



ANNO VICESIMO NONO & TRICESIMO

VICTORIÆ REGINÆ.

Cap. cii.

An Act for the Construction of a Wet Dock at the Harbour of *Montrose*; and for other Purposes.

[28th June 1866.]

WHEREAS an Act was passed in the First Year of the Reign of Her present Majesty, intituled *An Act for improving the Harbour of the Burgh of Montrose in the County of Forfar*, which Act is herein-after referred to as the first-recited Act; and another Act was passed in the Thirteenth and Fourteenth Year of the Reign of Her present Majesty, intituled *An Act to amend the Act relating to the Harbour of Montrose, and to enable the Trustees to borrow a further Sum of Money*, which Act is herein-after referred to as the second-recited Act: And whereas the Trustees acting under the recited Acts have expended large Sums of Money, borrowed under the Authority thereof, in the Extension and Improvement of the said Harbour and the Construction of a Wet Dock, and the Debt on the said Harbour now amounts to Thirty-four thousand Pounds: And whereas the Trade of the said Harbour has greatly increased, and additional Accommodation for Shipping is required; and it would be for the Public Advantage if an additional Wet Dock were constructed at the said Harbour, and if the said Trustees were authorized to raise Money for that and the other Purposes of this Act, and it is expedient that the recited Acts should be amended;

[Local.]

7 W. 4. &
1 Vict.
c. xcix.
13 & 14 Vict.
c. xliii.
Power
borrow
Money.

Short Title
I. This Act may be cited for all purposes as "The Montrose Harbour Act 1866."
2. The Lands Clauses Consolidation (Scotland) Act, 1845, and "The Lands Clauses Consolidation Acts Amendment Act, 1860," are (except where expressly varied by this Act) incorporated with and form Part of this Act: Provided that the Trustees shall not be bound to provide a Lighthouse, Light, or a Tide or Weather Gauge and Barometer, as required by Writing under the Hand of the Secretary of the Board of Trade.
3. "The Harbours, Docks, and Piers Clauses Act, 1847," with the Exception of the Clauses thereof with respect to the Police of the Corporation, shall apply to the Harbour of Montrose as if the same were a Harbour, Dock, or Pier, and as if the Trustees were a Corporation.
10 & 11 Vict.
c. 27. in-
corporated.

but these
shall be
incorporated
by this
Authority of the
Harbour Act 1866.

1866

The Montrose Harbour Act, 1866.

but these Objects cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title.

1. This Act may be cited for all Purposes as "The *Montrose Harbour Act, 1866.*"

8 & 9 Vict.
c. 19. and
23 & 24 Vict.
c. 106. incor-
porated.

2. "The Lands Clauses Consolidation (*Scotland*) Act, 1845," and "The Lands Clauses Consolidation Acts Amendment Act, 1860," are (except where expressly varied by this Act) incorporated with and form Part of this Act.

10 & 11 Vict.
c. 27. in-
corporated.

3. "The Harbours, Docks, and Piers Clauses Act, 1847," with the Exception of the Clauses thereof with respect to the Police of the Harbour, Dock, or Pier, and of Sections Twenty-five and Twenty-six, and except where expressly varied by this Act, is incorporated with and forms Part of this Act: Provided that the Trustees shall not be bound to provide a Lifeboat, Mortar and Rockets, or a Tide or Weather Gauge and Barometer, until required by Writing under the Hand of the Secretary of the Board of Trade.

Interpreta-
tion of
Terms.

4. The following Words and Expressions in this Act shall have the several Meanings hereby assigned to them:

"The Trustees" shall mean the Trustees of the Harbour of *Montrose* incorporated by the first-recited Act:

"The Harbour" shall mean the Harbour of *Montrose*, and shall include the Wet Docks, Quays, and other Works constructed or to be constructed in the said Harbour.

Power to
borrow
Money.

5. The Trustees may from Time to Time, subject to the Provisions of this Act, borrow any Sums not exceeding in the whole Seventy thousand Pounds, as herein-after specified; (that is to say,) for the Purchase of the Lands and other Property required to be taken for the Purposes of the Wet Dock by this Act authorized, and the Works connected therewith, any Sum not exceeding Five thousand Pounds; for the Purchase of Lands for the Construction of a Slip for repairing Vessels, and for acquiring or constructing such Slip, any Sum not exceeding Five thousand Pounds; and for defraying the Expense of constructing the said Dock and the Works connected therewith, any Sums which, including the Amount of the existing Debt remaining due on the Harbour, but excluding the Sums borrowed for the special Purposes herein-before mentioned, shall not exceed Sixty thousand Pounds.

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The Montrose Harbour Act, 1866.

6. All Monies to be borrowed under the Authority of this Act shall be secured, and such Security may be transferred in the same Manner and Form as is directed by the recited Acts with respect to the Money borrowed or to be borrowed under the Authority thereof; and all the Provisions of the recited Acts, so far as subsisting and in force, with respect to the borrowing, and to the Security, and to the Transfer or Assignment, and to the Repayment of the Sums thereby authorized to be borrowed, shall extend and apply to the Monies by this Act authorized to be borrowed; and the respective Assignees in Security under Assignments granted or to be granted by the Trustees under the Authority of the recited Acts, or either of them, or of this Act, shall be entitled one with another to their respective Proportions of the Rates and Duties and other Property comprised in such Assignments respectively, according to the respective Sums in such Assignments mentioned to be advanced by such Assignees respectively, and to be repaid the Sums so advanced, with Interest, without any Preference one above another by reason of the Priority of advancing such Monies, or of the Dates of any such Assignments respectively.

Provisions of recited Acts as to borrowing extended to this Act.

7. The Rates by this Act authorized shall be liable to and be charged with all the Debts, Claims, and Demands whatsoever to which the Rates and Monies leviable and payable under the recited Acts, or either of them, shall be subject and liable under the Provisions thereof; and all Assignments or other Securities granted under the Authority of the recited Acts, or either of them, shall be as effectually charged upon the Rates by this Act authorized as if such Rates had been specifically and expressly conveyed and charged by such Assignments or other Securities.

Debts charged on former Rates to be charged on Rates under this Act.

8. All Assignments to be granted by the Trustees under the Authority of the recited Acts or this Act, and all Monies to be advanced and lent on the Security of the Property and Works of the Trustees and the Rates authorized to be levied by them, shall be Moveable or Personal Estate, and transmissible as such, and shall not be of the Nature of Heritable or Real Estate.

Assignments to be Personal Estate.

9. If after having borrowed any Part of the Money by this Act authorized to be borrowed, the Trustees pay off the same, except by means of the Sinking Fund herein-after provided, it shall be lawful for them again to borrow the Amount so paid off, and so from Time to Time, under the Limitations herein provided.

Reborrowing.

10. The Trustees may accept and take from any Bank or Banking Company in *Scotland* Credit on a Cash Account to be opened and kept with such Bank or Banking Company in the Name of the Trustees, according

Trustees may borrow on Cash Account.

The Montrose Harbour Act, 1866.

according to the Usage of Bankers in *Scotland*, to the Extent of the Sums which the Trustees are by the recited Acts and this Act authorized to borrow, or any Part thereof, and may assign the several Rates leviable under the Authority of the recited Acts and this Act in Security of the Payment of the Amount of such Credit, or of the Sums advanced from Time to Time on such Cash Account, or of the Interest thereon, in the Manner provided by the first-recited Act: Provided that the said Power of borrowing on the Credit of a Cash Account shall be subject to the Limitations and Provisions hereinbefore contained, and that the whole Principal Sums due and owing by the Trustees at any One Time under the Powers by the recited Acts and this Act granted shall never when taken together exceed the said Sum of Seventy thousand Pounds.

Notice to be given to Creditors before exercising borrowing Powers.

11. The Powers of borrowing Money conferred by this Act for defraying the Expense of constructing the Wet Dock by this Act authorized, and Works connected therewith, shall not be exercised by the Trustees until they shall have intimated their Intention to exercise such Powers to the Creditors holding Assignments in Security for Money borrowed by the Trustees, by Notices in Writing delivered personally to such Creditors or sent by Post in registered Letters to their respective Addresses in the Register of Assignments and Transfers, in order that such Creditors may, if they think fit, receive Payment of the Amount due to them respectively on such Assignments within a Time to be specified in such Notices, nor until the Trustees shall have paid the Amounts required to be paid off by any such Creditor by an Answer in Writing left at the Office of the Trustees within Two Months after the Date of Delivery or posting of such Notices; and a Certificate under the Hands of the Sheriff or any Two Justices of the Peace of the County of *Forfar* that such Notices have been given, and that the Monies so required to be paid have been paid, shall be sufficient Evidence for the Purposes of this Act that the Provisions of this Section have been duly observed: Provided that nothing in this Section contained shall apply to any Money to be borrowed for the Purchase of Lands for the Purposes of the said Wet Dock, or for the Purchase of Lands for the Construction of a repairing Slip and for acquiring or constructing such Slip as herein-before provided.

Sinking Fund to be formed.

12. From and after the passing of this Act, Sections Thirty-five, Thirty-six, Thirty-seven, and Thirty-eight of the second-recited Act shall be and are hereby repealed, and the Trustees shall, from and out of the Rates and Revenues levied and received by them under the Authority of the recited Acts and this Act, set apart yearly, until the Wet Dock by this Act authorized is opened, such Sum as they think fit,

The Montrose Harbour Act, 1866.

fit, not being less than Two Pounds Ten Shillings *per Centum per Annum*, and not exceeding Five Pounds *per Centum per Annum*, on the Sum of Thirty-four thousand Pounds, being the Amount of the existing Debt on the Harbour; and the Sums so to be set apart shall be applied as a Sinking Fund in paying off the Principal of the said Debt on the Harbour.

13. From and after the opening of the Wet Dock by this Act authorized, or any Part thereof, the Trustees shall, from and out of the Rates and Revenues levied and received by them under the Authority of the recited Acts and this Act, set apart such Sum as they think fit, not being less than One thousand four hundred Pounds *per Annum* for Ten Years, and thereafter not being less than One thousand seven hundred and fifty Pounds *per Annum*; and the Sums so to be set apart shall be applied as a Sinking Fund in paying off the Principal of the said Debt on the Harbour.

Sinking Fund after opening of new Dock.

14. The several Sums to be set apart for the said Sinking Fund as herein-before provided shall be deposited in the Branch at *Montrose* of any Bank incorporated by Act of Parliament or Royal Charter, and shall be increased by Accumulation in the way of Compound Interest or otherwise, until the same shall be of sufficient Amount to pay off the principal Debts respectively to which such Sinking Fund shall be applicable, or some Part thereof which the Trustees think ought then to be paid off, at which Time the said Sums shall be applied in paying off the Principal of the said Debts or Part thereof.

Sums for Sinking Fund to be deposited in Bank.

15. The Trustees may from Time to Time, until the Wet Dock by this Act authorized and the Works connected therewith are constructed and completed, levy increased Rates on and in respect of Vessels and Goods entering or leaving or shipped or unshipped or landed in the Harbour, of such Amount as may be required to provide a Surplus of annual Revenue over all Expenditure not exceeding Five Pounds *per Centum* on the said Sum of Thirty-four thousand Pounds of existing Debt on the Harbour; and from and after the Completion of the said Dock and Works connected therewith, the Trustees may from Time to Time levy increased Rates on and in respect of Vessels and Goods as before specified, of such Amount as may be required to provide a Surplus of annual Revenue over all Expenditure not exceeding Four Pounds *per Centum per Annum* on the Amount of the Debt on the Harbour, as ascertained at the First Audit of Accounts immediately after the Completion of the said Dock and Works connected therewith; and the respective Amounts of such increased Rates shall be determined by the Trustees at any stated or Special Meeting to be held in the Month of *August* Eighteen hundred and sixty-six, or in

Power to levy increased Rates for Sinking Fund.

The Montrose Harbour Act, 1866.

the Month of *August* in any succeeding Year; and Notice of any Resolution of the Trustees authorizing such Increase shall, within Ten Days after the Meeting at which such Resolution is adopted, be inserted in at least One Newspaper published in *Montrose*; and the levying of such increased Rates shall commence on the First Day of *October* following any such Meeting, and shall continue until the Trustees shall otherwise determine and direct: Provided that such increased Rates shall not in any Year exceed One Fourth Part of the Rates specified in the Schedules (A.) and (B.) annexed to the second-recited Act in addition to the said Rates.

Power to
take Lands.

16. And whereas a Plan and Sections describing the Levels of the Wet Dock to be made and maintained under the Authority of this Act, and the Lands to be taken for the Purposes thereof, with a Book of Reference to the said Plan containing the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers of the said Lands, have been deposited with the Principal Sheriff Clerk of the County of *Forfar*: Subject to the Provisions of this Act, the Trustees may enter upon, take, and use such of the Lands delineated on the said Plan and described in the said Book of Reference as may be required for the Purposes of the said Dock and of this Act.

Power to
construct
Wet Dock.

17. Subject to the Provisions of this Act, the Trustees may make and maintain the Wet Dock by this Act authorized in the Lines and according to the Levels described on the said deposited Plan and Sections, with an Entrance to the said Dock from the existing Wet Dock at the Harbour, and a Bridge over the said Entrance, and all necessary Embankments, Quays, Jetties, Wharfs, Rails, Tramways, Landing Places, Streets, Roads, Approaches, and other Works and Conveniences at and in connexion with the said Dock by this Act authorized.

Powers of
Deviation.

18. The Trustees may make lateral Deviations from the Lines of the Wet Dock by this Act authorized to the Extent marked on the said deposited Plan, and may make vertical Deviations from the Levels defined on the said deposited Sections to any Extent not exceeding Three Feet.

Plans of
Works to be
deposited at
the Office of
the Board of
Trade.

19. Previously to commencing the Wet Dock or repairing Slip by this Act authorized, or the Works connected therewith or any of them, or any Works below High-water Mark, the Trustees shall deposit at the Office of the Board of Trade Plans, Sections, and Working Drawings of the said Dock and Slip for the Approval of the said Board, such Approval to be signified in Writing under the Hand of their Secretary, and such Works shall be constructed only in accordance with

The Montrose Harbour Act, 1866.

with such Approval ; and when any such Work shall have been commenced or constructed, it shall not be lawful for the Trustees at any Time to alter or extend the same without obtaining, previously to making any such Alteration or Extension, the like Consent or Approval ; and if any such Work shall be commenced or completed, or be altered, extended, or constructed contrary to the Provisions of this Act, it shall be lawful for the said Board to abate, alter, and remove the same, and to restore the Site thereof to its former Condition, at the Expense of the Trustees, and the Amount thereof shall be a Debt due from the Trustees to the Crown, and be recoverable accordingly with Costs, or the same may be recovered with Costs as a Penalty is recoverable from the Trustees.

20. If any Work constructed by the Trustees 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 such Work or any Part of it, and restore the Site thereof to its former Condition, at the Expense of the Trustees, and the Amount thereof shall be a Debt due from the Trustees to the Crown, and be recoverable accordingly with Costs, or the same may be recovered with Costs as a Penalty is recoverable from the Trustees.

21. If at any Time the Board of Trade deem it expedient for the Purposes of this Act to order a Survey and Examination of any Work constructed by the Trustees on, in, over, through, or across tidal Lands or a tidal Water, or of the intended Site of any such Work, the Trustees shall defray the Expense of the Survey and Examination, and the Amount thereof shall be a Debt due from the Trustees to the Crown, and be recoverable accordingly with Costs, or the same may be recovered with Costs as a Penalty is recoverable from the Trustees.

22. The Trustees shall, during the whole Time of constructing, altering, or extending any Work on, in, over, through, or across tidal Lands or tidal Waters, exhibit and keep burning, at their own Expense, on or near the Work, every Night from Sunset to Sunrise, such Lights (if any) as the Board of Trade from Time to Time requires or approves, and (notwithstanding the Enactments for the Time being in force respecting Lighthouses) shall also on or near the Work, when completed, always maintain, exhibit, and keep burning, at their own Expense, every Night from Sunset to Sunrise, such Lights (if any) for the Guidance of Ships as the Board of Trade from Time to Time requires or approves ; and if the Trustees fail to comply in any respect with the Provisions of this Section they shall for each Night in which they so fail be liable to a Penalty not exceeding Twenty Pounds.

23. The

Period for compulsory Purchase of Lands.

Access to Property near the Docks.

Abatement of Work abandoned or decayed.

Power to deepen the Entrance to the Harbour.

Survey of Works by Board of Trade.

Trustees may purchase Lands for repairing Slip.

Lights on Works.

Trustees may erect or repair Slip.

Rates for new Dock.

The Montrose Harbour Act, 1866.

Period for compulsory Purchase of Lands.

23. The Powers of the Trustees for the compulsory Purchase of the Royal Lunatic Asylum of *Montrose*, and the Buildings and Grounds connected therewith, shall not be exercised after the Expiration of Two Years from the passing of this Act; and the Powers of the Trustees for the compulsory Purchase of other Lands for the Purposes of this Act shall not be exercised after the Expiration of Five Years from the passing of this Act.

Access to Property near the Docks.

24. Subject to the Provisions of any Byelaws for regulating the Use of the Harbour and Docks and Works connected therewith, made or to be made by the Trustees under the Authority of "The Harbours, Docks, and Piers Clauses Act, 1847," the Quays, Roads, and Streets at and adjoining the said existing Dock and the said intended Dock, and the Bridge over the Entrance to the said intended Dock, to be constructed under the Authority of this Act, shall be open to the Public, and free Access shall be given by such Quays, Roads, Streets, and Bridge to and from the Property in or near the said Docks.

Power to deepen the Entrance to the Harbour.

25. The Trustees may from Time to Time dredge and scour the Bed or Channel of the River *South Esk* in such Manner and to such Extent as they may think necessary for deepening and improving the Entrance to the Harbour.

Trustees may purchase Lands for repairing Slip.

26. In addition to the Lands by this Act authorized to be taken as aforesaid the Trustees may by Agreement purchase and acquire any Lands in or near the Harbour for the Purpose of constructing a Slip for repairing Vessels; and any Person may sell and convey Lands to the Trustees for such Purpose and may contract in reference thereto.

Trustees may construct or acquire Repairing Slip.

27. The Trustees may construct a Slip for repairing Vessels on the Lands to be purchased and acquired by them under the Provisions of this Act, and may let such Slip in Lease for such Period and on such Terms and Conditions as they think fit; or the Trustees may purchase, acquire, or lease any Slip for repairing Vessels which may be constructed by any Person or Company in or near the Harbour, on such Terms and Conditions, and in the Case of a Lease for such Period, as the Trustees think fit.

Rates for new Dock.

28. It shall be lawful for the Trustees to levy, demand, and receive on and in respect of all Vessels and Goods entering or leaving or shipped or unshipped or landed in or from the Wet Dock by this Act authorized the several Rates specified in the Schedules (A.) and (B.) annexed to the second-recited Act, and the increased Rates herein-

The Montrose Harbour Act, 1866.

herein-before provided; and all the Provisions of the second-recited Act with respect to the Rates thereby authorized shall be applicable to the Rates by this Act authorized in the same Manner as if the last-mentioned Rates had been authorized by the second-recited Act: Provided that Vessels and Goods on which the Rates or increased Rates, as the Case may be, by this Act authorized have been paid in the said Dock shall not be liable to any additional Rates in respect of entering or leaving or being shipped or unshipped or landed in the Harbour.

29. The Trustees may levy and receive on and in respect of Vessels using the Repairing Slip, to be constructed or acquired or leased by them as herein-before provided, such Rates as may from Time to Time be fixed by the Trustees.

Rates for Repairing Slip.

30. All Monies borrowed and received under the Authority of this Act shall be applied for the Purposes of the recited Acts and this Act only.

Application of Monies.

31. The Trustees and the Commissioners of Police of the Burgh of *Montrose* may from Time to Time enter into Agreements with respect to the watching and Protection of the Harbour, and of the Vessels and Goods therein, by the Police Force appointed by and under the Control of the said Commissioners, and any other Matters connected with the Police of the Harbour, and with respect to the Payments to be made by the Trustees to the said Commissioners on account of such watching and Protection and other Matters.

Power to Trustees and Commissioners of Police to enter into Agreements as to watching Harbour, &c.

32. All Offences committed in contravention of and Penalties and Forfeitures imposed by the recited Acts or this Act, or the Acts incorporated therewith respectively, or any Byelaw made in pursuance of such Acts or any of them, shall be prosecuted or recovered under the Provisions of "The Summary Procedure Act, 1864," or any Act amending the same which may be passed in the present or any future Session of Parliament.

Prosecution of Offences and Recovery of Penalties.

33. Nothing in this Act contained shall be deemed to exempt the Harbour or the Trustees from the Provisions of "The Merchant Shipping Act, 1854," or of any General Act amending that Act, or relating to Docks or Harbours, or to Shipping, or to Goods carried in Ships, or to Pilotage, or to Lights, Buoys, and Beacons, or the Rights, Powers, Privileges, and Jurisdiction of the General Lighthouse Authorities, now in force or which shall be passed during the present or any future Session of Parliament, or from any future Revision and Alteration, under the Authority of Parliament, of the Rates authorized by the recited Acts or this Act.

Reservation of General Acts.

[Local.]

The Montrose Harbour Act, 1866.

Saving
Rights of the
Crown.

34. Nothing contained in this Act or in any of the Acts herein referred to shall authorize the Trustees to take, use, or in any Manner interfere with any Land or Hereditaments, or any Rights of whatsoever Description, belonging to the Queen's most Excellent Majesty in right of Her Crown, without the Consent in Writing of the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or One of them, on behalf of Her Majesty, first had and obtained for that Purpose (which Consent such Commissioners are hereby respectively authorized to give), neither shall anything in the said Act or Acts contained extend to take away, prejudice, diminish, or alter any of the Estates, Rights, Privileges, Powers, or Authorities vested in or enjoyed or exerciseable by the Queen's Majesty, Her Heirs or Successors.

Expenses of
Act.

35. All Costs, Charges, and Expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Trustees out of the Rates authorized to be levied or the Monies authorized to be borrowed by the recited Acts or this Act.

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