

CHAPTER cvi.

An Act to incorporate Commissioners and to transfer to and vest in them the Harbour Undertaking of the Trustees for the District and Harbour of Maryport to alter the constitution of such Trustees and for other purposes.

[20th July 1894.]

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WHEREAS the Trustees for the district and harbour of Maryport in the county of Cumberland (in this Act called "the Trustees") are incorporated and various powers conferred upon them in respect of the district and harbour of Maryport by the Acts specified in the First Schedule to this Act and in this Act referred to as "the former Acts":

And whereas under the powers contained in the former Acts the Trustees have constructed docks basins piers and other works for the improvement of the harbour of Maryport and the accommodation of the trade thereof and for those purposes have borrowed money on mortgage:

And whereas the total amount now due by the Trustees on mortgage in respect of their harbour undertaking including certain sums borrowed by their predecessors the Trustees for improving the harbour and township of Maryport is three hundred and fourteen thousand six hundred and ninety-six pounds the whole of which is charged on the harbour undertaking and harbour fund of the Trustees:

And whereas since the year one thousand eight hundred and eighty-four the harbour fund has not been sufficient to pay the whole of the interest due on the said mortgages and by an order made by the Chancery Division of the High Court of Justice on the fifth day of November one thousand eight hundred and eighty-four in an action (1884 K. 1015) brought by John Kennedy and William Bookless on behalf of themselves and all other the said mortgagees against the Trustees Frederick Kelly clerk to the Trustees was appointed Receiver And whereas questions having arisen in the said action as to the priorities of the said several mortgages the court has

D. 1894. in the said action decided that there are five classes of the existing mortgages entitled to successive priorities the respective amounts of which with the rates of interest respectively payable thereon are set forth in the Second Schedule hereto :

And whereas it is expedient that the harbour undertaking of the Trustees should be transferred to and vested in Commissioners to be incorporated and appointed as by this Act provided and that powers should be conferred upon such Commissioners to re-borrow the amounts of the existing mortgages and to give to the lenders of the money so borrowed the same priorities as the mortgages paid off or redeemed thereby whereby money could be borrowed at a lower rate of interest than now paid on the existing mortgages and the charges on the harbour fund thereby reduced :

And whereas provisions are contained in the former Acts for the payment off by means of sinking funds of the moneys borrowed by the Trustees but owing to the insufficiency of the harbour fund the Trustees have been unable and the Commissioners will be unable to carry out the said provisions and it is expedient that such provisions should be repealed and that other provisions should be substituted therefor as by this Act provided and that the amounts now standing to the said several sinking funds should be carried to the sinking fund by this Act established :

And whereas the owners of shipping are now entitled to vote at the election of Trustees by reason of their interest in the harbour undertaking and will after the transfer of the harbour undertaking to the Commissioners be entitled to vote as shipowners at the elections of Commissioners under the provisions of this Act :

And whereas the coalowners shipping coal at Maryport are now entitled to elect four of the Trustees and will after the transfer of the harbour undertaking to the Commissioners be entitled to vote under the provisions of this Act at the elections of Commissioners as exporters of goods by sea from the harbour of Maryport :

And whereas it is expedient that the constitution of the Trustees should after the transfer be altered and that the shipowners and coalowners as such should not thenceforth have any special powers of voting for or electing Trustees :

And whereas it is expedient that powers should be conferred on the Commissioners and Trustees respectively as in this Act provided :

And whereas an absolute majority of the whole number of the Trustees at a meeting held on the eighth day of November one thousand eight hundred and ninety-three 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 said

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 harbour fund and harbour dues and rates: A.D. 18

And whereas such resolution was published twice in the "Maryport Advertiser" a newspaper circulating in the said district and has received the approval of the Local Government Board and 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 Trustees at a further special meeting held in pursuance of a similar notice on the tenth day of January one thousand eight hundred and ninety-four being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas the owners and ratepayers of the district and harbour of Maryport as defined in the Act of 1868 by resolution in the manner provided in the Third Schedule of the Public Health Act 1875 have consented to the promotion of the Bill for this Act:

And whereas the objects of this Act cannot be attained 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 (that is to say):—

PART I.—PRELIMINARY.

1. This Act may be cited for all purposes as the Maryport Short ti Harbour Act 1894:

Such parts of the Acts of 1866 and 1868 referred to in the First Schedule as relate to the harbour and the Acts of 1879 1882 and 1884 which entirely relate to the Harbour and this Act may be cited together for all purposes as the Maryport Harbour Acts 1866 to 1894.

2. This Act shall be divided into parts as follows:—

Part I.—Preliminary.

Part II.—Incorporation appointment and election of Commissioners.

Part III.—Finance.

Part IV.—The Trustees.

Part V.—Miscellaneous.

3. The provisions of the former Acts so far as they relate to the Former harbour or harbour undertaking or to the Trustees in respect to apply

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thereof shall apply to the Commissioners and to the harbour undertaking as vested in them as fully and effectually as if the Commissioners had been named therein instead of the Trustees and from and after the date of transfer the provisions aforesaid shall not apply to the urban district council of Maryport.

4. The provisions of the Commissioners Clauses Act 1847 with the exception of sections 6 and 7 relating to the qualification of commissioners and except the sections with respect to the election and rotation of the commissioners where the commissioners are to be elected by the ratepayers or other like class of electors and except the sections with respect to the accounts to be kept by the commissioners are (except where inconsistent with or expressly varied by this Act) incorporated with and form part of this Act.

5. In this Act—

“The Commissioners” means the Commissioners for the harbour of Maryport by this Act constituted and incorporated;

“The Trustees” means the Trustees for the district and harbour of Maryport and after the date of transfer the urban district council of Maryport;

“The lord of the manor” means the lord of the manor of Ellenborough in the parishes of Cross Canonby and Dearham in the county of Cumberland for the time being and includes the lady of the manor;

“The harbour” means the harbour of Maryport as extended and defined by the Maryport Improvement (Harbour) Act 1879;

“The harbour undertaking” means and includes all the docks basins quays wharves railways piers jetties and other works rights powers privileges authorities lands easements property estate books plans documents and effects vested in or enjoyed by the Trustees with respect to the harbour;

“The existing mortgages” means the mortgages granted by the Trustees in connexion with the harbour under the former Acts or by their predecessors the Trustees for improving the harbour and township of Maryport and now outstanding amounting in all to three hundred and fourteen thousand six hundred and ninety-six pounds as set forth in the Second Schedule to this Act;

“The harbour securities” includes the existing mortgages and any mortgages made by the Commissioners under this Act or under the Acts of 1866 to 1884;

“Bondholders” means the holders of harbour securities;

“Goods” includes minerals and merchandise of every description;

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tion.

“The recited action” means the action in the Chancery Division of the High Court of Justice (1884 K. 1015) in which John Kennedy and William Bookless since deceased on behalf of themselves and all other the mortgagees under the third and fourth William IV. chapter 113 of the tonnage rates and duties connected with the harbour of Maryport and on behalf of themselves and all other the mortgagees of the harbour property and estates and harbour fund of the Trustees for the district and harbour of Maryport and the harbour fund under the several Maryport Improvement (Harbour) Acts 1866 1868 1879 1882 and 1884 and Elizabeth Bookless William Hobson and John Brough Mason the legal personal representatives of the said William Bookless deceased are plaintiffs and the Trustees are defendants. A.D.

PART II.—INCORPORATION APPOINTMENT AND ELECTION OF COMMISSIONERS.

6.—(1.) There shall be a body of Commissioners constituted as by this Act provided and they and their successors shall be a body corporate under the name or style of “the Commissioners for the Harbour of Maryport” with perpetual succession and a common seal and shall have power to sue and be sued and to purchase take hold and dispose of lands and other property and all the other powers and privileges of a body corporate. Incorporation of mission and har underta vested them.

(2.) On and from the second Wednesday in October one thousand eight hundred and ninety-four (in this Act called “the date of transfer”) the harbour undertaking and the powers and jurisdiction of the Trustees in relation thereto shall be transferred to and vested in the Commissioners subject to the provisions of the former Acts as varied by this Act and of this Act and subject to the debts contracts and liabilities affecting the same.

7. No action suit or other proceeding civil or criminal to which at the date of transfer the Trustees were parties in respect of the harbour undertaking shall abate determine or be prejudicially affected by reason of the transfer of the harbour undertaking to the Commissioners but may be continued by or against the Commissioners as the case may be as fully and effectually as the same might have been continued by or against the Trustees. Actions to abate

8. All contracts deeds instruments purchases or sales made or entered into by the Trustees in respect of the harbour undertaking before the date of transfer shall be effectual to all intents in favour of or against the Commissioners after such date. Contract &c. preserved.

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As to pay-
ment of
debts owing
before date of
transfer.

9. All persons who immediately before the date of transfer owed any money to the Trustees or to any person on their behalf in respect of the harbour or the harbour undertaking shall pay the same with all interest (if any) due or accruing upon the same to the Commissioners and all debts and moneys which immediately before the date of transfer were due or recoverable from the Trustees in respect of the harbour or the harbour undertaking or for the payment of which the Trustees were or but for this Act would be liable in respect of the harbour or the harbour undertaking shall be paid with all interest (if any) due or accruing for the same by or be recoverable from the Commissioners.

Books &c. to
be evidence

10. All documents books and writings which would have been receivable in evidence in respect of any matter relating to the harbour for or against the Trustees shall after the date of transfer be admitted as evidence in respect of the same or the like matter for or against the Commissioners.

Constitution
of Commis-
sioners.

11. The Commissioners shall be thirteen in number and shall be constituted as follows:—

The lord of the manor or his deputy appointed as by this Act provided:

Three appointed members namely—one member to be appointed by the lord of the manor one member to be appointed by the London and North Western Railway Company and one member to be appointed by the Maryport and Carlisle Railway Company: Nine elective members namely—two members to be elected by the traders (in this Act called “traders members”) two members to be elected by the shipowners (in this Act called “shipowners members”) three members to be elected by the bondholders other than the said railway companies and the lord of the manor (in this Act called “bondholders members”) and two members to be elected by the Trustees (in this Act called “Trustees members”):

The failure to appoint any appointed member or to elect any elective member at the first or any subsequent appointment or election shall not invalidate the acts of the Commissioners but the remaining Commissioners may and shall carry this Act into execution.

First ap-
pointment
and election
of Commis-
sioners.

12. The first Commissioners to be appointed and elected under this Act shall come into office on the date of transfer and shall hold office till the second Wednesday in the month of October in the year one thousand eight hundred and ninety-seven when they shall go out of office and new Commissioners shall be appointed and elected in their stead and so from time to time on the second

Wednesday in October in every succeeding third year Provided that any member going out of office shall be capable of being re-appointed or re-elected as the case may be.

13. The member to be appointed by the lord of the manor shall be appointed by writing under his hand or under the hand of his attorney duly appointed for that purpose and such writing shall be delivered at the office of the Commissioners on or before the second Wednesday in October one thousand eight hundred and ninety-four and on or before the second Wednesday in October in each succeeding third year Provided that if the lord of the manor shall neglect to make any appointment in any year of election the member previously appointed by him and going out of office shall continue in office as if he had been re-appointed.

14.—(1.) The lord of the manor for the time being may from time to time appoint any person to act as his deputy in the office of Commissioner.

(2.) If the lord of the manor shall be incapacitated by infancy or from any other cause his guardian or the committee of his estate may from time to time appoint any person to act as such deputy as aforesaid and such guardian or committee may during such infancy or incapacity exercise the power of appointing a Commissioner by this Act conferred upon the lord of the manor.

(3.) Every appointment of a deputy under this section shall be made in writing under the hand of the person making the appointment and shall be delivered to the clerk of the Commissioners and shall continue in force during such period (not exceeding three years) as may be limited thereby provided that the life of the lord of the manor or the incapacity of such incapacitated person shall so long continue.

(4.) Every deputy appointed under this section shall be entitled to act as Commissioner in place of the lord of the manor while such appointment continues in force.

15. The members to be appointed by the London and North Western Railway Company and the Maryport and Carlisle Railway Company respectively shall be appointed in writing under the seals of such companies respectively and such appointments shall be delivered at the office of the Commissioners on or before the second Wednesday in October one thousand eight hundred and ninety-four and on or before the second Wednesday in October in each succeeding third year Provided that if in any year of election either of the said railway companies neglect to make any appointment the member previously appointed by that company and going out of office shall continue in office as if he had been re-appointed.

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Election of
Trustees
members.

16. The Trustees members shall be elected at a meeting of the Trustees to be held on the second Wednesday in October one thousand eight hundred and ninety-four and on the second Wednesday in October in each succeeding third year and their election shall be certified by the clerk of the Trustees by writing under his hand and such certificate shall forthwith be transmitted by him to the clerk of the Commissioners. Provided that if in any year of election the Trustees neglect to elect members the members previously elected by the Trustees and going out of office shall continue in office as if they had been re-elected.

Election of
traders ship-
owners and
bondholders
members.

17. The traders members the shipowners members and the bondholders members shall be elected on the second Wednesday in October one thousand eight hundred and ninety-four and on the second Wednesday in October in every succeeding third year in the manner provided by this Act.

Qualification
of electors of
traders and
shipowners
members.

18. The qualification of electors of traders members and shipowners members shall be regulated as follows (that is to say):—

(1.) Every person partnership or company importing or exporting goods by sea to or from the harbour of Maryport on which duties are paid to the Commissioners to the amount of ten pounds or upwards during the twelve months immediately preceding the first day of July in each year of election shall be qualified to vote for each traders member according to the scale set forth in Part I. of the Third Schedule to this Act:

(2.) Every person partnership or company being the registered owner of shipping registered at the port of Maryport on the tonnage of which duties have been paid to the Commissioners during the twelve months immediately preceding the first day of July in each year of election shall where the duties paid by such owner amount to ten pounds or upwards during the said period be qualified to vote for each shipowners member according to the scale set forth in Part I. of the Third Schedule to this Act:

(3.) For the purposes of the election to be held on the second Wednesday in October in the year one thousand eight hundred and ninety-four duties paid or payable to the Trustees shall be substituted for duties paid or payable to the Commissioners in the foregoing provisions of this section.

Qualification
of electors of
bondholders
members.

19. The qualification of electors of bondholders members shall be regulated as follows (that is to say):—

Every person partnership or company other than the said two railway companies and the lord of the manor who on the thirtieth day of June in each year of election is a bondholder

to the extent of one hundred pounds or upwards shall be qualified to vote for each bondholders member according to the scale set forth in Part II. of the Third Schedule to this Act:

Provided that if several persons not being a partnership are entered on the register of bondholders as jointly entitled the person whose name stands first on such register shall be alone qualified as an elector by virtue of such holding unless the said several persons by writing under their hands delivered to the clerk to the Commissioners appoint some other of them to vote on their behalf in which case the person so appointed shall alone be qualified:

Every elector under this and the last preceding section shall be resident in or carry on business within the United Kingdom of Great Britain and Ireland.

20. An elector if qualified may vote for traders members shipowners members and for bondholders members.

21.—(1.) The clerk to the Trustees shall on or before the second Wednesday in August in the year one thousand eight hundred and ninety-four and the clerk to the Commissioners shall on or before the second Wednesday in August in every subsequent year of election make out and deliver to the Trustees or to the Commissioners as the case may be lists of the persons partnerships and companies who on the thirtieth day of June then next preceding were qualified to vote at the election of traders members shipowners members and bondholders members respectively.

(2.) Such lists shall be made out in alphabetical order and shall contain the names and places of business or residence of every such person partnership or company.

(3.) In the list of electors of traders members there shall be placed opposite the name of each elector the amount of duties paid by him and the number of votes to which he is entitled in respect thereof under the provisions of this Act.

(4.) In the list of electors of shipowners members there shall be placed opposite to the name of each elector the amount of duties paid by him and the number of votes to which he is entitled in respect thereof under the provisions of this Act.

(5.) In the list of electors of bondholders members there shall be placed opposite the name of each elector the amount of his holding and the number of votes to which he is entitled in respect thereof under the provisions of this Act.

(6.) The lists shall be signed by the clerk and shall be certified by him to be accurate to the best of his knowledge and if the clerk fail

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to make out such lists and deliver the same within the time by this Act provided or knowingly and wilfully make any false entry therein or knowingly and wilfully omit therefrom any entry that ought to be made therein under the provisions of this Act he shall for every such offence be liable to a penalty not exceeding fifty pounds.

(7.) The list of electors of bondholders members signed and certified by the clerk shall be conclusive evidence that the persons partnerships or companies therein named and no others are entitled to vote at the election of bondholders members to be held in that year and that the persons partnerships and companies named in such list are entitled to the number of votes therein stated.

Printing and
sale of lists
of electors of
traders
members and
shipowners
members.

22. On or before the third Wednesday in August in the year one thousand eight hundred and ninety-four the Trustees and on or before the third Wednesday in August in each succeeding year of election the Commissioners shall cause the list of electors of traders members and shipowners members made out as herein-before provided to be printed and printed copies thereof for seven days thereafter to be posted on a board affixed on the outer wall of their principal office at Maryport and to be kept at such office for public inspection during office hours and during the period aforesaid the Trustees or the Commissioners as the case may be shall deliver printed copies of such lists to any person requiring the same on payment of such sum as the Trustees or the Commissioners as the case may be shall fix not exceeding sixpence for each copy of each list.

Revision of
lists of elec-
tors of
traders and
shipowners
members.

23.—(1.) On or before the second Wednesday in August in the year one thousand eight hundred and ninety-four the Trustees and on or before the same date in each succeeding year of election the Commissioners shall appoint three of their number to be revisors of the list of electors of traders members and shipowners members made out as herein-before provided.

(2.) The revisors shall within seven days next after the fourth Wednesday in August in each year of election revise at the office of the Trustees or of the Commissioners as the case may be the list of electors of traders members and shipowners members made out under this Act and notice of the time appointed for the commencement of such revision shall be posted on the outer door of the office of the Trustees or of the Commissioners as the case may be on every day for the five days before the day so appointed and shall be advertised at least once during such five days in some newspaper published or circulating in Maryport.

(3.) On every such revision any person partnership or company whose name is not inserted in any list may in person or by his or their agent claim to have his or their name inserted therein and any

person partnership or company whose name is inserted in any list may in person or by his or their agent claim to have the number of votes attributed to him or them therein corrected and may object to any person partnership or company being retained in any such list or having the number of votes attributed to him or them therein or to the name of any person partnership or company whose name is not in the list being inserted therein and may apply for the alteration or correction of any entry in any such list or the insertion of any entry not appearing therein.

(4.) The revisors shall in pursuance of such applications as aforesaid correct the lists of electors of traders members and shipowners members by inserting therein the name of any person partnership or company which is not in the list and which it is shown to their satisfaction ought to be therein and by erasing therefrom the name of any person partnership or company which is therein and which it is shown to their satisfaction ought not to be therein and by altering correcting or erasing any entry which it is shown to their satisfaction is inaccurate and by inserting any entry which it is shown to their satisfaction ought to be therein And the revisors shall also strike out the name of any person shown to their satisfaction to be dead and shall correct clerical and other errors (if any) in the lists so as to bring the same into conformity with the facts.

(5.) The decision of the revisors or the majority of them with respect to the lists shall be final and conclusive and the revisors shall forthwith after every revision sign their names at the foot of the lists revised and if any revisor shall refuse to sign or wilfully make default in signing any list he shall be liable to a penalty not exceeding fifty pounds.

(6.) In case of the death or neglect or failure to act of any of the revisors the others or other of them may make and complete the revision.

24. For the purposes of the revision the Trustees or the Commissioners as the case may be shall produce to the revisors such of the books accounts and papers of the Trustees or Commissioners as the revisors may require and shall afford to the revisors all reasonable and proper facilities for revising the lists in pursuance of this Act.

25. Every list purporting to be a list revised according to this Act and signed by a majority of the revisors or if one revisor only act in the revision by such revisor shall be *prima facie* evidence of the same being a list duly revised and signed according to this Act and of all the provisions of this Act relating to the list or to the revision thereof having been duly complied with.

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Revised lists
to be conclu-
sive evidence
of right to
vote.

26. The revised lists shall respectively be conclusive evidence that the persons partnerships or companies therein respectively named and no others are entitled to vote at the election of traders members and shipowners members respectively to be held in that year and that the persons partnerships and companies named in such lists respectively are entitled to the number of votes stated therein.

Printing and
sale of re-
vised lists.

27. Every revised list of electors of traders members and shipowners members shall within three days from the revision thereof be printed by the Trustees or the Commissioners as the case may be and thenceforth until the day of election they shall cause printed copies thereof to be sold at a reasonable price (not exceeding sixpence for each copy) to all persons desiring to buy the same.

Election of
traders ship-
owners and
bondholders
members.

28. With respect to the election of traders members shipowners members and bondholders members respectively the following provisions shall have effect:—

- (1.) In each year in which an election takes place the same shall be held on the second Wednesday in October :
- (2.) The clerk of the Trustees in the year one thousand eight hundred and ninety-four and the clerk to the Commissioners in every subsequent year of election shall be the returning officer whose decision in reference to any question arising shall be final :
- (3.) Twenty-eight days at least prior to the day of election the returning officer shall give public notice (such notice to be printed and posted on a board to be affixed on the outer wall of the principal office at Maryport of the Trustees or the Commissioners as the case may be and inserted in a local newspaper published and circulating in the county of Cumberland and in a local newspaper published and circulating in Maryport) requiring the names of candidates to be sent in to him :
- (4.) Twenty days at least prior to the day of election the names of candidates shall be intimated to the returning officer in the form set forth in the Fourth Schedule to this Act or to the like effect and such form shall be signed by two electors of the class whom the candidate seeks to represent and by the candidate in approval of his nomination :
- (5.) Any candidate may withdraw from his candidature by notice signed by him and delivered to the returning officer by four o'clock in the afternoon of the day immediately succeeding the last day for sending in nominations :
- (6.) If at four o'clock in the afternoon of the day immediately succeeding the last day for sending in nominations the number of candidates for any of the said classes of elective members is not more than the number of vacancies to be filled there shall

be no poll in respect of that class and the returning officer shall on the day of election declare such candidates duly elected but if in respect of any of the said classes the number of candidates is greater than the number of vacancies to be filled a poll shall be taken for that class of elective members in manner herein-after provided :

- (7.) Ten days at least prior to the day of election the returning officer shall in the event of a poll send by post to each elector a voting paper in the form set forth in the Fifth Schedule to this Act or to the like effect containing the names of the candidates and the votes of such elector shall be recorded in accordance with the directions in the said form :
- (8.) Every elector of each class may vote for as many candidates as there are members to be elected for that class or for any lesser number and the returning officer shall in summing up the votes allow to each of the candidates voted for the number of votes to which the elector is entitled according to the list of electors for that class :
- (9.) It shall not be competent to use any voting paper or to reckon the same for the purposes of any poll unless it has been returned to the returning officer at the office of the Trustees or of the Commissioners as the case may be not less than twenty-four hours before nine o'clock in the morning of the day of election :
- (10.) On the day of election the votes shall be counted by the returning officer and the candidates who shall be found to have the greatest number of valid votes shall be declared by the returning officer duly elected Commissioners :
- (11.) The returning officer shall make a return under his hand to the Commissioners of the persons elected and every person so returned shall be deemed duly elected and in case of an equality of votes the returning officer shall determine by lot between the candidates so equal :
- (12.) In the event of the requisite number of Commissioners not being elected at any election the Commissioners shall within one month thereafter at a special meeting elect members to fill the vacancies and every member so elected shall be deemed an elective member and hold office accordingly.

29. If any Commissioner die or resign or if his office become vacant from any cause between two triennial periods of election the vacancy shall be filled as follows :—

- (1.) If the member whose office becomes vacant was appointed by the lord of the manor another member may be appointed by the lord of the manor in his place :

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- (2.) If the member whose office becomes vacant was appointed by either of the two railway companies such railway company may appoint another member in his place :
- (3.) If the member whose office becomes vacant was elected by the Trustees they may elect another member in his place :
- (4.) If the vacancy happens among the traders members or ship-owners members or bondholders members the Commissioners shall at a meeting specially called for that purpose elect another in his place :
- (5.) Every person appointed or elected a Commissioner under this section shall as to continuance in office and in all other respects be in the same position as the Commissioner in whose place he has been appointed or elected.

30. Any act of the Commissioners or of any member thereof shall not be invalid or illegal by reason of any irregularity in the nomination or election of any member or by reason of the non-delivery of or the too late delivery of or any error in any list of electors or by reason of any irregularity in the making or publishing of any such list or any notice in respect thereof or by reason of any failure or omission on any occasion to elect any member or by reason of any other irregularity error failure or omission in or about any nomination or election or in or about any matter preliminary or incidental thereto.

31. The Commissioners shall hold their first meeting at the office of the Trustees on the third Wednesday in October one thousand eight hundred and ninety-four at the hour of eleven o'clock and other meetings of the Commissioners shall be held on such days at such times and at such places as the Commissioners shall from time to time appoint and the annual meeting shall be held on the third Wednesday in May or on such other day as the Commissioners shall from time to time appoint.

32. The quorum of a board meeting of the Commissioners shall be four.

33. The expenses incurred by the Trustees or by the Commissioners as the case may be in the making preparing printing and revising of lists of electors and in any way incidental thereto and in printing and sending voting papers or otherwise in relation to elections under this Act shall be establishment charges and shall be defrayed by the Trustees or by the Commissioners as the case may be out of the harbour fund.

34. The present clerk to the Trustees shall be the clerk to the Commissioners and all officers and servants of the Trustees who at the date of transfer are in the employment of the Trustees for the

Errors in
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not to vitiate
acts of Com-
missioners.Meetings of
Commis-
sioners.

Quorum.

Expenses of
revision of
lists and
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and servants
continued.

purposes of the harbour undertaking exclusively shall thereupon become officers and servants of the Commissioners and such clerk officers and servants shall have the same rights and be subject to the same obligations and incidents in respect of such employment as he or they would have had or been subject to as the clerk officers or servants of the Trustees and shall so continue unless and until they respectively are removed from such employment by the Commissioners or until the terms of their employment are altered by the Commissioners.

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35. In addition to the meetings to be held by appointment of the Commissioners the chairman of the Commissioners for the time being or any three or more Commissioners may at any time by writing delivered to the clerk to the Commissioners require a special meeting to be convened and the clerk shall convene a meeting accordingly and shall give at least two clear days notice thereof to each Commissioner.

Special meetings of Commissioners

36. On or before the first day of May in each year the Commissioners shall cause the accounts of their receipts payments credits and liabilities for the year ending on the twenty-fifth day of March then last past to be printed and shall furnish a printed copy thereof to all persons applying for the same during the usual office hours on payment of a reasonable sum not exceeding one shilling.

Accounts

37. There shall be appointed annually by the Commissioners on or before the first day of May two persons (not being Commissioners) in this Act called the auditors whose duty shall be to inspect and examine the accounts for the year ending the twenty-fifth day of March next before their appointment and in case the auditors shall find the same to be correct they shall certify the same in writing to the Commissioners and in case the auditors shall find the same or any part thereof not to be correct they shall have power to make all such inquiries as under the circumstances may be necessary and expedient and shall make to the Commissioners a special report in writing of the facts connected therewith and the Commissioners shall be at liberty to pay to each of the auditors a sum not exceeding ten pounds as a remuneration for such auditing. The provisions of this and the last preceding section shall not come into force until the receiver in the recited action has been discharged by the court.

Audit of accounts.

PART III.—FINANCE.

38. Where the time fixed by any existing mortgage for the payment of the principal moneys thereby secured has expired it shall be lawful for the Commissioners to pay off the principal money

Repayment of money borrowed on six months notice.

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secured by such mortgage with all arrears of interest upon giving six months previous notice for that purpose and every such notice shall be in writing or print or both and shall be given either personally to each mortgagee or left at his residence or sent to him by registered letter or if such mortgagee be unknown to the Commissioners or cannot be found after diligent inquiry such notice shall be given by advertisement in the "London Gazette."

Money borrowed to pay off harbour securities to have same priority.

39.—(1.) For the purpose of paying off and discharging the existing mortgages or any part thereof the Commissioners may from time to time borrow at interest such sums of money as they think fit not exceeding the amount of the existing mortgages and to secure the repayment of the money so borrowed the Commissioners may mortgage the harbour undertaking to the extent and in the manner in this section provided.

(2.) Mortgages granted by the Commissioners to secure the repayment of moneys borrowed under this section may be granted for a period or successive periods not exceeding in the whole twenty-five years from the passing of this Act and such mortgages shall during their continuance stand in the place of and have the same respective priorities as the respective existing mortgages for the payment off and discharge of which such moneys have respectively been borrowed.

(3.) Money borrowed under this section shall be applied only to the payment off and discharge of the existing mortgages but no person lending money to the Commissioners shall be bound to see to the application or be answerable for any loss or misapplication of such money.

(4.) For the purposes of mortgages under this section the forms in the Sixth Schedule to this Act or any forms to the like effect may be used.

Appointment of a receiver.

40. The mortgagees of the Commissioners under 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 due to the mortgagees by whom the application for a receiver is made shall not be less than five thousand pounds.

Protection of lenders from inquiry.

41. A lender of money to the Commissioners under this Act shall not be bound to inquire respecting the observance by them of any of the provisions of this Act or bound to see to the application or be answerable for any loss non-application or misapplication of the money lent or any part thereof.

Sinking fund.

42.—(1.) The Commissioners shall pay off or redeem or put themselves in a position to pay off or redeem at par the harbour

securities within sixty years from the passing of this Act by making equal annual contributions to a sinking fund to be appropriated for that purpose and with the accumulations thereof (if any) from time to time applied for that purpose.

(2.) There shall be carried to the sinking fund the moneys forming the existing sinking funds under the former Acts or the investments representing the same.

(3.) The annual contributions to be made by the Commissioners to the sinking fund shall be of such amounts as with the moneys standing to the credit of the sinking fund and the accumulations thereof and of such contributions by way of compound interest at the rate of three per cent. per annum shall be sufficient to pay off or redeem at par the harbour securities within the said period of sixty years.

(4.) All sums paid into the sinking fund shall be as soon as may be invested in securities in which Trustees are by law for the time being authorised to invest trust moneys or on any mortgage bond debenture debenture stock corporation stock or other security of any local authority within section thirty-four of the Local Loans Act 1875 except securities of the Commissioners and securities transferable by delivery.

(5.) The Commissioners may from time to time apply the whole or any part of the sinking fund in or towards the discharge of the principal moneys for the discharge of which such fund shall have been established Provided that they pay in each year into the sinking fund and accumulate until the whole of the said principal moneys shall have been discharged a sum equivalent to the interest of the principal moneys so paid off or discharged at the rate on which the sinking fund is based Provided also that whenever and so long as the yearly income arising from the sinking fund shall be equal to the annual interest of the principal moneys then outstanding and to be paid off by means of such fund the Commissioners may instead 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 by this Act required to be paid thereto.

(6.) On and from the date of transfer the provisions in the former Acts relating to sinking funds in respect of money borrowed for the harbour undertaking shall be and the same are hereby repealed.

43. The clerk to the Commissioners shall within twenty-one days after the expiration of each year during which any sum is required to be set apart for the sinking fund under the preceding provisions of this Act transmit to the Board of Trade a return in

Annual re-
turn to Boa
of Trade as
to sinking
fund in

A.D. 1894.
 respect of
 moneys bor-
 rowed on
 mortgage.

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 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 have been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund and any interest thereof 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 Board of Trade by such return or otherwise that the Commissioners have failed to set apart 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 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 a writ of Mandamus to be obtained by the Board of Trade out of the High Court.

Application
 of revenue.

44. The harbour fund shall be applied to the purposes and with the priorities following (that is to say):—

Firstly in payment of the establishment charges (including therein the taxed costs of this Act and of the recited action) commissions on loans or renewal of loans rates and taxes and the expenses properly chargeable to revenue of repairing renewing managing and maintaining the harbour docks piers railways and other works comprised in the harbour undertaking:

Secondly in payment of the interest on the harbour securities:

Thirdly in making the payments by this Act provided to the sinking fund:

Fourthly on or towards any works for the improvement of the harbour undertaking or in forming a reserve fund not exceeding ten thousand pounds as a security for the payment of the interest on the harbour securities and to meet any extraordinary claim or demand against the Commissioners which in the judgment of the Commissioners ought to be paid out of the reserve fund.

PART IV.—THE TRUSTEES.

Alteration of
 constitution
 of Trustees.

45.—(1.) On the second Wednesday in October one thousand eight hundred and ninety-four the four Trustees elected by the coal-owners shall go out of office and on and from that date no further

Trustees shall be elected by the coalowners and sections 9 to 28 of the Maryport District and Harbour Act 1868 and section 30 of the same Act from the words "or be possessed" to the end of the section shall be and the same are hereby repealed.

(2.) On and from the date aforesaid the number of Trustees shall be reduced to fourteen.

46. On and from the second Wednesday in October one thousand eight hundred and ninety-four the name of the Trustees shall be changed and they shall thenceforth be called "The Urban District Council of Maryport."

47.—(1.) The Trustees and the Commissioners may from time to time enter into agreements for the supply by the Trustees to the Commissioners of gas and water for the purposes of the harbour undertaking on such terms and conditions and for such price as shall from time to time be agreed on between them or as failing agreement shall be settled by an arbitrator to be appointed by the Board of Trade on the application of either party who shall have regard to the price for the time being charged to private consumers and to all the circumstances of the case which it is equitable to consider.

(2.) Where any question shall have been decided by an arbitrator under this section it shall not be lawful except by consent of both parties to submit such question to arbitration again until the expiration of twelve months from the date of such decision.

PART V.—MISCELLANEOUS.

48.—(1.) The Commissioners may from time to time grant leases of any lands belonging to them for the purpose of the erection of warehouses thereon or for any other purpose which in the opinion of the Commissioners is likely to benefit the harbour undertaking on such terms and conditions and for such rent or other remuneration as the Commissioners think fit but no such lease shall be granted unless the Commissioners shall first have declared under their seal that the land comprised in such lease can in their opinion be so leased without detriment to the harbour undertaking.

(2.) No lease granted under this section shall be for a longer term than eighty years from the making thereof.

(3.) All moneys received by the Commissioners by way of premium or fine in respect of any such lease shall be paid into the sinking fund in addition to the other payments by this Act prescribed or shall be applied by them to the payment off or redemption of harbour securities and the securities so paid off or redeemed shall thereupon be cancelled.

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Production of
books by
Trustees.

49. The Trustees shall at all reasonable times at the request in writing of the clerk to the Commissioners produce to him or to the Commissioners or any of them any of their minute books or other books or documents containing entries relating to the harbour or harbour undertaking made previously to the date of transfer and shall permit such clerk or any Commissioner to make extracts or copies therefrom.

Commis-
sioners may
use existing
offices of
Trustees.

50. The Commissioners for the purpose of their meetings and other office purposes may by agreement with the Trustees use the existing offices of the Trustees and shall so long as they continue to use the same pay to the Trustees for such user such an annual rent or sum as shall from time to time be agreed upon between the Trustees and the Commissioners.

Harbour to
be rated in
proportion of
one fourth of
net annual
value.

51.—(1.) On and from the date of transfer the harbour shall be liable to the district rate authorised by section 171 of the Maryport Improvement and Harbour Act 1866 but shall be assessed to the same in the proportion of one fourth part only of the net annual value thereof.

(2.) As from the date aforesaid the costs of lighting the quays and piers of the harbour and of maintaining and repairing the highways quays and wharves of the harbour shall be paid by the Commissioners.

(3.) As from the date aforesaid section 79 of the Maryport District and Harbour Act 1868 shall be and the same is hereby repealed.

Amendment
of Act of
1879 as to
rates.

52. Notwithstanding anything in the Maryport Improvement (Harbour) Act 1879 and the Acts therewith incorporated the Commissioners may demand and take for vessels clearing outwards without cargo lesser tonnage rates than for vessels clearing outwards with cargo and may demand and take for steam vessels entering the harbour to take in bunker coal only and remaining in the harbour not more than four tides such lesser rates than those charged for the time being in respect of other vessels as the Commissioners may from time to time determine provided that in every such case the master of the steam vessel shall declare in writing under his hand that the bunker coal taken in does not exceed one third of the ship's burthen Provided always that such lesser rates shall be charged equally in respect of all vessels under the like circumstances.

Saving as to
recited
action.

53. Nothing herein-before in this Act contained shall affect the recited action or in any way prejudice interfere with or affect the powers rights and duties of the Receiver appointed therein.

54. The costs charges and expenses of and incidental to the preparing for obtaining and passing of this Act or otherwise in relation thereto (in this Act referred to as "the costs of this Act") shall be paid out of the harbour fund.

A.D. 1
Costs of

A.D. 1894.

SCHEDULES referred to in the foregoing Act.FIRST SCHEDULE.

The Maryport Improvement and Harbour Act 1866.
 The Maryport District and Harbour Act 1868.
 The Maryport District and Harbour (Gas) Act 1877.
 The Maryport Improvement Act 1878.
 The Maryport Improvement (Harbour) Act 1879.
 The Maryport Improvement (Harbour) Act 1882.
 The Maryport Improvement (Harbour) Act 1884.

SECOND SCHEDULE.

Class.	Principal.	Interest.	Total Principal Moneys.
1 - - - - {	£ 24,505 29,650	4½ 5	£ 54,155
2 - - - - {	1,750 200	4 4½	1,950
3 - - - - {	8,350 117,520	4 4¼	125,870
4 - - - - {	1,700 81,900 1,000	4 4¼ 4½	84,600
5 - - - - {	47,121 1,000	4¼ 4½	48,121
		£	314,696

THIRD SCHEDULE.

A.D.

SCALE OF VOTES.

PART I.—ELECTORS OF TRADERS AND SHIPOWNERS MEMBERS.

£	£						
10 and under	50	-	-	-	-	-	1 vote.
50	100	-	-	-	-	-	2 votes.
100	200	-	-	-	-	-	3 "
200	300	-	-	-	-	-	4 "
300	500	-	-	-	-	-	5 "
500 and upwards		-	-	-	-	-	6 "

PART II.—ELECTORS OF BONDHOLDERS MEMBERS.

£	£						
100 and under	500	-	-	-	-	-	1 vote.
500	1,000	-	-	-	-	-	2 votes.
1,000	2,500	-	-	-	-	-	3 "
2,500	5,000	-	-	-	-	-	4 "
5,000	10,000	-	-	-	-	-	5 "
10,000 and upwards		-	-	-	-	-	6 "

FOURTH SCHEDULE.

MARYPORT HARBOUR.

Nomination of Traders members (or shipowners or bondholders members as case may be).

We A.B. [here insert name and designation] and B.C. [here insert name and designation] hereby nominate [here insert name and designation of candidate] for election as traders member (or shipowners or bondholders member as case may be)

Given under our hands this [] day of [] [18]

Two
Electors.

And I the said [] hereby sanction and approve of the said nomination.

Candidate.

To the Clerk to the Commissioners for the Harbour of Maryport.

Direction for signing.

This nomination shall be signed by two electors and the candidate and delivered to the returning officer twenty days at least prior to the [] day of [] [18] being the day of election.

A.D. 1894.

FIFTH SCHEDULE.

MARYPORT HARBOUR.

Election of traders members (shipowners members or bondholders members as case may be) on the [] day of [].

VOTING PAPER.

Number of Voting Paper.	Name and Address of Voter.	Number of Votes.
Name and Address of Candidates.		Column for Voter's Cross.

I (or we as the case may be) vote for the persons in the above list against whose names I (or we) have placed a cross.

(Signed) []

DIRECTIONS FOR VOTING.

The voter will place a × against the name of each candidate for whom he votes in the column for that purpose.

The voter can only vote once for each candidate and only for two traders or shipowners candidates or three bondholders candidates in all.

The cross placed against the name of each candidate voted for will entitle him to the number of votes specified in the above voting paper.

The voting paper must be lodged with the returning officer twenty-four hours at least before nine o'clock in the morning of the day of election and must be entire.

In case of a partnership the voting paper is to be signed in the partnership name and in the case of a company in the corporate name and countersigned by the secretary or one of the directors.

SIXTH SCHEDULE.

A.D. 1

MORTGAGE DEED.

Maryport Harbour.

Number

£

Maryport Harbour Act 1894.

By virtue of the above-mentioned Act the Commissioners for the harbour of Maryport in consideration of [] pounds paid to them by [] grant to [] his executors administrators and assigns the harbour undertaking to hold until the said sum of [] pounds be repaid to the said [] his executors administrators or assigns with interest at the yearly rate of [] pounds per centum 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 [] at the option of either party or if not then paid at any time thereafter on the expiration of six months notice given by either party All payments to be made at the office of the Commissioners The money secured by this mortgage has been borrowed by the Commissioners under the powers of the said Act to pay off or discharge a mortgage (or mortgages) in the [] class in the said Act mentioned and this mortgage has the same priority as a mortgage in that class.

Given under the seal of the Commissioners for the harbour of Maryport this [] day of [] [18] .

L.S.

Present when the seal was affixed

A.B. }
C.D. } Commissioners.
E.F. Clerk.

TRANSFER OF MORTGAGE.

Maryport Harbour Act 1894.

I A.B. of [] in consideration of [] pounds paid to me by C.D. of [] do hereby transfer to him his executors administrators or assigns the mortgage No. [] of the harbour undertaking of the Commissioners for the harbour of Maryport for [] pounds and interest at the yearly rate of [] pounds per centum granted on the [] day of []

C

25

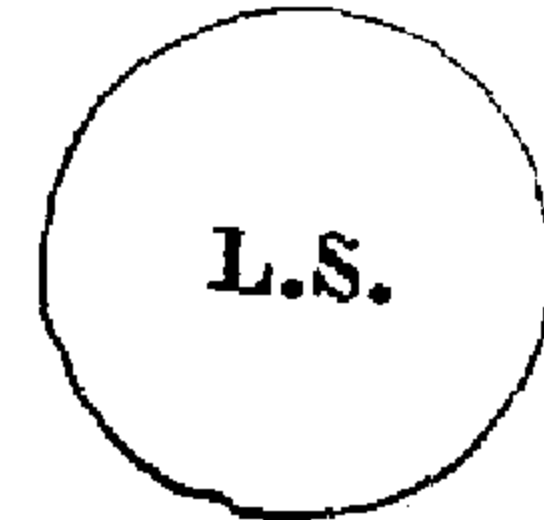
[Ch. cvi.]

Maryport Harbour Act, 1894.

[57 & 58 Vict.]

A.D. 1894. by the said Commissioners being a mortgage having the same priority as is assigned by the said Act to a mortgage in the [] class in that Act mentioned.

As witness my hand and seal this [] day of [] [18] .



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