

THE LANDPORT WHARF ACT 1883.

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For empowering the Mayor Aldermen and Burgesses of the Borough of Portsmouth to Construct a Wharf and other Works at Landport in the Borough of Portsmouth in the County of Southampton and for other purposes.

[ROYAL ASSENT 2ND AUGUST 1883.]

WHEREAS the making and maintaining of a wharf and other works connected therewith in the parish of Portsea in the county of Southampton on the northern and western bank or shore of Portsmouth Harbour adjoining to and in connection with the wharf and premises called Flathouse Wharf, belonging to the Mayor Aldermen and Burgesses of the Borough of Portsmouth in this Act referred to as the Corporation will be of public and local advantage :

Preamble.

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And whereas the Corporation are willing to carry the said

undertaking into execution and it is expedient that they should be empowered accordingly :

And whereas plans and sections of the works by this Act authorised showing the lines and levels thereof and the lands in or upon which those works are intended to be made and which are required or which may be taken for purposes or under the powers of this Act and a book of reference to those plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands have been deposited with the Clerk of the Peace for the county of Southampton which plans sections and book of reference are in this Act respectively referred to as the deposited plans sections and book of reference :

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

MAY IT THEREFORE PLEASE YOUR MAJESTY 15

That it may be enacted and be it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows :—

- Short title. 1. This Act may be cited as the Landport Wharf Act 1883. 20
- Incorporation of general Acts. 2. The Lands Clauses Consolidation Acts 1845 1860 and 1869 are (except where expressly varied by this Act) incorporated with and form part of this Act.
- Interpretation. 3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction The expression "the Act of 1839" means an Act passed in the third year of the reign of Her present Majesty chapter 72 (Local) intituled "An Act for enlarging the town quay of the borough of Portsmouth and 30

for improving that portion of the harbour of Portsmouth called "the Camber" the expression "the Act of 1868" means "the Portsmouth Camber Quays Act 1868" the word "Corporation" means the Mayor Aldermen and Burgesses of the borough of Portsmouth
5 the word "Borough" means the borough of Portsmouth the word "Council" means the Council of the Corporation the words "Borough Fund" mean the borough fund of the borough the word "vessel" means any ship lighter barge boat raft keel or any other kind of vessel whatsoever whether navigated by means of steam or
10 otherwise the expression the "Undertaking" means the undertaking by this Act authorised and for the purposes of this Act the expression "Superior Courts" or "Court of Competent Jurisdiction" or any other like expression in this Act or any Act wholly or partially incorporated herewith shall be read and have effect as if
15 the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

4. This Act shall be carried into execution by the Corporation acting by the Council. Execution of Act.

20 5. If there be any omission mis-statement or wrong description of any lands or of the owners lessees or occupiers of any lands shown upon the deposited plans or described in the deposited book of reference the Corporation after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to two
25 justices acting for the county of Southampton for the correction thereof and if it appear to the justices that the omission mis-statement or wrong description arose from mistake they shall certify the same accordingly and they shall in the certificate state the particulars of the omission and in what respect any such matter is mis-stated or
30 wrongly described. Correction of errors in deposited plans and book of reference.

6. The certificate of the justices shall be deposited with the Clerk of the Peace for the county and a duplicate thereof with the parish clerk of the parish in which the lands in question lie and the certificate and duplicate respectively shall be kept by the Clerk of
35 the Peace and parish clerk respectively with the other documents to which the same relate and thereupon the deposited plans and book of reference shall be deemed to be corrected in accordance with

the certificate and the Corporation may execute the works in accordance with the certificate.

Power to
owners to
sell ease-
ments.

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 Corporation any easement (not being an easement of water) right or privilege required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rent-charges as far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively. 5 10

Corporation
may exe-
cute works.

8. Subject to the provisions of this Act the Corporation may from time to time make maintain and execute the wharf and works hereinafter described and so far as the same are shown on the deposited plans and sections in the lines and according to the levels shown on those plans and sections and may from time to time enter upon take use and appropriate to or for the purposes of this Act all or any of the lands and buildings delineated upon the deposited plans and described in the deposited book of reference and lying within the limits of land to be acquired shown upon those plans. 15 20

The works hereinbefore referred to and authorised by this Act are:—

1. A wharf in the township of Landport in the parish of Portsea in the county of Southampton on the northern and western bank and shore of Portsmouth Harbour with power to the Corporation to stop up and extinguish all rights of way and other rights over the steps leading from Great Prospect Road to the foreshore at the south-east end of the Flathouse slipway : 25 30
2. The making and maintaining of warehouses buildings jetties shipping places landing slips stairs and stages cranes drops gates entrances approaches and other works and conveniences in and upon any lands and hereditaments purchased or held by them : 35

3. The formation deepening excavation and making of any necessary channel or channels or approaches in the said harbour up to and alongside of the wharf by this Act authorised.

5 Provided always that such deepening excavation and formation of channels shall only be exercised within five hundred feet of any part of the wharf by this Act authorised and shall be subject to the approval of the Queen's Harbour Master at Portsmouth and that any damage caused by such deepening excavation and formation of channels
10 to the Admiralty timber pond shall be made good at the cost of the Corporation.

9. In making the wharf by this Act authorised the Corporation may deviate from the line thereof as shown on the deposited plans to the extent delineated on a plan to be approved and signed by the
15 Admiralty Director of Works and may deviate from the levels shown on the deposited sections to any extent not exceeding three feet. Power to deviate.

10. If at any time the Board of Trade deems it expedient for the purposes of this Act to order a survey and examination of any work constructed by the Corporation under the powers of this Act on
20 in over through or across tidal lands or tidal water or of the intended site of any such work the Corporation shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Corporation to the Crown and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is
25 recoverable from the Corporation. Survey of works by Board of Trade.

11. If any work constructed by the Corporation under the powers of this Act on in over through or across tidal lands or a tidal water is abandoned or suffered to fall into decay the Board of
Trade may abate and remove the work or any part of it and restore
30 the site thereof to its former condition at the expense of the Corporation and the amount of such expense shall be a debt due from the Corporation to the Crown and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Corporation. Abatement of work abandoned or decayed

Works to be within meaning of Act of 1868.

12. The wharf and other works by this Act authorised shall be deemed to be a quay or wharf under the control of the Corporation within the meaning of the Act of 1868.

Power to Corporation to borrow on securities named.

13. The Corporation may for the purposes of the works by this Act authorised from time to time borrow on the security of all or any of the rates and dues payable under the Act of 1839 the Act of 1868 and this Act respectively or on the security of the borough fund and borough rates any sums of money not exceeding in the whole twenty-four thousand pounds and in the event of any part of such money being paid off except by means of the sinking fund hereinafter mentioned may from time to time reborrow the same and the sums of money which the Corporation are by this Act authorised to borrow shall be in addition to the moneys which they are authorised to borrow under any other Act of Parliament.

The moneys originally borrowed and any moneys from time to time reborrowed shall for the purpose of repayment be deemed to form the same loan and the obligation of the Corporation to provide a sinking fund shall not be affected by reason of such reborrowing.

Existing mortgages to have priority.

14. All mortgages bonds and securities granted by the Corporation in pursuance of the powers of any Act of Parliament before the passing of this Act and which shall be subsisting at the time of the passing thereof shall during the continuance of such mortgages and bonds have priority over any mortgages bonds or other securities to be granted by virtue of this Act.

Arrears may be enforced by appointment of a receiver.

15. The mortgagees of the Corporation under this Act may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver and in order to authorise the appointment of a receiver in respect of principal or principal and interest the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than two thousand pounds in the whole.

Sinking fund.

16. There shall be a sinking fund for paying off the sums borrowed under this Act and the sums to be set apart and appropriated as such sinking fund out of the rates and dues shall in every year be not less than one-fiftieth part of the aggregate amount of the moneys from time to time so borrowed If the rates and dues shall

be insufficient to provide such sinking fund the deficiency shall be made good out of the borough fund and borough rates.

17. For the purposes of the mortgages by this Act authorised the clauses of "The Commissioners Clauses Act 1847" with respect to mortgages to be executed by the Commissioners except Section 80 shall subject to the provisions of this Act be incorporated therewith and in those clauses the word "Commissioners" shall for the purposes of this Act mean the Corporation and the term "clerk to the Commissioners" shall mean the Town Clerk.

Certain Sections of 10 and 11 Vict. c. 16 incorporated.

18. The powers of the Corporation for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Period for compulsory purchase of lands.

19. The wharf and works shown upon the deposited plans and sections and by this Act authorised shall be completed within five years from the passing of this Act and on the expiration of that period the powers by this Act granted for executing the same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed.

Limiting period for completion of works.

20. All rates and dues payable at and the several provisions and powers applicable or exercisable with regard to Flathouse Wharf under and by virtue of the Act of 1868 shall in like manner be payable at and applicable or exercisable with regard to the wharf and other works by this Act authorised.

Rates and dues of Act of 1868 applicable.

21. All rates and dues received by the Corporation in respect of the wharf and works by this Act authorised and also all rates and dues received by the Corporation under the Act of 1839 and under the Act of 1868 shall (subject to the rights of the existing mortgagees under those Acts respectively) be applied as follows that is to say---

Application of rates.

30 First. In payment of interest due on principal moneys borrowed under the authority of the Acts of 1839 and 1868 and this Act;

Second. In providing the sinking funds by the Acts of 1839 and 1868 and this Act directed to be provided;

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Third. In payment of the expenditure incident to the maintenance repair improvement and management of the works by this Act authorised ;

and the surplus (if any) shall be carried to the Borough Fund.

Officers of Customs to have free ingress and egress to wharf &c. **22.** All officers and persons in the service of the Customs when in execution of their duty shall have free ingress and egress to and from any wharf and landing place of the Corporation and may freely pass over the same at all times without payment of any rate or charge for so doing. 5

Power to Admiralty to prohibit or regulate access to wharf. **23.** If and whenever the entrance or passage of ships or vessels into or along the creeks to the north of the dockyard extension works in Portsmouth Harbour to the wharf by this Act authorised would in the opinion of the Admiralty interfere with naval operations of any kind or be prejudicial to the interests of the public service the Admiralty shall have power for such period as they think proper to regulate or prohibit the entrance of such ships or vessels into the harbour and the passage of the same into or along the said creeks or any of them and shall not in respect of any such regulation or prohibition incur any liability whatever. 10 15

Saving Admiralty rights. **24.** The powers conferred upon the Corporation by this Act shall be subject and without prejudice to all Admiralty rights over Portsmouth Harbour except so far as such rights may be reasonably interfered with in the construction and maintenance of the works by this Act authorised and in recognition of such rights the Corporation shall pay annually to the Admiralty the sum of one shilling the first payment thereof to be made at the expiration of twelve months after the Corporation shall have taken possession of any part of the foreshore for the purposes of this Act. 20 25

Berth to be provided for steam colliers. **25.** The Corporation shall forthwith provide and maintain a berth for steam colliers on arrival at the existing Flathouse Wharf but that berth shall not be occupied by a steam collier longer than may be necessary for discharging her cargo nor more than forty eight hours if the berth be required for another steam collier. 30

Saving rights of **26.** Nothing contained in this Act shall authorise the Corpora-

tion to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's Most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exercisable by the Queen's Majesty Her heirs or successors.

the Crown
in the fore-
shore.

27. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved by Sections 21 and 22 of the Crown Lands Act 1866 and belonging to or exercisable on behalf of Her Majesty her heirs or successors.

Saving
rights of
Crown
under
Crown
Lands Act.

28. Nothing in this Act contained shall exempt the wharf or the Corporation from the provisions of the Merchant Shipping Act 1854 or any general Acts relating to the wharfs or dues on shipping or on goods carried in ships now in force or which shall be passed during the present or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the rates by this Act authorised.

Provision
for Mer-
chant Ship-
ping Act
and General
Acts.

29. All costs charges and expenses of and incident to the obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Corporation out of the Borough Fund.

Costs of
Act.