



CHAPTER cliii.

An Act to amend the Maryport Improvement and Harbour Act, 1866, the Maryport District and Harbour Act, 1868, the Maryport District and Harbour (Gas) Act, 1877, to empower the Trustees to establish and maintain Markets; and for other purposes. A.D. 1878.
[4th July 1878.]

WHEREAS by the Maryport Improvement and Harbour Act, 1866, (in this Act called the "Act of 1866,") the Maryport District and Harbour Act, 1868, (in this Act called the "Act of 1868,") and the Maryport District and Harbour (Gas) Act, 1877, (in this Act called the "Act of 1877,") certain powers were conferred on the Trustees acting in execution of the herein-before recited Acts (in this Act called the "Trustees"), having reference, amongst other things, to the lighting, watching, cleansing, and sanitary improvement of the district under the control of the Trustees, and the Trustees were empowered to borrow money and to levy rates in accordance with the provisions of the said Acts for the purpose of carrying the said Acts into execution:

29 & 30 Vict.
c. cexlv.
31 & 32 Vict.
c. lxx.
40 & 41 Vict.
c. xxxviii.

And whereas it is expedient to empower the Trustees to provide and regulate markets and fairs, and for such purpose to acquire lands, easements, franchises, rights, and privileges, and to raise moneys by borrowing and by rates in the manner and subject to the conditions by this Act prescribed:

And whereas it is expedient to increase the borrowing powers of the Trustees with respect to the general improvement of the streets in the district:

And whereas it is expedient to amend the recited Acts as to the several matters aforesaid, and as to the making of rates, the price to be charged for gas, and other matters relating to the due execution of the said Acts, and that for such purposes provisions should be made such as are in this Act contained:

And whereas the Trustees have caused estimates to be prepared of the moneys which they will require with respect to the said

A.D. 1878. markets and fairs, and with respect to the general improvement of
38 & 39 Vict. streets, and such estimates amount to the sum of twenty thousand
c. 55. pounds in each case :

And whereas the said works included in such estimates are permanent works within the meaning of the two hundred and thirty-fourth section of the Public Health Act, 1875, and it is expedient that the Trustees should be authorised to borrow money for the purposes of the same in the manner by this Act provided :

And whereas an absolute majority of the whole number of the Trustees at a meeting held on the thirteenth day of November one thousand eight hundred and seventy-seven, after ten clear days notice by public advertisement of such meeting and of the purposes thereof in the *Maryport Advertiser*, a newspaper circulating in the district (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 district fund and district rate :

And whereas such resolution was published twice in the *Maryport Advertiser*, a newspaper circulating in the said district, and, in respect of matters under the jurisdiction of the Local Government Board, has received the approval of that Board :

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 Trustees at a further special meeting held in pursuance of a similar notice on the eighth day of January one thousand eight hundred and seventy-eight, being not less than fourteen days after the deposit of the Bill in Parliament :

38 & 39 Vict. And whereas the owners and ratepayers of the said district by
c. 55. resolution in the manner provided by Schedule III. annexed to the Public Health Act, 1875, with respect to resolutions of owners and ratepayers under that Act, have consented to the promotion of the Bill for this Act :

And whereas plans showing the lands required or which may be taken for the purposes and under the powers of this Act, and books of reference to these plans containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of these lands, were duly deposited with the clerk of the peace for the county of Cumberland, and are herein-after referred to as "the deposited plans and books 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,

[41 & 42 VICT.] *Maryport Improvement Act*, 1878. [Ch. cliii.]

and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,) A.D. 1878.

1. This Act may be cited for all purposes as the Maryport Improvement Act, 1878, and the Act of 1866, the Act of 1868, the Act of 1877, and this Act may be cited together for all purposes as the Maryport Improvement Acts, 1866 to 1878. Short title.

2. The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, and the Markets and Fairs Clauses Act, 1847, except where expressly varied by this Act, are incorporated with and shall form part of this Act. Incorporation of general Acts. 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. 32 & 33 Vict. c. 18. 10 & 11 Vict. c. 14.

3. The Act of 1866, the Act of 1868, and the Act of 1877, as respectively amended by any subsequent Act and by this Act, and this Act shall be construed together as one Act. Construction of Acts.

4. The following expressions in the Act of 1877 and in this Act shall be interpreted as having in the Act of 1877 and in this Act the several meanings hereby assigned to them respectively; (that is to say,) Interpretation of terms.

The expression "district" shall mean the district described in the Act of 1868 :

The expressions "district fund" and "district rate" shall mean respectively the district fund and district rate for the district.

Terms to which meanings are assigned in enactments wholly or partially 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; and in this Act and (for the purposes of this Act) in enactments incorporated with this Act the terms "superior courts" or "court of competent jurisdiction," or any other like term, shall have effect as if the debt or demand with respect to which it is used were a common simple contract debt, and not a debt or demand created by statute.

5. From and after the passing of this Act the enactments set forth in the Schedule (A.) to this Act annexed shall be and the same are hereby repealed: Provided that, except as by this Act expressly provided, this repeal shall not affect anything duly done or suffered, or any rate, rent, or other payment, or any right or liability due, acquired, accrued, or incurred, or any security given, or any penalty, forfeiture, or punishment incurred under or by virtue of the said enactments or any of them, or any investigation, legal proceeding, or remedy in respect of any such right, liability, Repeal of Acts set forth in Schedule A.

A.D. 1878. security, penalty, forfeiture, or punishment as aforesaid, and any such investigation, legal proceeding, and remedy may be carried on and had as if this Act had not been passed.

Transfer of existing market and other rights.

6. Before the Trustees demand, receive, or become entitled to any toll or payment in respect of any market or fair under the authority of this Act, they shall and they are hereby empowered to take as herein-after provided from the owners thereof, and such owners (if required by the Trustees) shall transfer to them, all franchises, rights, and privileges of holding markets or fairs within the district, and the tolls, piccage, stallage, or other dues (if any) to which such owners are entitled, and all other rights, privileges, and interests (if any) which at the time of such transfer belong to such owners in any matter relating to markets and fairs within the district, and when such franchises, rights, and privileges, tolls, piccage, stallage, and other dues and interests have been taken and the Trustees have provided a market, no market or fair of any description shall thenceforth be held within the district except under and subject to the provisions of this Act and any byelaw made in pursuance thereof.

Power to take easements, &c. by agreement. 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106.

7. Persons empowered by the Lands Clauses Consolidation 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 Trustees any easement, not being an easement of water, and any franchise, right, privilege, toll, piccage, stallage, or other due or interest relating to markets or fairs required for the purposes of this Act, 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, franchises, rights, privileges, tolls, piccage, stallage, and other dues or interests as aforesaid respectively.

Power to establish and maintain markets.

8. The Trustees may, subject to the provisions of this Act, within the district provide markets and regulate fairs, and may for such purpose exercise the powers herein-after mentioned.

They may from time to time maintain and continue any existing markets, and may establish such market or markets in addition to or in lieu of the existing markets as they may think expedient.

They may from time to time allow such fairs to be held as have heretofore been sanctioned to be held, in the place or places where they have heretofore been held, or in such other places or place as may be prescribed by byelaws to be made under the powers of this Act.

They may maintain or make and maintain, and from time to time enlarge, improve, alter, or remove, any market place, market house, weighing house, shop, stall, stable, pen, shed, yard, fountain, water tank, sewer, drain, work, approach, and convenience connected with such markets.

They may from time to time take, enter upon, hold, and use such of the lands shown on the deposited plans and described in the deposited books of reference as may be required for any of the aforesaid purposes, and the owners entitled thereto respectively shall convey the same to the Trustees when thereunto required in accordance with the provisions of this Act.

They may by agreement purchase any other lands not exceeding five acres, or may appropriate any lands for the time being belonging to them or under their control for or to the aforesaid purposes or any of them.

9. The lands to be taken by the Trustees for the purposes of markets are the following; viz.,

Description
of lands for
market.

(a.) A piece of land, being part of Fleming Square, with the buildings and erections thereon, comprising two thousand nine hundred and seventy-six square yards or thereabouts, bounded on the north-east by Fleming Street and Fleming Place, on the south-east by part of Fleming Square aforesaid, and on the south-west partly by Eaglesfield Street, and partly by other part of Fleming Square aforesaid:

(b.) A piece of land known as the Butchers Meat Market, with the Old Court House, shops, stalls, and other building forming part thereof or abutting thereon, bounded on the east and north-east by the piece of land (d.) herein-after described, and by land and premises belonging or reputed to belong to the Reverend William Bookless, on the west and north-west by Fleming Square aforesaid, on the north and north-west partly by the said land and premises belonging or reputed to belong to the said Reverend William Bookless, and partly by Fleming Square aforesaid, and on the south and south-west partly by the piece of land next herein-after mentioned and described, and partly by land and premises belonging to or reputed to belong to Mrs. Graham and Mrs. Wilson:

(c.) A piece or parcel of land partly abutting on the Butchers Market herein-before mentioned, and belonging or reputed to belong to the trustees of the Netherhall Estate, and occupied by the inspector of police at Maryport, contain-

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ing sixty-three square yards in extent, bounded on the north by the Butchers Market herein-before mentioned, on the south by land and premises occupied as a constabulary station, on the east by the piece of open land or road herein-after mentioned, and on the west by land and premises belonging or reputed to belong to Mrs. Graham and Mrs. Wilson :

- (d.) A piece of land partly abutting on the north-east side of the Butchers Meat Market herein-before mentioned and the Volunteer Artillery Barracks herein-after mentioned, and belonging or reputed to belong to the trustees of the Netherhall Estate, and occupied by James Harrison, and containing one thousand five hundred and ten square yards in extent, bounded on the north and north-east by Fleming Street, on the west and south-west partly by the Butchers Market herein-before mentioned and partly by the Volunteer Artillery Barracks, on the east and south-east by land and premises belonging or reputed to belong to the trustees of the Maryport National School, and on the west and north-west by land and premises belonging or reputed to belong to the Reverend William Bookless :
- (e.) A piece of land or building known as the Volunteer Artillery Barracks, abutting on the last-mentioned piece of land and also the Butchers Meat Market, and upon the open space or road next herein-after mentioned :
- (f.) A piece of open land or road comprising one hundred and fifty-one square yards, and extending in a south-westerly direction from the said barracks to Eaglesfield Street :

All which said pieces of land, building, and premises are situate in the parishes, townships, or places of Maryport, Netherhall, and Crosscanonby, some or one of them, all in the county of Cumberland.

Grants of
lands and
franchises.

10. All grants of any lands, franchises, rights, privileges, tolls, piccage, stallage, and other dues and interests which the Trustees are by this Act authorised to acquire compulsorily, shall be made by the owners thereof upon such terms and conditions as may be agreed on between the owners and the Trustees, or, failing such agreement, as may be settled by arbitration in like manner as though the several matters in dispute were questions determinable by arbitration under the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, and for such purpose such owners shall have all the requisite powers, anything in any will, deed, or instrument to the contrary notwithstanding.

8 & 9 Vict.
c. 18.
23 & 24 Vict.
c. 106.
32 & 33 Vict.
c. 18.

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In case any such lands, franchises, rights, privileges, tolls, piccage, stallage, and other dues and interests shall at the time of the making of any such grant by the owner be held by any other person under any contract of tenancy (whether by lease or otherwise), the Trustees may purchase and acquire the whole interest of such person in such premises, and every such person, when so required by the Trustees, shall sell such interest, and thereupon the same shall be extinguished, and the amount to be paid for the purchase of such interest shall be such as may be agreed upon between the Trustees and such person, or, failing such agreement, as may be settled by arbitration under the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, and the said Acts shall apply to every such purchase and to all matters connected therewith.

8 & 9 Vict.
c. 18.
23 & 24 Vict.
c. 106.
32 & 33 Vict.
c. 18.

11. The Trustees may discontinue and stop up any and every street and footpath in or over lands acquired by them under the powers of this Act, and shown on the deposited plans and described in the deposited books of reference, and thereupon all rights of way over such streets and footpaths shall be extinguished.

Trustees
may extin-
guish rights
of way over
land acquired.

12. The powers of the Trustees for the compulsory acquisition of lands, franchises, rights, privileges, tolls, piccage, stallage, and other dues and interests for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Powers for
compulsory
acquisition
limited.

13. The Trustees, when and as they think fit (but subject to the provision next herein-after contained), may sell, upon such terms and subject to such conditions as they shall think fit, any lands acquired by them for the purposes of this Act and not required for such purposes to any person whatsoever.

Power to sell
lands not
wanted.

14. Before the Trustees sell any lands acquired by them for the purposes of this Act they shall first offer to sell such lands to the person or persons then entitled to the lands, if any, from which the same were originally severed, and if any such person be desirous of purchasing such lands, then within six weeks after such offer of sale they shall signify their desire in that behalf to the Trustees, or if they decline such offer, or if for six weeks they neglect to signify their desire to purchase such lands, the right of pre-emption of every such person so declining or neglecting in respect of the lands included in such offer shall cease.

Lands to be
offered to
owners of
lands from
which they
were origi-
nally taken,
and right of
pre-emption
to be claimed
within six
weeks.

15. If any person entitled to such pre-emption be desirous of purchasing any such lands, and such person and the Trustees do not agree as to the price thereof, then such price shall be ascertained by arbitration under the said Lands Clauses Consolidation Acts, 1845,

Differences
as to price to
be settled by
arbitration.
8 & 9 Vict.
c. 18.
23 & 24 Vict.
c. 106.

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32 & 33 Vict.
c. 18.

Power to
Trustees to
license por-
ters, &c.

1860, and 1869, and the costs of such arbitration shall be in the discretion of the arbitrators.

16. The Trustees from time to time may license, as they may think fit, for any period (not exceeding one year) any number of porters, basket men, basket women, barrow men, and barrow women they think proper to ply for hire and to be employed in and about any market, and the porters, basket men, basket women, barrow men, and barrow women shall be subject to all byelaws for their regulation and government from time to time made by the Trustees, and no person shall ply for hire there as a porter, basket man or basket woman, barrow man or barrow woman without being so licensed as aforesaid, under a penalty not exceeding twenty shillings for every such offence, but such prohibition shall not apply to any such person hired elsewhere than in or in the immediate neighbourhood of the said market, or to any servant of a purchaser or vendor within the market.

Fee for
license.

17. The rate at which every such license shall be issued shall not exceed three shillings for one year, and the sum charged for the same at such rate shall be paid to the Trustees by or on behalf of the person to whom such license shall be issued.

Power to
Trustees to
appoint in-
spectors, &c.

18. The Trustees may from time to time appoint such persons to superintend the markets, and such inspector or inspectors of markets, inspector or inspectors of provisions, and other officers and servants, as they may think requisite for the execution of this Act, and may from time to time remove the same.

Power to
take tolls,
&c. as in
schedule.

19. The Trustees may, subject to the provisions of this Act, demand and take from any person whomsoever occupying or using any market or fair or any market house, market place, building, or convenience provided under the authority of this Act, or any part thereof, in any place in which markets and fairs have heretofore been or may hereafter be held in pursuance of this Act, or any stand, stall, shed, pen, station, place, or space therein respectively, or bringing into such market or fair anything specified in the Schedule B. to this Act annexed, whether on a fair day or market day, or otherwise, any stallages, rents, tolls, and other payments in respect thereof, not exceeding the several amounts specified in the said schedule; and nothing specified in the said schedule shall, except as provided by this Act or any byelaw made in pursuance of this Act, be publicly sold or exposed for sale by any person other than a licensed hawker within the district elsewhere than in a market or fair, so long as sufficient space and accommodation are provided therein; and any person other than a licensed hawker who shall publicly sell or expose for sale anything contrary

to this enactment shall for every such offence be liable to a penalty not exceeding forty shillings: Provided that nothing in this Act contained shall interfere with the right of the occupier of any house, shop, or premises within the district to sell or expose for sale in, upon, or in front of his house, shop, or premises anything specified or referred to in the said schedule, being his own property or part of his stock in trade: Provided also, that nothing herein contained shall prevent the owner of any horse or any licensed horse dealer on behalf of such owner from selling or exposing the same for sale otherwise than by auction on his own premises, or from showing or trying any horse preliminary to any such sale or intended sale thereof.

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20. The Trustees may demand and take in respect of weighing and measuring and pitching anything from any person bringing or requiring such thing to be weighed or measured or pitched any stallages, rents, tolls, and other payments not exceeding the tolls in respect thereof specified in the Schedule B. to this Act annexed.

Tolls for weighing and measuring.

21. The Trustees from time to time by public auction or tender may demise and let the market, market houses, market places, weighing houses, weighing places, and weighing machines, buildings, and conveniences from time to time under the management of the Trustees or any of them, and the stallages, rents, and tolls or any of them, and any of the shops, offices, stalls, stands, sheds, pens, stations, or spaces, and other conveniences in any market house or market place from time to time under the management of the Trustees, for such period not exceeding three years and upon such terms and conditions as they may determine, and any such lessee or tenant may, but not without the consent of the Trustees, assign his lease or the benefit of his tenancy for the unexpired residue thereof.

Leases of markets, slaughter-houses, tolls, &c., and assignment of leases.

22. The several stallages, rents, tolls, and other payments authorised to be taken by Schedule B. of this Act by the Trustees may be demanded and taken by the officers and servants of the Trustees and by their lessees, and by the officers of such lessees respectively.

Receipt of tolls by officers.

23. The Trustees may for the purposes with respect to which byelaws may be made under the authority of the Markets and Fairs Clauses Act, 1847, and for the additional purposes herein-after mentioned, subject to the provisions of the Public Health Act, 1875, from time to time make, and when made repeal, alter, and

Byelaws. 10 & 11 Vict. c. 14. 38 & 39 Vict. c. 55.

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For fixing the time during which any particular kind of commodity, animal, or thing may be sold, exposed, or offered for sale in any market or fair, and for the bringing or removal of any commodity, animal, or thing to or from any market or fair before or after sale, or before or after the closing of such market or fair;

For fixing the tolls, stallages, and rents payable to the Trustees in respect of the markets and fairs, weighing machines, shops, stalls, stands, sheds, pens, stations, spaces, and other conveniences connected with the markets or fairs within the district, and the time for and the manner of collecting the same;

For regulating the porters, basket men, basket women, barrow men, and barrow women licensed by the Trustees under this Act;

For regulating the inspectors of markets, inspectors of provisions, and other officers and servants appointed by the Trustees under this Act;

For directing and prescribing the streets in which and the manner according to which the leading or driving of animals shall be permitted within the district: Provided that the streets which it shall be lawful for the Trustees so to prescribe shall not be such as would prevent the passage of cattle between any market and any railway station in the district, or any place beyond the boundary of the district, when such animals are merely passing between such market and railway station, or other place as aforesaid, and that the Trustees shall be bound to allow at all times a reasonably short and efficient route or routes for the passage of such animals: Provided also, that the directions contained in such byelaws shall only operate between the hours of eight in the morning and nine in the evening, and shall not prevent the owner of any animals driving the same to his own premises, and that nothing in this enactment contained shall authorise the Trustees to interfere with the driving of any animals to any slaughterhouse so long as the slaughtering of such animals therein is lawful;

and the Trustees may by such byelaws impose such reasonable penalties for each breach of such byelaws as they think fit, subject to the restrictions and with the powers for the enforcement of such byelaws and for recovery of such penalties, and otherwise in relation thereto, as though the same were byelaws made under the authority of the Public Health Act, 1875.

24. The Trustees may publish in any market for the time being under the management of the Trustees the name of any person who shall have been convicted of any offence against any byelaw for the time being in force with respect to any such market or any person in relation thereto.

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Names of offenders against bye-laws may be published in markets.

25. The stallages, rents, tolls, and other payments by this Act authorised shall be in lieu of and not in addition to any tolls or payments which were or might have been levied in respect of any franchise, right, or privilege purchased or taken on lease by the Trustees under the authority of this Act.

Tolls to be in lieu of former tolls.

26. After the Trustees have provided any market or market place for public use, it shall be lawful for them, or for any inspector or other person appointed by them, to keep order in such market or market place and the several approaches thereto, and for any such inspector or person as aforesaid, or any constable or policeman, to summons before a justice of the peace any person causing or creating any nuisance or obstruction, or being drunk, or using obscene or profane language within such market or market place.

When market open Trustees may remove persons causing nuisances, &c.

27. The Trustees may from time to time, in addition to the sums which they are authorised to borrow under the Act of 1866, the Act of 1868, and the Act of 1877, borrow at interest such moneys as they may think requisite for the purposes of this Act with respect to markets and fairs to an amount not exceeding in the aggregate twenty thousand pounds.

Power to borrow.

28. For securing the repayment of moneys borrowed under the authority of this Act for any of the purposes of this Act with respect to markets and fairs the Trustees may mortgage the revenue to be derived by them from any market or fair which they may provide under the authority of this Act, and the market rate authorised by this Act and the district fund and district rate, and the provisions of the Commissioners Clauses Act, 1847, with respect to mortgages to be executed by the Commissioners, shall apply to any mortgages to be executed by the Trustees under this section, except where such provisions are in this Act expressly altered or varied.

Power to mortgage.

10 & 11 Vict. c. 16.

29. Every mortgage made in pursuance of the preceding section shall be by deed duly stamped and truly stating the consideration, and may be in the form in the Schedule (C.) to this Act annexed or to the like effect:

Form of mortgage.

(1.) The Trustees may from time to time, if they think fit, issue to holders of such mortgages as aforesaid coupons for the interest from time to time to fall due thereon in such form as the Trustees think fit, so as every coupon do refer

Trustees may issue coupons for interest on mortgage.

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to the mortgage to which it relates, and to specify the amount and time of payment of one half year's interest to fall due on the principal money secured by the mortgage, and be authenticated in such manner as the Trustees may prescribe (which authorisation shall be presumed until the contrary is shown), and on presentation to the treasurer of a coupon he shall pay to the person presenting it the amount of interest therein expressed and thereby appearing to be payable, and on audit of the treasurer's accounts the coupon shall be accepted as a sufficient warrant for his payment of the amount for which it was issued, but the treasurer shall not be bound to make any payment of interest beyond the amount of the money of the Trustees then in his hands and applicable in that behalf :

Money borrowed on mortgage may be repaid by instalments.

(2.) All moneys borrowed or re-borrowed by the Trustees by mortgage as aforesaid may be borrowed and re-borrowed for any term not exceeding forty years from the day upon which such moneys were first borrowed, and shall be repaid by yearly or half-yearly instalments, or by means of a sinking fund: Provided that when the payment is not made by equal instalments the instalment or instalments payable in each year, together with interest payable in such year in respect of the principal moneys owing, of which such instalment or instalments form part, shall in every year amount to the same sum :

Sinking fund for repayment of money borrowed on mortgage.

(3.) The Trustees, in case they borrow any moneys under the preceding provisions of this Act, repayable by a sinking fund, shall, within twelve months after the borrowing of the same, and thenceforth annually on the same day, set apart as a sinking fund for the repayment of moneys so borrowed on mortgage as aforesaid, out of the revenues, fund, and rates upon the security of which such moneys have been borrowed, such a sum as will be sufficient to pay within the period stipulated with the lender (not exceeding forty years from the time of borrowing) such proportion of the principal moneys so borrowed as shall not be repayable by yearly or half-yearly instalments (after giving credit for moneys received in respect of the sales of land acquired under the powers of this Act) to be accumulated in the way of compound interest by investing in any securities in which Trustees are for the time being authorised to invest, and the Trustees shall from time to

time apply the said sinking fund in payment of a portion of such principal moneys until thereby or otherwise the whole of such proportion of the principal moneys has been fully paid: Provided always, that whenever any of such principal moneys have been so paid off the Trustees shall thenceforward, until the whole of such principal moneys have been paid off, pay into the sinking fund every year, in addition to the other sums herein-before required to be set apart and appropriated, a sum equal to the interest of the principal money so paid off: Provided further, that whenever, and so long as the yearly income arising from the sinking fund shall be equal to or in excess of the annual interest of the principal moneys then due and outstanding, the Trustees may, in lieu of investing the said yearly income, apply the same in payment of such interest, and may during such periods discontinue the payment to the sinking fund of the yearly sums herein-before required to be paid thereto:

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- (4.) The clerk to the Trustees shall, within twenty-one days after the first day of January succeeding each year during which any sum is required to be set apart for a sinking fund, or to be paid as an instalment in respect of moneys borrowed on mortgage under the preceding provisions of this Act, transmit to the Local Government Board 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 paid as an instalment or 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 and the interest thereon has been invested, and also showing the purposes to which any portion of the moneys invested for the sinking fund 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, such clerk shall be liable to a penalty of not exceeding twenty pounds. If it appear to the Local Government Board by such return, or otherwise, that the Trustees have failed to pay any instalment, or to set aside the sum required by the preceding provisions of 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 the said provisions, the Local Government Board may, by order, direct that

Annual return to Local Government Board with respect to sinking fund in respect of moneys borrowed on mortgage.

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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 Local Government Board out of the High Court of Justice :

As to appointment of a receiver.

- (5.) With respect to a receiver the following provisions shall have effect; (namely,)

The mortgagees of the Trustees under the preceding provisions of this Act may enforce payment of arrears of interest or principal, or principal and interest, 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 not be less than two thousand pounds :

Power to re-borrow.

- (6.) If the Trustees pay off any part of any money borrowed by them under the preceding provisions of this Act otherwise than by instalments or by means of a sinking fund, they may re-borrow the same, and so from time to time : Provided always, that all moneys so re-borrowed shall be repaid within the same time as the moneys originally borrowed were required to be repaid :

Protection of lenders from inquiry.

- (7.) A person lending money to the Trustees secured by mortgage shall not be bound or entitled to inquire as to observance by them of any provision of this Act, or be bound to see to the application or be answerable for any loss or non-application of the money lent or of any part thereof.

Transfer of mortgages.

30. With respect to transfers of mortgages made under the preceding provisions of this Act the following provisions shall take effect; (namely,)

- (1.) Any person entitled to a mortgage may transfer his interest to any other person by deed duly stamped and duly stating the consideration, and such transfer may be in the form in the Schedule (D.) to this Act annexed or to the like effect :

- (2.) Within thirty days after the date of every such deed of transfer it shall be produced to the clerk to the Trustees, who shall cause an entry thereof to be made in a register of transfers of mortgages on payment of a sum not exceeding five shillings, and after such entry every such transfer shall entitle the transferee, his representatives and assigns, to the full benefit of the original mortgage in all respects (including the power of transfer), and any

person having made such a transfer shall not have power to release or discharge the mortgage transferred or any money thereby secured. A.D. 1878.

31. The Trustees, if they think fit, in lieu of borrowing on the security of mortgages as herein-before provided, may borrow the moneys which they are by the preceding provisions of this Act authorised to borrow, or any part thereof, under the powers and subject to the provisions of the Local Loans Act, 1875, by means of a loan or loans to be raised by the issue of debentures, debenture stock, or annuity certificates, or partly in one way and partly in another. Power to borrow under 38 & 39 Vict. c. 83.

Any moneys borrowed in manner by this section authorised shall be charged upon the revenue to be derived from any market or fair they may provide under the authority of this Act, and the market rate authorised by this Act, and the district fund and the district rate, and such revenue fund and rates shall be the local rate within the meaning and for the purposes of the Local Loans Act, 1875. 38 & 39 Vict. c. 83.

All such moneys shall be discharged within forty years from the day upon which the same were first borrowed, and such discharge or any part thereof shall be effected by means of a sinking fund if the Trustees shall so think fit; and if the Trustees at any time think fit to form any such sinking fund, all sums paid into the same shall, as soon as may be, be invested by the Trustees in any manner in which Trustees are by law for the time being authorised to invest trust moneys.

32. All moneys from time to time borrowed under the preceding provisions of this Act shall be applied by the Trustees to the following purposes: Application of moneys borrowed.

Firstly, in payment of the costs, charges, and expenses preliminary to, of, and incidental to the application for, and the preparing, applying for, obtaining, and passing of this Act, or otherwise in relation thereto; and

Secondly, in payment of the expenses chargeable to capital incurred by the Trustees in acquiring any lands, franchises, rights, and privileges; and incidental thereto, and in providing any market or fair under this Act and incidental thereto.

33. All moneys from time to time received by the Trustees by way of revenue under this Act in respect of markets and fairs, or by way of rent in respect of any lands let by them under authority of this Act, shall be applied to the following purposes: Application of revenue.

Firstly, in payment of the establishment charges, that is to say, of any ground rent, lord's rent, or rentcharge payable by

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them in respect of any lands acquired by them, and of the rent (if any) payable by the Trustees under any lease or leases granted to them in pursuance of this Act, and the expenses properly chargeable to revenue of providing, establishing, conducting, managing, and maintaining markets and fairs, and works and matters connected therewith respectively :

Secondly, in payment of the interest on the moneys borrowed under the preceding provisions of this Act, and from time to time owing :

Thirdly, in making provision for the repayment of moneys borrowed under the preceding provisions of this Act in accordance with the said provisions, and the balance, if any, of any moneys received on behalf of such markets and fairs shall be applied in increasing the district fund.

Market rate for expenses of carrying Act into execution.

34. In case during any year after the Trustees have, in pursuance of this Act, provided any market or fair, the revenue of the Trustees from markets and fairs is insufficient for payment of the expenses connected with the same, including the payment of interest on moneys borrowed, and the repayment of moneys borrowed under this Act, the Trustees, as soon as may be after such insufficiency has been ascertained, may for the purposes of supplying such insufficiency of the revenue according to the powers and provisions of the Act of 1866 and the Act of 1868, and having regard to the exemptions and the differential rating in respect of railways thereby respectively prescribed with respect to the district rate, make and levy a rate, to be made and levied in like manner in every respect as the district rate, to be called the "market rate."

Amount of rate to include expenses of recovering it.

35. The amount of any market rate made by the Trustees under this Act may, if they think fit, be of such amount as in their judgment will be sufficient to raise or discharge not only the sum or sums in respect of which the rate is made, but also such a sum as will meet the expenses of what is in their judgment a due proportion of the expenses incurred in and about the making and recovering the rate.

Market rate may be collected with general district rate.

36. For the purpose of diminishing the expense of assessing, making, levying, and collecting the market rate under this Act, the Trustees may include the same in the district rate, and make, levy, collect, and recover such market rate as part of the district rate.

Separate account for markets and fairs.

37. The Trustees shall keep a separate account in respect of markets and fairs provided by them under this Act, showing all moneys from time to time expended thereon or received in respect thereof, and distinguishing capital from revenue.

38. All moneys received by the Trustees as purchase moneys of any lands not required for the purposes of markets or fairs, and which may be sold by the Trustees, shall be applied to any of the purposes of this Act to which capital may be applied, or the same may, in the discretion of the Trustees, be applied towards the reduction of the debt owing by the Trustees in respect of moneys borrowed under the authority of the preceding provisions of this Act, or towards the increase of the sinking fund.

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Application of moneys received for sale of lands.

39. Nothing in this Act shall prejudicially affect any charge on the property of the Trustees, and the district fund and district rates, and the harbour fund, or any of them, by way of annuity, mortgage, or otherwise, subsisting at the passing of this Act, and every annuitant, mortgagee, or incumbrancer, or person for the time being entitled to the benefit of any such charge, shall have the same priority of charge, and all the like rights and remedies in respect of the security subject to the charge as if this Act had not been passed, and all such charges created before the passing of this Act shall during the subsistence thereof have priority over any annuity certificate, mortgage, debenture, or debenture stock granted or issued under this Act.

Saving for existing charges.

40. Section one hundred and eighty-five of the Act of 1866 shall be read and construed throughout as if the amount by the said section authorised to be expended in connexion with the slaughter-houses and the general improvement purposes had been limited to forty thousand pounds instead of twenty thousand pounds: Provided that the provisions of this Act with respect to a sinking fund shall, so far as applicable, apply to such moneys: Provided also, that of the moneys borrowed under the said Act and this Act, whether before or after the passing of this Act, in connexion with slaughter-houses and general improvement purposes, not more than twenty thousand pounds in the whole shall be expended upon the freeing from obstruction, levelling, flagging, paving, macadamising, or otherwise completing or improving streets, squares, highways, roads, lanes, carriage-ways, bridges, thoroughfares, footpaths, pathways, and courts.

Amendment of s. 185 of Act of 1866 as to amount to be borrowed for general improvement purposes with respect to streets.

41. The Trustees may provide and maintain such engines for extinguishing fire within the harbour and district of Maryport, together with such water buckets, pipes, water carts, and appurtenances for such engines and such fire escapes and other implements for safety or use in case of fire, as they consider necessary, and employ and pay firemen and provide for the supply of water, and the Trustees may apportion the costs of providing and maintaining such engines and appurtenances and working the same between the

Trustees may provide fire engines, &c. and send same, beyond the district.

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funds belonging to harbour purposes and district purposes respectively under their control in such proportion as they shall consider reasonable, and if requested so to do by the owner, occupier, or person in charge of any premises where any fire happens, they may send beyond the limits of the district any fire engine so provided by them with its appurtenances and firemen for the purpose of extinguishing fire, and the occupier of the premises where such fire shall have happened shall pay such charges as may be fixed by the Trustees for the use of any engine so sent beyond the said limits with its appurtenances and firemen, not exceeding the sum of five guineas for the first mile, and an additional guinea for every mile beyond the first mile which such fire engine is required to go beyond the limits of the district, and in case of any difference between the Trustees and such occupier, the amount of such charges shall be determined by two justices, whose decision shall be final, and the amount of such charges shall be recoverable by the Trustees as penalties may be recovered by them under section one hundred and ninety-eight of the Act of 1866, and any moneys so paid to the trustees shall be applied to defray the expenses of the Trustees in providing, maintaining, and working fire engines.

Owners may agree to pay rates in certain cases and be allowed a commission.

42. In all cases in which the rateable value of any hereditament in respect of which any rate shall be payable under the provisions of the Maryport Improvement Acts, 1866 to 1878, or any of them, shall not exceed eight pounds, and the owner of such hereditament is willing to enter into an agreement in writing with the Trustees to become liable to them for all such rates assessed in respect of such hereditament for any term not being less than one year from the date of such agreement, and to pay such rates whether the hereditament is occupied or not, the Trustees may agree with the owner to receive such rates from him and to allow him a commission not exceeding twenty-five per cent. on the amount thereof.

Owners omitting to pay rates within fourteen days after demand to forfeit commission.

43. When an owner who has become liable to pay any rates in pursuance of this Act omits or neglects to pay any such rate or any instalment on demand or within fourteen days after such demand delivered to him or left at his usual or last known place of abode he shall not be entitled to deduct or receive any commission, abatement, or allowance to which he would, except for such omission or neglect, be entitled under this Act, but shall be liable to pay and shall pay such rate or instalment in full.

If owners omit to pay rates occupiers paying the same

44. When an owner who has undertaken, whether by agreement with the occupier or with the Trustees, to pay any such rate as aforesaid, or has otherwise become liable to pay the same, omits or neglects to pay the same, the occupier may pay the same and deduct

the amount from the rent due or accruing due to the owner, and the receipt for such rate shall be a valid discharge of the rent to the extent of the rate so paid.

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may deduct the amount from rent.

Constructive payment of a rate.

45. Every payment of any such rate as aforesaid by the occupier, notwithstanding the amount thereof may be deducted from his rent as herein provided, and every payment of any such rate as aforesaid by the owner, whether he is himself rated instead of the occupier or has agreed with the occupier or with the Trustees to pay such rate and notwithstanding any allowance or deduction which the Trustees are empowered to make from the rate, shall be deemed a payment of the full rate by the occupier for the purposes of any qualification or franchise which as regards rating depends upon the payment of such rate.

46. Every owner who, in pursuance of this Act, agrees with the Trustees to pay any rate, or who is rated or liable to be rated for any hereditament instead of the occupier, shall deliver to the Trustees from time to time, as required by them, in writing, a list containing the names of the actual occupiers of the hereditaments comprised in such agreement, or for which he is so rated or liable to be rated; and if any such owner wilfully omits to deliver such list when required to do so, or wilfully omits therefrom or mis-states therein the name of any occupier, he shall for every such omission or mis-statement be liable on summary conviction to a penalty not exceeding forty shillings.

Owners agreeing to pay rates to give lists of occupiers.

47. Where the owner has become liable to the payment of any rate in pursuance of this Act, such rate due from him, together with the costs and charges of levying and recovering the same, may be levied on the goods of the owner, and be recovered from him in the same manner as rates may be recovered from the occupier under the *Maryport Improvement Acts, 1866 to 1878.*

Liability of owner under agreement.
29 & 30 Vict. c. ccxlv.
31 & 32 Vict. c. lxx.
40 & 41 Vict. c. xxxviii.

48. Notwithstanding the owner of any such hereditament as aforesaid has become liable for the payment of any rates or gas or water rents due or payable in respect thereof, the goods and chattels of the occupier shall be liable to be distrained and sold for payment of such rates or rents as may accrue during his occupation of the premises at any time whilst such rates or rents remain unpaid by the owner, subject to the following provisions:

Recovery of rates unpaid by owner.

1. That no such distress shall be levied unless such rate or rent has been demanded in writing by the Trustees from the occupier, and the occupier has failed to pay the same or such part thereof as shall be equivalent to the sum which at the time of such demand is actually due from the occupiers for

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rent of the premises on which the distress is made within fourteen days after service of such demand :

2. That no greater sum shall be raised by such distress than shall at the time of making the same be actually due from the occupier for rent as aforesaid :
3. That any such occupier shall be entitled to deduct the amount of the rates or rents for which such distraint is made and the expenses of the distraint from the rent due or accruing due to the owner, and every such payment shall be a valid discharge of the rent to the extent of the rate or rent and expenses paid.

Limiting price of gas.

49. The price to be charged by the Trustees for gas supplied by them to consumers shall not exceed four shillings for every thousand cubic feet, and so in proportion for any smaller quantity consumed.

Power to Trustees to grant rebate on payments for gas in certain cases.

50. The Trustees may make such allowance as they may think proper, not exceeding ten pounds per centum, to each consumer of gas who shall pay them not less than one hundred pounds per annum in respect of a supply of gas to him, in case the charges from time to time due from such consumer shall be paid within fourteen days after demand of the same.

Gasworks rate for expenses of carrying Act of 1877 into execution.

51. In case during any year after the transfer of the gas undertaking of the Maryport Town and Harbour Gas Company to the Trustees, in pursuance of the Act of 1877, the gas revenue of the Trustees from their undertaking, as defined by the Act of 1877, has been insufficient for payment of the expenses of the same, including the payment of interest on moneys borrowed, and the repayment of moneys borrowed as by the Act of 1877 provided, the Trustees, as soon as may be after such insufficiency has been ascertained, may for the purpose of supplying such insufficiency of revenue according to the powers and provisions of the Act of 1866 and the Act of 1868, and having regard to the exemptions and the differential rating in respect of railways thereby respectively prescribed with respect to the district rate, make and levy a rate, to be made and levied in like manner in every respect as the district rate, to be called "the Gasworks Rate," but the Trustees shall not levy any such rate or any part thereof in any year in which they charge less than the maximum price of gas authorised by this Act, subject to such allowances as they may make under the powers of this Act, and all moneys borrowed or to be borrowed under the authority of the Act of 1877 and the interest thereon shall be well charged upon the gasworks rate in addition to any securities upon which the same are charged by the Act of 1877.

52. Any lord or lady of the manor of Ellenborough may from time to time appoint any person he or she may think fit to act as his or her deputy in the office of trustee. If in any case the lord or lady of the said manor shall be incapacitated either by infancy or from any other cause, the guardian or committee of the estate of such incapacitated person may from time to time appoint any person he or they may think fit to act as the deputy of such incapacitated person in the office of trustee, and such guardian or committee may, during such infancy or incapacity, exercise the power of appointing trustees conferred upon the lord of the manor by the Act of 1866, as amended by the Act of 1868. Every appointment of a deputy under this section shall be made in writing under the hand of the person or committee making such appointment, and shall continue in force during such period (not exceeding three years) as may be limited thereby, provided that the life of such lord or lady of the manor or the life or incapacity of such incapacitated person shall so long continue; and every such deputy shall for the time in such writing specified be entitled to act as a trustee in the place of the lord or lady of the said manor, and as such to represent him or her.

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Appointment of deputy of lord or lady of the manor and of trustees in certain cases.

53. The powers of borrowing money by this Act given shall not be restricted by any of the regulations contained in the Public Health Act, 1875, and in calculating the amount which the Trustees may borrow under the Public Health Act, 1875, any sums which they may borrow under this Act shall not be reckoned.

Certain regulations of 38 & 39 Vict. c. 55. as to borrowing not to apply.

54. Except as herein-before expressly provided, nothing in this Act shall prejudice, diminish, alter, or take away any of the rights, powers, authorities, suits, services, courts, or privileges of the lord or lady of the manor of Ellenborough.

Saving rights of lord or lady of the manor of Ellenborough.

55. The costs, charges, and expenses preliminary to, and of and incidental to the preparing of and applying for, and obtaining and passing of this Act shall be paid by the Trustees out of moneys borrowed under the authority of this Act, or out of the district fund or district rate, and such costs shall include the costs incurred by the Trustees in complying with the provisions of the Act of the session of Parliament held in the thirty-fifth and thirty-sixth years of the reign of Her present Majesty, chapter ninety-one, with respect to the Bill for this Act as taxed and ascertained by the taxing officer of the House of Lords or of the House of Commons.

Expenses of Act.

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SCHEDULES.

SCHEDULE A.

Setting forth the enactments repealed by the foregoing Act.

Sections one hundred and seventy-four and one hundred and seventy-nine of the Maryport Improvement and Harbour Act, 1866.

Sections twenty-four and forty of the Maryport District and Harbour (Gas) Act, 1877.

SCHEDULE B.

TOLLS, STALLAGES, AND RENTS TO BE TAKEN AT THE MARKETS AND FAIRS.

FOR OPEN MARKETS OR FAIRS.

	£	s.	d.
For every horse, mare, or gelding	0	0	6
For every ass or mule	0	0	3
For every bull, ox, or steer	0	0	6
For every cow, heifer, or stirk	0	0	4
For every calf	0	0	2
For every score of sheep and lambs	0	1	3
For every pig	0	0	1
For every skip or crate of sucking pigs containing not exceeding six	0	0	6
For every ditto exceeding six	0	1	0

FOR PENS AND LAIRS.

Open pens for calves, sheep, or pigs, &c., each	0	0	6
Covered pens for calves, sheep, or pigs, &c., each	0	1	0

MARKETS.

Provision, vegetable, and other stalls, stands, and ground space :
From every person occupying or using any stall, standing, cart, barrow, basket, box, bench, or barrel for the sale of vegetables,

£ s. d.

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provisions, fruit, fish, game, poultry, china, glass, earthenware, baskets, hardware, or other commodities, articles, or things, according to the size and dimensions of the same; videlicet, for each superficial square foot and fractional part of a superficial square foot of the ground space covered or occupied by any such stall, standing, cart, barrow, basket, box, bench, or barrel in an open market, any sum not exceeding for every day -	0	0	1
” ” ” ” in a covered market, any sum not exceeding for every day -	0	0	2

GROUND SPACE.

From every person occupying or using any space on the surface of the ground according to the size and dimensions of the same; videlicet, for each superficial square foot and the fractional part of a superficial square foot of the ground space occupied or used by him in an open market, any daily sum not exceeding -	0	0	1
” ” ” ” in a covered market, any daily sum not exceeding -	0	0	2

CORN.

For every sample sack of corn pitched in a market -	0	0	6
For every sack of corn not being a sample sack pitched in a market -	0	0	2
For every bushel of corn sold in a market, whether by sample or not, and whether such bushel shall be or shall not be actually brought into a market -	0	0	1

TOLLS AT FAIRS.

For every stall, basket, cart, barrow, standing, box, bench, barrel, or ground space occupied or used by any person exposing to sale any goods, articles, commodities, or things whatsoever, and for every show, caravan, exhibition, booth, tent, theatre, or place of amusement, according to the size and dimensions thereof; videlicet, for every superficial square foot or fractional part of a superficial square foot of the ground space covered by such stall, basket, cart, barrow, standing, box, bench, barrel, show, caravan, exhibition, booth, tent, theatre, or place of amusement, and of any ground space occupied or used by him, any sum not exceeding for each day -	0	0	1½
For any person carrying or exposing for sale any provisions, vegetables, goods, articles, commodities, or things whatsoever in any market or market place or places for fairs, and who shall not be otherwise chargeable under this schedule as occupying any stall, standing, or ground space, any sum not exceeding for each day -	0	0	6

WEIGHING AND MEASURING TOLLS TO BE TAKEN IN THE SEVERAL MARKETS AND FAIRS.

For every article, matter, or thing of whatever description weighing not more than 20 pounds avoirdupois -	0	0	1
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	£	s.	d.
For every article, matter, or thing of whatever description weighing more than 20 pounds avoirdupois and not exceeding 240 pounds	0	0	1½
For every article, matter, or thing of whatever description weighing more than 240 pounds - - - - -	0	0	2
For measuring any quantity of goods, matter, or thing sold by measure, not exceeding one bushel - - - - -	0	0	1
For measuring every quantity more than one bushel and not exceeding two bushels - - - - -	0	0	1½
And for every bushel beyond two bushels - - - - -	0	0	0½

TOLLS TO BE TAKEN FOR WEIGHING CARTS AND THEIR LOADINGS.

For a cart containing any quantity not exceeding three tons of coal or manure - - - - -	0	0	2
For a cart containing any quantity not exceeding three tons of hay, straw, grass, clover, or other goods - - - - -	0	0	3
For a cart, waggon, or lorry containing exceeding five tons - - - - -	0	0	4
For a cart, waggon, or lorry containing five tons and not exceeding 10 tons - - - - -	0	1	0
For empty carts, waggons, or lorries re-weighed for tare - - - - -	0	0	1

SCHEDULE C.

DISTRICT OF MARYPORT.

MORTGAGE DEED.

No.

£

THE MARYPORT IMPROVEMENT ACT, 1878.

By virtue of the above-mentioned Act, the Trustees of the district and harbour of Maryport, in consideration of _____ pounds paid to them by _____, grant to _____ executors, administrators, and assigns, the revenues of their markets and fairs and the market rate and the district fund and district rate.

To hold until the said sum of _____ pounds be repaid to _____ or them, with interest at the yearly rate of _____ in the hundred, by equal half-yearly payments on the _____ day of _____ and the _____ day of _____ in every year from the day of the date hereof. The principal to be repaid on the _____ day of _____ one thousand eight hundred and _____ at the option of either party, and all payments to be made at the office of the Trustees.

Given under the seal of the Trustees of the district and harbour of Maryport, this _____ day of _____ one thousand eight hundred and _____

Clerk.

SCHEDULE D.

A.D. 1878.

FORM OF TRANSFER OF MORTGAGE.

THE MARYPORT IMPROVEMENT ACT, 1878.

I, *A.B.* of _____, in consideration
of _____ pounds paid to me by *C.D.*
of _____, transfer to him, his executors, administrators,
and assigns, the mortgage No. _____ of the revenues of the markets and
fairs and the market rate and the district fund and district rate of the
Trustees of the district and harbour of Maryport for
_____ pounds, and interest at the yearly rate of _____ pounds in the
hundred, granted on the _____ day of _____ by the said Trustees
(*or if the transfer be by indorsement, the within-written security*), and all my
right and interest in and under the same.

As witness my hand and seal, this _____ day of _____ one
thousand eight hundred and _____

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