



CHAPTER cxvii.

An Act for the settlement of disputed claims arising out of certain fictitious Bonds of the Corporation of Bootle-cum-Linacre and for other purposes. A.D. 1885.
[22nd July 1885.]

WHEREAS Thomas Draper Pierce late town clerk of the borough of Bootle-cum-Linacre in the county of Lancaster between the months of April 1878 and July 1883 contrary to his duty and without the knowledge or consent of the council of the said borough received from divers persons sums of money amounting in the aggregate to about twenty-four thousand one hundred pounds and gave mortgage bonds purporting to be genuine securities of the Corporation the dates of which bonds with the names of the holders thereof and the amounts intended to be thereby secured are set out in the First Schedule to this Act, and are in this Act referred to as the scheduled bonds ;

And whereas the money so received by the said Thomas Draper Pierce was not paid or accounted for to the Corporation or applied to any purpose of the Corporation ;

And whereas there is strong evidence that the said Thomas Draper Peirce obtained possession of the seal of the Corporation by means of a false key (found in his private house) and that he fraudulently affixed the seal to the said bonds and forged the signatures of the several mayors whose names appear on such of the bonds as purport to be so signed ;

And whereas on the 19th of July 1883 the said Thomas Draper Pierce absconded and a warrant was on the next following day issued for his apprehension. He was shortly afterwards traced to France and died in Lyons on the 25th day of August in the same year ;

And whereas disputes have arisen between the holders of the scheduled bonds and the Corporation as to the liability of the Corporation to pay the moneys expressed to be secured by such bonds and an action was accordingly commenced in the Queen's Bench Division of the High Court by John Duncan junior Bernard Kelly and

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A.D. 1885. Charlotte Roberts against the Corporation raising the question of the validity of one of the scheduled bonds and the action was set down for trial at the winter assizes held at Liverpool in February 1885 ;

And whereas an arrangement has since been come to for a settlement of the said action and of all other claims in respect of the scheduled bonds ;

And whereas the terms of settlement are embodied in this Act and it is expedient that such settlement should be sanctioned and the requisite powers conferred on the Corporation and the bondholders for carrying it into effect ;

And whereas the objects aforesaid cannot be attained without the authority of Parliament ;

And whereas an absolute majority of the whole number of the council at a meeting held on the eleventh day of March one thousand eight hundred and eighty-five after ten clear days notice by public advertisement of the meeting and of the purpose thereof in the "Liverpool and Bootle Evening Times" a local newspaper published or circulating in the borough such notice being in addition to the ordinary notices required for summoning that meeting resolved that the expense in relation to promoting the Bill for this Act should be charged on the borough fund and borough rate ;

And whereas that resolution was published twice in the said "Liverpool and Bootle Evening Times" newspaper and has received the approval of the Local Government 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 council at a further special meeting held in pursuance of a similar notice on the thirteenth day of May one thousand eight hundred and eighty-five not less than fourteen days after the deposit of the Bill for this Act in the offices of the Houses of 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 (that is to say) :

Short title. 1. This Act may be cited as the *Bootle-cum-Linacre (Fictitious Bonds)* Act 1885.

2. In this Act unless the context otherwise requires—

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“The Corporation” means the mayor aldermen and burgesses of the borough of Bootle-cum-Linacre in the county of Lancaster. Interpretation.

“The borough” means the borough of Bootle-cum-Linacre in the county of Lancaster.

“The council” means the council of the borough.

“The borough fund” and “the borough rate” mean the borough fund and borough rate of the borough.

“The bondholders” means the several holders of scheduled bonds whose names are set out in the First Schedule to this Act or other the person or persons for the time being entitled to the scheduled bonds.

“New mortgage” means a mortgage granted by the Corporation under this Act.

3. (1.) On the first day of September one thousand eight hundred and eighty-five or as soon thereafter as may be the Corporation shall on demand and delivery up of the scheduled bonds or proof of their loss or destruction grant and deliver to every bondholder a new mortgage for securing the payment of the sum herein-after in this Act mentioned. Exchange of scheduled bonds for new mortgages.

(2.) Each new mortgage shall secure to the persons named therein their executors administrators or assigns a sum equal to one half of the principal money expressed to be secured by the scheduled bond in exchange for which the new mortgage is given and one half of the interest expressed to be payable thereon calculated from the respective dates in that behalf mentioned in the First Schedule to this Act up to the first day of September one thousand eight hundred and eighty-five less the bondholders share of the costs of this Act as herein-after in this Act provided.

(3.) The aggregate amount secured by each new mortgage shall together with interest thereon at the rate of four pounds per centum per annum be payable by twelve equal instalments of principal and interest combined and the first payment of such instalments shall be made on the first day of September one thousand eight hundred and eighty-six and the subsequent instalments on the first day of September in every succeeding year up to and including the first day of September one thousand eight hundred and ninety-seven.

(4.) The new mortgages shall be charged upon and the yearly instalments shall be payable out of the borough fund and borough rate in priority to all charges made thereon subsequent to the passing of this Act.

(5.) Each bondholder shall accept the new mortgage to which he is entitled under this Act as a complete satisfaction and discharge of

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A.D. 1885. the moneys expressed to be secured by the scheduled bond in respect of which the new mortgage is granted and of all claims in respect of such scheduled bond whether against the Corporation any members of the council or officers of the Corporation or otherwise.

(6.) No action or proceeding in respect of any scheduled bond shall be commenced or continued against the Corporation or any member of the council or officer of the Corporation after the passing of this Act.

(7.) The new mortgages may be in the form or to the effect contained in the Second Schedule to this Act.

(8.) Subject to the provisions of this Act sections 237 238 and 239 of the Public Health Act 1875 with respect to mortgages granted by a local authority shall apply to the new mortgages.

(9.) If any dispute or difference shall arise between the Corporation and any bondholder as to the amount to be secured by any new mortgage or as to the amount of the instalments thereof the same shall be referred to William Alfred Jevons of Liverpool or in case of his death unwillingness or inability to act to Richard Stewart Cleaver also of Liverpool and in case of his death unwillingness or inability to act to a single arbitrator to be appointed (on the application of either party) by the President for the time being of the Liverpool Law Society and the decision of any such arbitrator shall be final and conclusive and the provisions so far as they are applicable of the Common Law Procedure Act 1854 shall apply to such arbitration: And the arbitrator may award and decree how by whom and to whom the costs of the reference and award shall be paid.

(10.) Section 28 (returns to Local Government Board) of the Municipal Corporations Act 1882 shall extend and apply to the instalments which the Corporation are required to pay in respect of the new mortgages.

Power of
trustees and
others to
accept new
mortgages.

4. (1.) Where the bondholder is one of the persons enabled by section 7 of the Lands Clauses Consolidation Act 1845 to sell land thereunder that person is hereby authorised and required to accept the new mortgage authorised by this Act as a complete satisfaction and discharge of the moneys expressed to be secured by the scheduled bond in respect of which the new mortgage is granted and of all claims in respect of such scheduled bond as if he were the absolute owner thereof and he is hereby indemnified for so doing.

(2.) Money secured by any such new mortgage shall be subject to the same trusts powers testamentary and other dispositions provisions and incumbrances as the money expressed to be secured or represented by the scheduled bond was subject to immediately before the granting of the new mortgage and every deed will or

other instrument shall take effect with reference to the whole or a proportionate part of the money secured by the new mortgage as the case may be. A.D. 1885.

5. All charges existing at the passing of this Act on the rates and property of the Corporation shall during their continuance have priority over any mortgages granted by the Corporation under the powers of this Act. Saving
priority of
existing
mortgages.

6. (1.) Each party to the said action of John Duncan junior Bernard Kelly and Charlotte Roberts against the Corporation shall bear their own costs of the said action and as regards the costs of the Corporation they shall be paid out of the borough fund and borough rate. Costs of
action and
Act.

(2.) All the costs charges and expenses preliminary to and of and incidental to the preparing applying for and obtaining this Act as taxed and ascertained by the taxing officer of the House of Lords or the House of Commons shall in the first instance be defrayed by the Corporation out of the borough fund and borough rate but shall ultimately be borne and paid as follows (that is to say) as to one half of such costs charges and expenses by the Corporation and as to the other half by the bondholders in proportion to the amount of the principal moneys expressed to be secured by their respective scheduled bonds and the amount of each bondholder's share of such costs charges and expenses shall be deducted from the sums payable under the new mortgages as herein-before in this Act provided.

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THE FIRST SCHEDULE.

Names of Bondholder.	Date of Bond.	Amount expressed to be secured.	Date from which Interest to be calculated.
		£	
William Alexander Duncan -	5th June, 1878 -	500	24th May, 1883.
John Duncan, jun., and Bernard Kelly	30th September, 1880	500	29th March, 1883.
John Duncan, jun., Bernard Kelly, and Charlotte Roberts -	22nd June, 1881 -	2,000	24th June, 1883.
Frederick James Hawkins and William Parry Evans -	30th July, 1881 -	1,500	30th January, 1883.
John Duncan, jun., and Bernard Kelly	13th September, 1881	1,000	25th March, 1883.
Joseph Kelsall - - -	31st January, 1882 -	2,000	31st January, 1883.
Joseph Kelsall - - -	13th May, 1882 -	1,000	29th May, 1883.
Richard Kelsall - - -	7th November, 1882 -	2,000	10th May, 1883.
Alfred Patchett - - -	21st May, 1883 -	1,000	21st May, 1883.
John Duncan - - -	19th July, 1882 -	1,500	19th January, 1883.
John Duncan - - -	19th July, 1882 -	1,000	30th June, 1883.
John Duncan - - -	24th June, 1878 -	1,000	24th June, 1883.
Robert Blacklidge - - -	13th February, 1880	1,000	25th March, 1883.
Robert Blacklidge - - -	25th March, 1880 -	500	25th March, 1883.
Robert Blacklidge - - -	8th November, 1882 -	2,000	9th November, 1882.
Joseph Lee - - -	29th May, 1879 -	500	30th June, 1883.
William Tate Mason - - -	29th January, 1883 -	1,000	29th January, 1883.
The Manchester Unity Independent Order of Oddfellows, represent- ing the trustees of the Loyal Britannia Lodge of Oddfellows, Manchester Unity, Southampton District - - -	25th March, 1879 -	800	25th March, 1883.
Thomas Holt - - -	27th December, 1882	1,000	30th June, 1883.
Thomas Jones - - -	24th May, 1878 -	500	24th May, 1883.
William Woolfall - - -	11th May, 1881 -	800	11th May, 1883.
Joseph James Cummins and James Fairhurst - - -	24th March, 1881 -	650	29th March, 1883.
Joseph James Cummins and James Fairhurst - - -	24th March, 1881 -	350	29th March, 1883.
		£24,100	

THE SECOND SCHEDULE.

A.D. 1885.

FORM OF NEW MORTGAGE.

By virtue of the *Bootle-cum-Linacre (Fictitious Bonds) Act 1885* we the mayor aldermen and burgesses of the borough of *Bootle-cum-Linacre* in the county of Lancaster for the consideration appearing in the said Act do grant and assign unto _____ of _____ executors administrators and assigns such proportion of the borough fund and borough rate of the said borough as the sum of _____ pounds doth or shall bear to the whole sum which is or shall be borrowed on the credit of the said fund and rate To hold to the said _____ executors administrators and assigns from the day of the date hereof until the said sum of _____ pounds shall be fully paid and satisfied.

And it is hereby declared that the said sum of _____ pounds which consists of principal and interest combined shall be paid by twelve equal instalments as set forth in the schedule hereto the first of such instalments on the 1st day of September 1886 and the subsequent instalments on the 1st day of September in every succeeding year up to and including the 1st day of September 1897.

Given under our common seal this 1st day of September 1885.

L.S.

SCHEDULE.

TABLE OF REPAYMENTS.

Number of Instalment.	Date of Payment.	Interest.	Principal.	Principal and Interest combined.	Balance of Principal remaining unpaid.
1	1st September, 1886				
2	" " 1887				
3	" " 1888				
4	" " 1889				
5	" " 1890				
6	" " 1891				
7	" " 1892				
8	" " 1893				
9	" " 1894				
10	" " 1895				
11	" " 1896				
12	" " 1897				

