Act for the time being shall appoint two of their body, within three months after the confirmation of this Order by Parliament, and thereafter from time to time on the expiration of the term of office of the persons so appointed as herein-after provided, to represent the New Ross Harbour Commissioners on the Board of the Waterford Harbour Commissioners for the purposes of this Order, and the said two New Ross Commissioners on being so appointed shall be eligible to take their seats on the said Waterford Board accordingly.

Duration of appointment.

3. The said two members so to be appointed shall be appointed for the term of two years, and in case any vacancy or vacancies in the said last-mentioned representation, whether caused by death or resignation or otherwise, the said Commissioners acting under the New Ross Act shall proceed to fill up such vacancy or vacancies by the appointment of another member or members of the New Ross Commissioners to serve for such portion of the original term of two years as shall be unexpired at the time of such vacancy: Provided always, that any Commissioner so to be appointed shall vacate such office on his ceasing to be a Commissioner acting under the New Ross Act.

Local Act.

4. Subject to the provisions of this Order, the same shall be read and construed as part of the Local Act, and as if that Act and this Order were one Act.

8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. incorporated.

5. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," except so much thereof respectively as relates to the purchase and taking of lands otherwise than by agreement, are (except where expressly varied by this Order) incorporated with this Order.

Incorporation of parts of "Commissioners Clauses Act."

6. The clauses of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the Commissioners, so far as the same are not inconsistent with the provisions of this Order, and with the exception of

section eighty-five of the said Act, shall be incorporated with this Order, and shall apply to the money to be borrowed and the mortgages to be granted by the Commissioners under the authority of this Order.

Interpretation.

7. In this Order the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated with this Order shall have the same respective meanings, and in the said Acts as incorporated with this Order the expression "the special Act" shall be this Order; and the expression "the harbour, dock, or pier" shall mean and include the channel or cut and works to be constructed under this Order.

Byelaws to remain in force *till altered*.

8. The byelaws, rules, and regulations made by the Commissioners acting under the Local Act with reference to the port and harbour of Waterford which are now in force shall, until altered or recalled by such last-mentioned Commissioners, continue in force and be applicable to the works authorised by this Order.

Power to execute works.

9. Subject to the provisions of this Order, and subject also to such alterations (if any) in the plans and sections deposited with reference to this Order as the Board of Trade require from time to time before the completion of the works in order to prevent injury to navigation, the Commissioners may, on the sites designated by this Order and in the lines and situation and according to the levels and within the limits of deviation shown upon the deposited plans, execute and maintain the works authorised by this Order, with such alterations and additions (if any) thereto as the Board of Trade may from time to time consent to for the benefit of navigation.

Description of works.

10. The works authorised by this Order comprise the following:

A channel or cut, about eight thousand four hundred feet in length by about six hundred feet in width, commencing at a point about midway between the eastern and western shores of Waterford Harbour, and about fifteen hundred yards south of the fort and lower lighthouse at Duncannon, running or extending therefrom in a southerly direction for a distance of two thousand eight hundred yards or thereabouts, and terminating at a point distant about eleven hundred yards in a north-easterly direction from the eastern extremity of the promontory known as Credan or Creadan Head.

Power to deviate.

11. The Commissioners may deviate laterally from the lines of the works by this Order authorised to the extent marked on the plans deposited for the purposes of this Order, and may deviate vertically from the levels defined on the sections deposited for the purposes of this Order to any extent not exceeding six feet.

Further powers as to works.

12. The Commissioners may also lay down, erect, execute, or maintain all buoys, moorings, lights, beacons, and other works and conveniences which from time to time they may think necessary for effectuating any of the purposes of this Order, and may do any of the works authorised by this Order, either by themselves, their servants, or by others, and generally make such arrangements as may appear to them desirable for carrying out the said works.

Deposit of materials taken from cut or channel.

13. The Commissioners may carry to and deposit the materials dredged or taken out of the said cut or channel at any place within the limits of the said

A.D. 1872.

Waterford.

port and harbour, either above or below low-water mark, as may previously be approved of by the Board of Trade.

Period for completion of works.

14. The works authorised by this Order shall be completed within eight years from the date of the passing of the Act confirming this Order.

Low light-house to be removed.

15. With the consent of the Commissioners of Irish Lights, the Commissioners shall at their own expense, and without any cost to the Mercantile Marine Fund, remove the Low Lighthouse and Light Keeper's Store in Duncannon Fort Yard to and re-erect the same on another site within the Fort Yard twenty yards or thereabouts to the eastward of the present site, the precise position of which other site shall be determined by the Commissioners of Irish Lights; and the cost of any new quarters, or any other expense which the War Department incur by reason of the change of site of the Low Lighthouse, shall be paid by the Commissioners to the War Department, and may be recovered from the Commissioners as a debt due to the Crown.

Power to levy new rates.

16. Subject to the exemption from rates specified in the schedule to this Order, which exemption is allowed by reason that rates and dues of the same amount are (contrary to the custom in many other ports) now levied in the ports of Waterford and New Ross on all vessels alike whether bound to or from ports of foreign countries or plying between home ports only, and subject also to the provisions of this Order, the Commissioners may demand, receive, or recover, in addition to the tolls and rates by the Local Act and by "The Waterford Harbour (Dry Dock) Act, 1868," respectively authorised to be levied, any sums not exceeding the rates specified in the schedule to this Order: Provided that when and so soon as the works hereby authorised shall have been completed, and the money to be borrowed hereunder shall have been repaid, then the powers hereby conferred of levying rates shall cease and determine so far as the same relate to vessels plying to or from the port of New Ross.

Equality of rates on the same description of vessel.

17. Provided also, that the rates levied by the Commissioners under this Order shall at all times be charged equally on vessels plying to or from the ports of Waterford and New Ross respectively with respect to the same description of vessel.

Commencement of rates in certain events.

18. Provided also, that until the channel or cut authorised by this Order is made or dredged throughout its whole length and width to the depth of eighteen feet below low water of ordinary spring tides, the Commissioners shall not demand, receive, or recover any sums exceeding one half of the several rates specified in the said schedule hereto.

A certificate signed by the chairman of quarter sessions for the county of Waterford that the said channel or cut has been so made or dredged to the depth of eighteen feet below low water of ordinary spring tides (which certificate he shall sign and give on being satisfied in this behalf), shall be conclusive evidence of the fact stated in such certificate.

Certain fishing vessels under stress of weather exempt from rates.

19. Fishing vessels belonging to countries with which for the time being treaties exist exempting from duties and port charges such vessels when forced by stress of weather to seek shelter in the ports or on the coasts of the United Kingdom, shall, when forced by stress of weather to make use of the harbour, and not breaking bulk while making use thereof, be exempt from rates leviable under this Order.

A.D. 1872.

Waterford.

Power to borrow money.

20. In addition to any sum which the Commissioners acting under the Local Act have borrowed or have power to borrow on the security of the revenues of the harbour of Waterford, the Commissioners may from time to time borrow on mortgage at interest such further sums as may be required for carrying into effect the purposes of this Order, not exceeding in the whole the sum of seventy-four thousand pounds, on security of the rates authorised by this Order, other than the proportion of the rates by this Order directed to be paid to the Commissioners acting under the New Ross Act, and the rates, duties, and customs now leviable by the Commissioners acting under the Local Act, or any other property of the said last-mentioned Commissioners.

Existing securities to have priority.

21. Every security made for money borrowed by the Commissioners acting under the Local Act before the passing of the Act confirming this Order shall have priority over every security made for money borrowed under this Order.

Application of money borrowed.

22. Every part of the money borrowed by the Commissioners under this Order shall be applied only for the purposes authorised by this Order.

Power to re-borrow.

23. The Commissioners may from time to time re-borrow any amount from time to time repaid or about to be repaid by them, unless it be paid by means of the sinking fund, in which case, and to the extent of the amount paid off by means of such sinking fund, their powers of borrowing and re-borrowing shall cease.

For appointment of a receiver.

24. The mortgagees of the Commissioners may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver, and in order to authorise the appointment of a receiver in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than seven thousand four hundred pounds in the whole.

Application of rates.

25. The Commissioners shall apply all the rates received under this Order (subject to the proviso contained in the sixteenth section hereof) for the purposes and in the order following, and not otherwise; (that is to say,)

1. In paying the costs of and connected with the applying for, obtaining, and making of this Order, and otherwise in relation thereto, as herein-after provided:
2. In paying on the first day of January in each year to the Commissioners acting under the New Ross Act one half of the rates levied by the Commissioners under this Order on vessels plying to or from the port of New Ross:
3. In paying year by year the interest accruing on money borrowed under this Order:
4. In paying the cost of the construction and maintenance of the works authorised by this Order, and the salaries and expenses authorised by this Order:
5. In payment of principal money borrowed, or in creating a sinking fund for that purpose, in the manner, and, so far as the nature and circumstances of the case will admit, in the proportion specified by the Commissioners Clauses Act, 1847.

A.D. 1872.

Waterford. Commissioners of New Ross Harbour to apply rates towards purposes of New Ross Act.

26. The Commissioners acting under the New Ross Act shall apply the rates received by them under this Order from the Commissioners towards the purposes to which the rates and moneys authorised by the New Ross Act are made applicable and to no other purpose, and the said rates shall be held and disposed of in all respects by the Commissioners acting under the New Ross Act as if the said rates had been authorised to be levied by them under the said Act.

Rates may be revised from time to time.

27. The Commissioners shall keep separate accounts of the rates and moneys received by them and of their expenditure under this Order, and shall from time to time revise the rates receivable under this Order, so that the total produce of the rates received by the Commissioners under this Order may always be, as far as practicable, sufficient and not more than sufficient to meet the expenditure directed or authorised by this Order.

Appointment of officers, &c. for purposes of Order.

28. The Commissioners shall be at liberty from time to time to appoint, remove, and re-appoint a secretary, collectors, an engineer, and other officers for the purposes authorised by this Order, and to pay such salaries as they may deem reasonable out of the rates received under this Order, but so that the total amount of such salaries shall not exceed the sum of five hundred pounds per annum.

Commissioners may provide engines, lighters, &c.

29. The Commissioners may, for the purposes of the works authorised by this Order, from time to time purchase, lease, provide, or hire such steam or other dredgers, steam or other engines, steam tugs, steam or other vessels, diving bells, ballast lighters, rubbish lighters, tools, plant, or other materials as they think fit, and may from time to time as they think fit sell and dispose of any such dredgers, engines, tugs, vessels, diving bells, lighters, tools, plant, and materials as aforesaid, and shall apply the money thereby realised for carrying into effect the purposes of this Order.

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

30. The following sections of "The Harbours, Docks, and Piers Clauses Act, 1847," shall not be incorporated with this Order; (that is to say,) sections sixteen to nineteen, twenty-five to twenty-seven, thirty-four to forty-five, forty-seven, forty-eight, fifty-one to seventy-six, seventy-nine to ninety, and ninety-two to ninety-six, all inclusive.

Powers to cease in certain events.

31. In the following cases; (that is to say,)

(1.) If within two years from the date of the passing of the Act confirming this Order the works authorised by this Order should not be substantially commenced; or

(2.) If such works, after having been commenced, should be virtually suspended for twelve consecutive calendar months;

the powers by this Order given for executing such works, or otherwise in relation thereto, shall cease to be exercised, except as to so much of such works as shall be then completed, unless the time for completion shall be extended by the special direction of the Board of Trade.

A certificate from the Board of Trade to the effect that the works have not been substantially commenced, or that they have been virtually suspended for twelve consecutive calendar months, shall, for the purposes of this Order, be conclusive evidence of the fact stated in such certificate.

A.D. 1872.

Waterford.

Saving existing powers of Commissioners.

32. Save as herein otherwise expressed, nothing in this Order shall be construed to repeal, lessen, or interfere with any of the powers, provisions, authorities, or restrictions of the Local Act, "The Waterford Harbour (Dry Dock) Act, 1868," or of the New Ross Act.

Saving rights under "Crown Lands Act, 1866."

33. This Order shall not be taken as a consent to the surrender of any rights, interests, powers, authorities, or privileges transferred to the management of the Board of Trade by "The Crown Lands Act, 1866," nor shall any works under this Order be commenced within limits affected by any such rights, interests, powers, authorities, or privileges without the assent of the Board of Trade having been first obtained.

Expenses of Order.

34. All costs, charges, and expenses incurred by the Commissioners acting under the Local Act of and incidental to the obtaining this Order, and otherwise in relation thereto, shall be paid by the Commissioners, and a sum of three hundred pounds in payment of the costs, charges, and expenses incurred in relation to this Order by the Commissioners acting under the New Ross Act shall be paid to such last-mentioned Commissioners by the Commissioners.

Short title.

35. This Order may be cited as "The Waterford Harbour Order, 1872."

SCHEDULE to which the foregoing Order refers.

(1.) For and upon every ton of the admeasurement of every vessel exceeding 250 tons and not exceeding 400 tons burden landing or receiving cargo at or above Duncannon, a rate or sum - - - - -	Not exceeding sixpence per ton.
(2.) For and upon every ton of admeasurement of every vessel exceeding 400 tons burden landing or receiving cargo at or above Duncannon, a rate or sum	Not exceeding ninepence per ton.
(3.) For and upon every ton of the admeasurement of every vessel exceeding 250 tons burden entering the harbour of Waterford for the purpose of seeking refuge therein and not landing or receiving cargo, a rate or sum - - - - - -	Not exceeding threepence per ton.
(4.) For and upon every ton of the admeasurement of every vessel exceeding 250 tons burden entering the harbour of Waterford for orders, or landing or receiving mails or passengers at the port of Waterford, provided such vessels do not land or receive cargo, a rate or sum - - - - - -	Not exceeding three halfpence per ton.

All vessels bound only from any one port to any other port of the United Kingdom, the Channel Islands, or the Isle of Man, shall be exempt from payment of the rates specified in this schedule.

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