CHAPTER lxxxiii.

An Act to enable the Mayor Aldermen and Burgesses of the Borough of Preston to borrow additional Moneys for the purposes of the Ribble Navigation and Preston Dock Undertaking and for other purposes. [26th July 1889.] A.D. 1889.

WHEREAS by the local and personal Act 1 Vict. cap. viii. the Ribble Navigation Company were incorporated for the purpose of improving the River Ribble and the navigation thereof: 1 Vict. c. viii.

And whereas by the Ribble Navigation Act 1853 (in this Act called "the Act of 1853") the before-recited Act was repealed and the said company were re-incorporated and (among other things) authorised to make certain guide or training walls and to dredge deepen cut straighten and improve the said River Ribble between the North Union Railway Bridge and the sea: 16 & 17 Vict. c. clxxvi.

And whereas by the Ribble Navigation and Preston Dock Act 1883 (in this Act called "the Act of 1883") the mayor aldermen and burgesses of the borough of Preston (in this Act called "the Corporation") were authorised to acquire the undertaking of the Ribble Navigation Company (in this Act referred to as "the Ribble Undertaking") and to raise the existing training walls of the River Ribble and to continue them seaward and to divert the portion of that river which lies between the boundary between the townships of Howick and Penwortham in the parish of Penwortham and the south end of the Victoria Quay in the said borough and also to construct a wet dock about thirty acres in extent with entrance lock graving docks and various other adjunct works and so much of the River Ribble and any diversion thereof under the powers of that Act as lay between the North Union Railway Bridge across the said river and the sea together with the said dock and works were constituted the port and harbour of Preston and the Corporation were constituted the port and harbour authority thereof and were authorised to demand and take certain tolls and rates on vessels using the 46 & 47 Vict. c. cxv.

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said harbour and dock respectively and certain wharfage rates for the use of the dock or quays of the Corporation:

And whereas the Corporation acquired the said undertaking and constructed the said diversion of the said river but in an altered position and opened the same for public use:

And whereas the Corporation also proceeded in the construction of the said dock and certain of the adjunct works but enlarged in area and altered in position and design:

51 & 52 Vict. c. clxxiii.

And whereas by the Ribble Navigation &c. Act 1888 (in this Act called "the Act of 1888") the said diversion so constructed and the said dock and adjunct works so enlarged and altered were sanctioned and confirmed and were for all purposes substituted for the diversion and dock respectively authorised by the Act of 1883:

And whereas doubts have arisen as to the expediency of authorising the Corporation to borrow large additional sums of money for the purposes of the Act of 1853 the Act of 1883 and the Act of 1888 or any of those Acts until a commission to be appointed as herein-after provided has made a report to the Board of Trade:

And whereas it is expedient that further limited powers should be conferred on the Corporation for the borrowing of money for certain of the purposes of the Act of 1853 the Act of 1883 and the Act of 1888:

And whereas by the Act of 1883 the Corporation were authorised to exercise their statutory borrowing powers for the time being by means of the creation and issue of Corporation stock:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

And whereas an absolute majority of the whole number of the council at a meeting held on the nineteenth day of October one thousand eight hundred and eighty-eight after ten clear days notice by public advertisement of such meeting and of the purpose thereof in the Preston Guardian a newspaper published and circulating in the borough (such notice being in addition to the ordinary notices required for summoning such meeting) resolved that the expense in relation to promoting the Bill for this Act should be charged on the harbour revenue and on the borough fund and borough rate of the borough:

And whereas such resolution was published twice in the Preston Chronicle a newspaper published and circulating in the borough and has received the approval of one of Her Majesty's Principal Secretaries of State:

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of

the council at a further special meeting held in pursuance of a similar notice on the thirty-first day of January one thousand eight hundred and eighty-nine being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas the owners and ratepayers of the borough by resolution in the manner provided in the Third Schedule of the Public Health Act 1875 consented to the promotion of the Bill for this Act:

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 Ribble Navigation Act 1889 and this Act and the Act of 1853 the Act of 1883 and the Act of 1888 may be cited together as the Ribble Navigation Acts 1853 to 1889.

Incorporation of Acts.

2. The provisions of the Commissioners Clauses Act 1847 with respect to the mortgages to be executed by the commissioners (except sections 80 and 84) so far as the same are applicable for the purposes of and not varied by or inconsistent with this Act are incorporated with and form part of this Act.

Interpretation.

3. In this Act unless the subject or context otherwise requires—

"The borough" means the municipal borough as for the time being existing;

"The Corporation" means the mayor aldermen and burgesses of the borough whether acting under the provisions of the Municipal Corporations Acts or in the execution of the Acts relating to the port and harbour of Preston;

"The council" means the council of the borough;

"The town clerk" means the town clerk of the borough;

"The borough fund" and "the borough rate" mean respectively the borough fund and the borough rate of the borough;

"Harbour revenue" means and includes all moneys other than borrowed moneys and other moneys in the nature of capital payable to the Corporation by virtue of the North Union and Ribble Navigation Branch Railway Act 1845 the Act of 1853 the Act of 1883 the Act of 1888 or this Act;

"The Municipal Corporations Acts" means the Municipal Corporations Act 1882 and any Act from time to time amending the same;

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"The Ribble Navigation Acts" means and includes the Act of 1853 the Act of 1883 the Act of 1888 and this Act:

Terms to which meanings are assigned in enactments incorporated with this Act or which have therein special meanings have in this Act the same respective meanings unless there be something in the subject or context repugnant to such construction:

For the purposes of this Act in the provisions of the Commissioners Clauses Act 1847 incorporated with this Act—

"The commissioners" and "the clerk to the commissioners" mean respectively the Corporation and the town clerk.

Execution of Act by Corporation.

4. Subject to the provisions of this Act this Act shall be carried into execution by the Corporation acting by the council.

Appointment of a commission.

5. The Corporation shall forthwith apply to the Board of Trade to appoint and that Board are hereby empowered thereupon to appoint a commission to inquire and report to the Board of Trade in the manner and to the extent following (that is to say):—

1. As to the practicability and probable cost of providing a navigable waterway between Preston and the open sea either in accordance with the plans authorised by the Ribble Navigation Acts or any of them or in accordance with any other plans which the commission may think fit to suggest;
2. As to maintaining and completing the existing training walls;
3. As to the dredging;
4. As to the course to be followed with regard to the dock and the equipment thereof;

and as to what under the circumstances now existing should be done in reference to the matters aforesaid and likewise to report to the Board of Trade as to the authority to which the control over the works authorised by the Ribble Navigation Acts for the purposes of the waterway and docks is for the future to be entrusted.

The commission shall hold this inquiry as soon as is practicable after their appointment at such time or times and place or places as they shall determine.

The Corporation shall afford the commission all such facilities as may be requisite to enable them to visit and inspect the works of the Corporation for the purpose of such inquiry and report and the Corporation and all persons required by the commission shall respectively produce all such documents reports contracts plans sections specifications drawings and papers and give all such information called for as may be in their possession or under their control.

The commission shall if possible complete their inquiry and make their report in writing to the Board of Trade on the several matters into which they are directed to inquire as aforesaid not later than the fifteenth day of September one thousand eight hundred and eighty-nine.

The commission shall have power to make one or more interim reports if they think fit The Board of Trade may require the Corporation to deposit with them such a sum of money as the Board think fit for or towards the costs of the inquiry.

A copy of such report or reports shall on receipt thereof be forwarded to the Corporation and as soon as reasonably possible after receipt thereof by the Corporation a printed copy of such report or reports shall be furnished by the Corporation to every owner and ratepayer of the borough who shall apply for the same at the town clerk's office within two months from the date of such receipt by the Corporation on payment by the applicant of a reasonable sum therefor to be ascertained and fixed (if need be) by the Board of Trade.

The costs charges and expenses of and incident to the inquiry and the report or reports shall be paid by the Corporation out of moneys to be borrowed under the powers of this Act.

Power to borrow.

6. The Corporation may from time to time in addition to any moneys they are now authorised to borrow or which they may be authorised to borrow under the provisions of any other Act borrow at interest on the security of the harbour revenue the borough fund and borough rate and for the following purposes the following sums (that is to say) :—

For the purpose of paying the costs of this Act as herein-after defined the sums requisite for that purpose;

For the purpose of defraying the costs of and incident to the inquiry such a sum of money as the Board of Trade may sanction;

For the purposes of the Ribble Navigation Acts the sum of thirty thousand pounds; and

For the payment of interest at a rate not exceeding four pounds per centum per annum on moneys borrowed under the powers of this Act for the purposes of the Ribble Navigation Acts until the expiration of five years from the passing of this Act such further sums as shall be requisite for that purpose :

And in calculating the sum the Corporation may borrow under any other enactment any sums they may borrow under this Act shall not be reckoned and the powers of the Corporation as to borrowing and re-borrowing shall not be restricted by any of the provisions of

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the Municipal Corporations Acts or of the Public Health Act 1875 or of the Local Government Act 1888.

Power to re-borrow.

7. If the Corporation pay off any part of any money borrowed by them under the powers of this Act otherwise than by instalments or by means of a sinking fund or out of the proceeds of the sale exchange or disposition of lands or out of fines or premiums on leases or other moneys received on capital account they may re-borrow the same and so from time to time Provided that all moneys so re-borrowed shall be repaid within the period prescribed for the repayment of the moneys in lieu of which such re-borrowing shall have been made and any amounts from time to time re-borrowed shall be deemed to form the same loan as the moneys in lieu of which such re-borrowing shall have been made and the obligations of the Corporation with respect to the repayment of such moneys shall not be in any way affected by such re-borrowing.

Sinking funds may be adjusted in certain events.

8. If the Corporation out of the proceeds of the sale or disposition of lands or other moneys received on capital account repay any principal moneys borrowed under the powers of this Act the payments to any sinking fund applicable to the repayment of such principal moneys may be reduced to such extent and upon such terms as may from time to time be approved by the Local Government Board.

Application of moneys borrowed.

9. All moneys borrowed by the Corporation under this Act shall be applied to the several purposes of this Act in respect of which the same were respectively borrowed and to which capital is properly applicable and to no other purpose.

Certain provisions of Act of 1883 incorporated.

10. The following sections and part of the Act of 1883 (that is to say) :—

Section 117 (Repayment of borrowed moneys);
Section 118 (As to sinking funds);
Section 120 (Priority of existing mortgages);
Section 122 (Corporation not to regard trusts);
Section 123 (Power to borrow under Local Loans Act 1875);
Section 124 (Annual return to Local Government Board with respect to sinking fund);
Section 126 (Expenses of execution of Act);
Section 127 (As to rating of Lancaster Canal Navigation);
Section 128 (Corporation to keep separate accounts); and
Part X.—Corporation stock;

shall so far as they are applicable extend and apply mutatis mutandis to and in relation to the money borrowed under and the expenses of executing this Act:

Provided as follows:—

(1.) The Corporation shall repay moneys borrowed under the powers of this Act for the purpose of paying the costs of this Act within any period not exceeding ten years from the date of the borrowing of the same respectively;

(2.) The first payment by instalments or to a sinking fund shall be made within twelve months after the date of the borrowing of the money in respect of which such payment is to be made;

(3.) The sums to be annually appropriated and set apart to any sinking fund shall be equal throughout the whole period allowed for repayment;

(4.) The Corporation shall not create or issue any irredeemable stock;

(5.) The Corporation shall not invest any sinking fund created under this Act in any statutory security of the Corporation.

For appointment of a receiver.

11. Section 49 (for appointment of a receiver) of the Act of 1888 is hereby repealed but without prejudice to any appointment made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act and in lieu thereof the mortgagees of the Corporation under the Act of 1883 or the Act of 1888 or this Act may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall be not less than five thousand pounds in the whole.

Composition for stamp duty.

12. Subject to the provisions of the Customs and Inland Revenue Act 1887 the Corporation may agree with the Commissioners of Inland Revenue for payment to them of composition for the stamp duty on transfers of stock issued under the powers of this Act.

As to application of harbour revenue.

13. Before applying the harbour revenue in making any repayment to the borough fund or any payment to the reserve fund as permitted by section 125 (application of harbour revenue) of the Act of 1883 the Corporation shall pay the interest on moneys borrowed by them under and provide the requisite instalments and sinking fund prescribed by the Act of 1888 and this Act and the said section 125 shall be read and construed accordingly.

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Costs of Act.

14. All the costs charges and expenses preliminary to and of and incident to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto (including the costs of certain owners lessees and occupiers of lands buildings and other property and of certain ratepayers of the borough of and incidental to their opposition in Parliament to the Bill for this Act) as taxed by the taxing officer of the House of Lords shall be paid by the Corporation out of the harbour revenue borough fund and borough rate or out of money to be borrowed for the purpose under the powers of this Act.

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