CHAPTER lxxxi.

An Act for enlarging the powers of the Southampton Harbour and Pier Board with reference to the borrowing of Money; and for other purposes. [12th July 1877.]

A.D. 1877.

WHEREAS by "The Southampton Harbour Act, 1863," (herein-after referred to as "the Act of 1863,") the then existing Acts relating to the port and harbour of the town and county of Southampton and to the Southampton Pier (therein and herein-after respectively referred to as "the Port Acts" and "the Pier Acts") were, with certain exceptions, repealed, and the provisions thereof consolidated and re-enacted, and a new body of commissioners was constituted for the future management of the said port and harbour and pier by the name of "The Southampton Harbour and Pier Board" (herein-after referred to as "the Board"):

26 & 27 Vict. c. cxix.

And whereas by the Act of 1863 the Board were empowered to borrow any sum or sums of money not exceeding fifteen thousand pounds, in addition to the sums of thirteen thousand three hundred and twelve pounds four shillings and one penny and fourteen thousand four hundred pounds, which had been previously borrowed under the authority of the Port Acts and Pier Acts respectively, and were then due and owing:

And whereas the Board have, under the authority of the Act of 1863, and to meet the requirements of the trade at the said port and harbour and pier, constructed a new pontoon and additional quay and warehouse accommodation and other works, and have borrowed for those purposes nearly the whole of the said sum of fifteen thousand pounds, and have also expended for the same purposes out of revenue sums amounting in the whole to seventeen thousand four hundred pounds:

And whereas it is expedient that such expenditure out of revenue should be sanctioned and confirmed, and that the Board should be empowered to borrow further moneys as herein-after authorised:

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And whereas it is expedient that the name of the Board should be changed, and that they should be empowered to use a corporate seal and to appoint a deputy chairman:

And whereas the purposes aforesaid 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 for all purposes as "The Southampton Harbour Act, 1877," and this Act and the Act of 1863 shall be construed together as one Act: Provided always, that wherever the provisions of this Act are inconsistent with the provisions of the Act of 1863 the provisions of this Act shall prevail, and the Act of 1863 and this Act may be cited together as "The Southampton Harbour Acts, 1863 and 1877."

Part IV. of 26 & 27 Vict. c. 118. incorporated.

2. Part IV. (relating to change of name) of "The Companies Clauses Act, 1863," is incorporated with and forms part of this Act: Provided always, that in construing the said part for the purposes of this Act, the expression "the Company" used therein shall mean the Board.

Board to have a common seal under a new name.

3. From and after the passing of this Act the name of the Board shall be "The Southampton Harbour Board," and under that name the Board shall, for the purposes of the Act of 1863 and this Act, be a body corporate, with perpetual succession and a common seal, and shall sue and be sued, and have power to take and hold lands by agreement.

Election of deputy chairman.

4. At any meeting of the Board after the passing of this Act they may, by the majority of the votes of the members of the Board then present, elect one of their body to be their deputy chairman until the next annual meeting of the Board, when and at every subsequent annual meeting the Board shall in like manner elect a deputy chairman for the ensuing year; and in case the deputy chairman die or resign, or cease to be a member of the Board, or otherwise become disqualified to act as such, the Board present at the meeting next after the occurrence of such vacancy shall choose some other of their body to fill such vacancy, and the deputy chairman so elected shall continue in office so long only as the person in whose place he was elected would have been entitled to continue deputy chairman, and the deputy chairman shall be the chairman at any meeting of the commissioners at which the chairman is not present: Provided that if neither the chairman nor the deputy chairman is

present at any meeting, one of the members of the Board present at such meeting shall be elected chairman of such meeting by the majority of the votes of the members present at such meeting.

Confirming past expenditure out of revenue.

5. The moneys expended by the Board out of revenue in the construction of works or in the providing of additional accommodation at the port and harbour or pier, or otherwise for the benefit of the trade at the said port and harbour and pier, not exceeding in the whole seventeen thousand four hundred pounds, shall be deemed to have been legally expended, anything in the Act of 1863 to the contrary notwithstanding.

Power to borrow on mortgage.

6. The Board may from time to time borrow on mortgage, in addition to any sums which may at the passing of this Act be owing by them on mortgage or bond, or which they may by the Act of 1863 be authorised to borrow, any sum or sums not exceeding in the whole the sum of thirty thousand pounds, for the purpose of constructing such works and conveniences for the accommodation of the trade at the port and harbour and pier as they shall think proper and as authorised by the Act of 1863.

Arrears may be enforced by appointment of a receiver.

7. Section fifty-two of the Act of 1863, with respect to the appointment of a receiver for enforcing payment by the Board of arrears of principal money or interest, shall be and the same is hereby repealed, but without prejudice to any appointment which may have been made, or to the continuance of any proceedings which may have been commenced, prior to the passing of this Act under that section.

The mortgagees of the Board 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 arrears of principal, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than five thousand pounds in the whole.

Existing mortgages or bonds to have priority.

8. All mortgages or bonds granted by or to be granted under the authority of the Port Acts or the Pier Acts, or any of them, or the Act of 1863, shall, during the continuance thereof, and subject to the provisions of the Act under which such mortgages or bonds were respectively granted, have priority over any mortgages granted by virtue of this Act.

Application of moneys borrowed.

9. All moneys borrowed under this Act shall be applied to the general purposes of the Board as authorised by the Act of 1863 and this Act, and to no other purpose.

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Extending section 49 of Act of 1863 to mortgages granted under this Act.

10. Section forty-nine of the Act of 1863 shall be read and construed as if the application of the revenues of the Board fourthly thereby prescribed had included the payment of interest on any mortgages granted under the authority of this Act.

Provisions for enabling the Board to have only one mortgage debt.

11. Section forty-eight of the Act of 1863 (power to exchange existing bonds for securities of the Board) is hereby repealed, and for the purpose of enabling the Board to simplify their accounts by having only one mortgage debt, and for making better provision for the repayment of such debt, the Board may pay off any mortgage, bond, or other security given or granted either by the Harbour Commissioners or by the Pier Commissioners referred to in the said Act, or any mortgage, bond, or other security granted or issued by the Board under the authority of the same Act, as and when the same become due; or they may from time to time agree with the holder of any of the before-mentioned mortgages, bonds, or other securities for the surrender and exchange of the same for a mortgage or mortgages under this Act, so that the amount to be paid for, or, as the case may be, the mortgage to be granted, under this Act in exchange for any such mortgage, bond, or other security shall not be or secure a greater amount than the nominal value of the mortgage, bond, or other security paid off or surrendered, and so that no mortgage granted under this Act shall secure interest at a greater rate than that secured by the mortgage, bond, or other security in exchange for which the same is granted; and the Board may for the purposes of this section raise money on mortgage or grant and issue new mortgages to such an amount as may be necessary, not exceeding in the aggregate, in addition to the other money by this Act authorised to be borrowed, the amount of the mortgages, bonds, and securities by this section authorised to be paid off or surrendered and exchanged: Provided always, that the payment off or exchange under the authority of this section of any mortgage, bond, or other security given or granted by the Pier Commissioners, or by the Board, in exchange therefor shall not be deemed or construed to be a payment or discharge of such mortgage, bond, or other security within the meaning of section thirty-eight of the Act of 1863.

Certain provisions of section 49 of Act of 1863 to cease when harbour and pier debts paid

12. The provisions contained in section forty-nine of the Act of 1863 with respect to the application of the revenues of the Board fifthly, sixthly, and lastly thereby prescribed shall cease to have any operation as regards any mortgages, bonds, or other securities paid off or exchanged under the last preceding section of this Act: Provided always, that when and so soon as, either under the pro-

visions of the said section forty-nine or by means of the yearly or half-yearly instalments, or the sinking fund herein-after provided for, the Board shall have paid off the sum of twenty-seven thousand seven hundred and twelve pounds four shillings and one penny, all sums borrowed under the authority of the Port Acts and the Pier Act, and due and owing at the time of the passing of the Act of 1863, shall be deemed to be paid off and extinguished.

off or exchanged.

13. All moneys borrowed under this Act (including all moneys secured by mortgages granted under this Act in exchange for existing mortgages, bonds, or other securities) may be borrowed for any term not exceeding sixty years, and such moneys may be repaid by equal yearly or half-yearly instalments, or by means of a sinking fund; and for providing such sinking fund the Board shall set apart annually out of revenue such sum as shall, in the judgment of the Board of Trade, be necessary; and such sum shall be deemed to be the prescribed sum referred to in section eighty-four of the Commissioners Clauses Act, 1847.

Money borrowed may be repaid by instalments.

14. The clerk to the Board shall, within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund under this Act, transmit to the Board of Trade a return in such form as may be prescribed by that Board, and verified by 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 has 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, such clerk shall be liable to a penalty not exceeding twenty pounds. If it appear to the Board of Trade by such return, or otherwise, that the Board have failed to set apart the sum required by this Act for the sinking fund, or have applied any portion of the moneys set apart for that fund to any purposes other than those authorised by this Act, the Board of Trade may, by order, direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund, and such order shall be enforceable by writ of Mandamus, to be obtained by the Board of Trade out of the Queen's Bench Division of the High Court of Justice.

Annual return to Board of Trade with respect to sinking fund.

15. Nothing in this Act contained shall exempt the Board or the port and harbour or pier from the provisions of any present

Reservation of general Acts.

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or future general Act relating to harbours, docks, or piers, or to dues on shipping or on goods carried in ships, or to pilotage, or to lights, buoys, and beacons, or to the powers and privileges of the general lighthouse authorities, or from the future revision and alteration by Parliament of the rates and dues authorised by this Act.

Expenses of Act.

16. The Board, out of any moneys for the time being in their hands, shall pay and discharge all costs, charges, and expenses incurred in applying for, obtaining, and passing this Act.

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