



CHAPTER cxi.

An Act to provide for the temporary guarantee by the mayor aldermen and burgesses of the borough of Sunderland over a period of years of interest upon certain mortgages created by the River Wear Commissioners and to make other provisions with respect to such mortgages and for other purposes.

A.D. 1920.

[16th August 1920.]

WHEREAS the River Wear Commissioners (in this Act called "the commissioners") were incorporated by the Wear Navigation and Sunderland Dock Act 1859 and are by virtue of that Act and subsequent Acts authorised to exercise certain powers for the improvement and conservancy of the River Wear and the port of Sunderland in the county of Durham and are the owners of certain docks quays wharves railways works lands and property:

And whereas the commissioners now act under and by virtue of the provisions of the Wear Act 1830 the Sunderland Dock Act 1855 and the Wear Navigation and Sunderland Dock Acts 1859 1863 1874 1877 1910 1919 and 1920 except so far as any of the provisions of such Acts are altered or repealed by any subsequent Act and such Acts are in this Act referred to collectively as "the recited Acts" and separately as an Act of the year in which the same was passed:

And whereas by section 70 of the Act of 1830 the commissioners were authorised to borrow at interest upon the credit of the rates or duties by that Act authorised such sums of money as should be necessary for the purposes of that Act and to mortgage the said rates or duties as security for the principal moneys advanced with interest for the same and by the Acts of

A.D. 1920. 1859 and 1863 further powers were conferred upon the commissioners of borrowing moneys for the purposes of those Acts and of charging as security for such moneys with interest for the same the consolidated revenue of the commissioners consisting of the moneys arising from the rates and duties by the Act of 1830 and the Act of 1859 authorised to be taken (except the rates for the protecting piers) and all moneys arising from the dock rates and all other sums of money receivable by the commissioners and of converting moneys so borrowed by them into funded debt entitling the holders to receive an annuity thereon charged upon the consolidated revenue of the commissioners at a rate not exceeding four and a half per centum per annum but not entitling the holders to repayment of the capital thereof:

And whereas in exercise of the powers conferred by the recited Acts the commissioners have from time to time borrowed on mortgage moneys required by them for the purposes of the recited Acts and converted into funded debt parts of the moneys so borrowed and the principal amounts due and owing on the thirty-first day of December nineteen hundred and nineteen in respect of mortgages created and funded debt issued by the commissioners and then outstanding and constituting a charge on the consolidated revenue of the commissioners were as follows (namely):—

First Mortgages—

Rate of Interest.	Amount.
—	—
	£ s. d.
@ 3%	8,393 0 0
@ 3 $\frac{3}{4}$ %	1,800 0 0
@ 4%	1,200 0 0
@ 4 $\frac{1}{2}$ %	3,000 0 0
@ 4 $\frac{3}{4}$ %	223,670 7 3
@ 5%	15,150 0 0
@ 5 $\frac{1}{4}$ %	5,538 0 0
@ 5 $\frac{1}{2}$ %	21,400 0 0
	£280,151 7 3

Funded Debt—

4 $\frac{1}{2}$ % Annuities	358,571 0 0
3% Annuities	211,810 0 0
	£570,381 0 0

Second Mortgages—

A.D. 1920.

Rate of Interest.	Amount.			
	£	s.	d.	
@ 3%	19,886	0	0	
@ 3½%	42,716	5	9	
@ 3¾%	22,285	0	0	
@ 4%	130,925	0	0	
@ 4¼%	5,600	0	0	
@ 4½%	61,104	0	0	
@ 4⅝%	2,600	0	0	
@ 4¾%	15,050	0	0	
@ 5%	248,815	0	0	
@ 5¼%	81,364	0	0	
@ 5½%	735,365	0	0	
@ 1% above Bank of England dis- count rate for the time being	226,702	0	0	
	£1,592,412			5 9

And whereas by virtue of the recited Acts and of the purposes for which and terms upon which the said first and second mortgages and funded debt of the commissioners have been created and issued and subject to any rights of the commissioners under the recited Acts to attach to any mortgages or funded debt hereafter created or issued by them any priorities authorised by such Acts or any of them the consolidated revenue of the commissioners is now applicable as follows (namely):—

First In payment of the ordinary current expenditure of the commissioners mentioned in section 137 of the Act of 1859 and thereby constituted a first charge on the said consolidated revenue;

Secondly In payment of the interest on the said first mortgages which on the said thirty-first day of December nineteen hundred and nineteen amounted to two hundred and eighty thousand one hundred and fifty-one pounds seven shillings and threepence *pari passu*;

Thirdly In payment of the interest or annuities on the said funded debt for five hundred and seventy thousand three hundred and eighty-one pounds *pari passu*;

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Fourthly In providing a sinking fund of four thousand pounds per annum for paying off principal sums charged on the said consolidated revenue as required by section 138 of the Act of 1859;

Fifthly In payment *pari passu* of the interest on the said second mortgages which on the said thirty-first day of December nineteen hundred and nineteen amounted to one million five hundred and ninety-two thousand four hundred and twelve pounds five shillings and ninepence;

Sixthly For any of the purposes of the recited Acts:

And whereas the consolidated revenue of the commissioners was before the war more than sufficient to meet all the charges thereon and the commissioners were able to raise from time to time at low rates of interest any moneys required by them for paying off mortgages falling due or for the purposes of the recited Acts but owing to the severe restrictions on the trade of the port of Sunderland imposed during the war the consolidated revenue of the commissioners became greatly diminished whilst the expenses of the commissioners became greatly increased owing to the enhanced cost of labour and materials and the high rates of interest at which money had to be borrowed by them to pay off short term mortgages called in by the holders with the result that the consolidated revenue soon became insufficient to meet all the charges thereon and but for assistance granted by the Treasury to the commissioners they would have been unable during recent years to meet their current expenditure and the interest payable on the first and second mortgages and funded debt of the commissioners:

And whereas notwithstanding that by an order of the Board of Trade dated the nineteenth day of July nineteen hundred and eighteen under Regulation 39BB of the Defence of the Realm Regulations the maximum rates dues tolls and charges leviable by the commissioners under the recited Acts in connexion with the port the river and the docks were doubled and that since the cessation of hostilities the trade of the port has in part revived and is still increasing the losses incurred during the war have been so severe and the cost of maintaining and managing the port the river and the docks has so greatly increased that the consolidated revenue of the commissioners is still insufficient to meet their ordinary current expenditure and interest on the existing mortgages and funded debt:

And whereas the prosperity of the town of Sunderland A.D. 1920.
is largely dependent on the proper maintenance and operation of the port harbour and dock works managed by the commissioners:

And whereas the mayor aldermen and burgesses of the borough of Sunderland (in this Act called "the Corporation") are willing subject to their obtaining the necessary statutory authority so to do and to the rate of interest payable on the first and second mortgages of the commissioners being limited to a maximum rate of five per centum per annum and to the due date for payment of such of the said mortgages as mature for payment or can be called in before the thirty-first day of December nineteen hundred and twenty-nine being extended to that date to bind themselves to provide or pay all interest becoming payable during the period of ten years from the first day of January nineteen hundred and twenty on the said first and second mortgages of the commissioners which the consolidated revenue of the commissioners for those years applicable to payment of such interest shall be insufficient to pay and it is expedient that the provisions contained in this Act in regard to the matters aforesaid should be enacted:

And whereas upwards of three-fourths in value of the holders of the said first mortgages and of the said second mortgages respectively have consented to the Bill for this Act:

And whereas it is also expedient that general powers should be conferred upon the Corporation of advancing money to and guaranteeing the repayment of and the payment of interest on moneys borrowed by the commissioners:

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

And whereas in relation to the promotion of the Bill for this Act the requirements of the Borough Funds Acts 1872 and 1903 have been observed and the approval of the Minister of Health has been obtained:

May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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):—

A.D. 1920.

Short title.

Interpre-
tation.

1. This Act may be cited as the Wear Navigation and Sunderland Dock (Finance) Act 1920.

2. In this Act unless there is something in the subject or context repugnant of such construction all words and expressions to which meanings are assigned by the recited Acts or any of them or any Acts wholly or partially incorporated therewith shall have the same respective meanings in this Act And—

“The borough” means the borough of Sunderland;

“The borough fund” and “the borough rate” mean respectively the borough fund and borough rate of the borough;

“The first mortgages” means the first mortgages created by the commissioners and outstanding on the thirty-first day of December nineteen hundred and nineteen for securing principal amounts aggregating two hundred and eighty thousand one hundred and fifty-one pounds seven shillings and threepence mentioned in the preamble to this Act and includes any mortgages substituted for such first mortgages;

“The second mortgages” means the second mortgages created by the commissioners and outstanding on the thirty-first day of December nineteen hundred and nineteen for securing principal amounts aggregating one million five hundred and ninety-two thousand four hundred and twelve pounds five shillings and ninepence mentioned in the preamble to this Act and includes any mortgages substituted for such second mortgages.

Modifica-
tion of
mortgagees'
rights.

3. The rights of the holders other than the Ecclesiastical Commissioners for England of the first mortgages and the second mortgages to demand sue for or recover payment of the principal moneys and interest expressed to be secured by such mortgages respectively shall by virtue of this Act be modified as follows:—

- (1) The holders of first mortgages or second mortgages which by the terms thereof carry interest at any rate exceeding five per centum per annum shall be entitled to interest on such mortgages for the period of ten years from the first day of January nine-

teen hundred and twenty to the thirty-first day of December nineteen hundred and twenty-nine at the rate of five per centum per annum only: A.D. 1920.

- (2) The holders of first mortgages or second mortgages which by the terms thereof are payable or can be called in as to the principal amounts thereby secured on or after fixed dates therein specified and being subsequent to the thirty-first day of December nineteen hundred and nineteen but before the thirty-first day of December nineteen hundred and twenty-nine or by which no dates are fixed for payment of the principal amounts secured thereby shall not be entitled to demand sue for or recover payment of such principal amounts prior to the thirty-first day of December nineteen hundred and twenty-nine and that notwithstanding that such principal amounts may under the terms of such mortgages or by virtue of notices already given by the holders thereof calling in such principal amounts be due and presently payable by the commissioners at the date of the passing of this Act:
- (3) The holders of first mortgages or second mortgages which by the terms thereof carry interest at a less rate than five per centum per annum but which are by the terms thereof payable as to principal on fixed dates subsequent to the thirty-first day of December nineteen hundred and nineteen but before the thirty-first day of December nineteen hundred and twenty-nine shall be entitled to be paid interest on the principal amount thereby secured at the increased rate of five per centum per annum as from the respective dates thereby fixed for payment of such principal amounts until the thirty-first day of December nineteen hundred and twenty-nine and thereafter unless and until the same are repaid:
- (4) The holders of first mortgages or second mortgages which by the terms thereof carry interest at a less rate than five per centum per annum and which are not by the terms thereof repayable as to principal on any fixed dates shall be entitled on or at any time after the respective dates on which but for the

A.D. 1920.

provisions of this Act such holders would respectively have been entitled to give notice requiring repayment of the principal of their mortgages to give notice in writing to the commissioners requiring payment of interest on such mortgages at the increased rate of five per centum per annum and as from the expiration of six months from the receipt by the commissioners of any such notice duly given in accordance with the foregoing provisions until the thirty-first day of December nineteen hundred and twenty-nine and thereafter unless and until the principal amounts secured by the mortgages to which such notice relates are paid interest shall be payable on the said mortgages at the increased rate of five per centum per annum For the purpose of this provision a notice duly given by the holder of any first or second mortgage before the passing of this Act requiring payment of the principal amount secured by such mortgage shall be deemed a notice by such holder under this Act requiring payment of interest on such mortgage at the increased rate of five per centum per annum.

As to
Ecclesiastical Com-
missioners
loans.

4. The rights of the Ecclesiastical Commissioners for England (hereinafter called "the Ecclesiastical Commissioners") to demand sue for or recover payment of the principal moneys expressed to be secured by certain mortgage securities and by a deed of indenture supplemental thereto dated the twenty-ninth day of January nineteen hundred and nineteen made between the Commissioners of the one part and the Ecclesiastical Commissioners of the other part and now amounting to two hundred and twenty-one thousand seven hundred and fifty-five pounds fifteen shillings and sevenpence and being part of the sum of two hundred and twenty-three thousand six hundred and seventy pounds seven shillings and threepence mentioned in the preamble to this Act shall by virtue of this Act be modified as follows:—

- (1) Notwithstanding the said deed of indenture the Ecclesiastical Commissioners shall not be entitled until after the thirty-first day of December nineteen hundred and twenty-nine to demand sue for or recover payment of the amounts therein provided to be repaid

by way of or in respect of principal on any date subsequent to the thirty-first day of December nineteen hundred and nineteen and before the thirty-first day of December nineteen hundred and twenty-nine:

A.D. 1920.

(2) In respect of any amount which but for the provisions of this Act the Ecclesiastical Commissioners would have been entitled to demand or sue for or of which they would have been entitled to recover payment the Ecclesiastical Commissioners shall be entitled to be paid interest at the rate of five per centum per annum instead of four and three-quarters per centum per annum from the date upon which such amount would but for the provisions of this Act have been payable and to be paid half-yearly as from such date until the thirty-first day of December nineteen hundred and twenty-nine and thereafter unless and until such amounts are paid:

(3) Nothing contained in this Act shall prevent the Ecclesiastical Commissioners from demanding suing for or recovering payment of the principal and interest due under the said mortgage securities and deed of indenture nor from taking any other steps to enforce their securities if the commissioners make default in the payment to the Ecclesiastical Commissioners of the interest due under the said indenture or of the interest due under the provisions of this Act or commit any other breach of the covenants contained or implied in such mortgage securities or indenture other than the covenant for payment of principal or instalments of principal the payment whereof is postponed by this Act and except in so far as is in this section expressly provided nothing contained in this Act shall derogate from or prejudice the rights and priorities of the Ecclesiastical Commissioners under the said mortgage securities and indenture.

5.—(1) If the consolidated revenue of the commissioners for the year nineteen hundred and twenty or any subsequent year up to and including the year nineteen hundred and twenty-nine applicable under the provisions of the recited Acts

Corporation
to make up
deficiency
in revenue.

A.D. 1920. to payment of the interest for such year on the second mortgages shall be insufficient to pay or to pay in full the interest for such year on such mortgages the Corporation shall provide the sum required to pay such interest or so much thereof as cannot be met out of the consolidated revenue and if the consolidated revenue of the commissioners for any such year applicable under the provisions of the recited Acts to payment of the interest for such year on the first mortgages shall also be insufficient to pay or to pay in full the interest for such year on such mortgages the Corporation shall also provide the sum required to pay such interest or so much thereof as cannot be met out of the consolidated revenue.

(2) Any sum which the Corporation shall become liable to provide under this section shall be provided by them by paying the same to the commissioners as trustees for the holders of the second mortgages or the first mortgages (as the case may be) and upon trust to apply the same in paying interest on their mortgages in the manner and proportions in which the same would have been so applicable if the same had been consolidated revenue of the commissioners applicable to payment of such interest.

(3) The Corporation shall if so required by the commissioners and so far as may be necessary for enabling the commissioners to pay the interest on the first mortgages and the second mortgages in full half-yearly pay or provide half-yearly on the thirtieth day of June and the thirty-first day of December in every or any of the years aforesaid and in anticipation and on account of any sums which the Corporation may ultimately become liable to pay or provide in respect of such year under the foregoing provision such sums as the commissioners shall by notice in writing under the seal of the commissioners countersigned by the auditors for the time being auditing the accounts of the commissioners (hereinafter called "the auditors") certify to be required by the commissioners in order to enable them to pay in full the half-year's interest falling due on such thirtieth day of June or thirty-first day of December on all the first mortgages and second mortgages such notice in writing to be served upon the Corporation at least fourteen days before any thirtieth day of June or thirty-first day of December on which they are required to make any payment Provided that any half-yearly payments so made by

the Corporation in any year shall be subject to adjustment when the accounts of the commissioners for the full year are made up and settled and the amount falling to be paid or provided by the Corporation in respect of such year definitely ascertained. A.D. 1920.

(4) All sums payable by the Corporation under this section shall be paid out of the borough fund and the borough rate.

(5) Any sum paid by the Corporation to the commissioners under this section shall be applicable and shall be applied exclusively in paying the interest due and payable upon the first mortgages or the second mortgages (as the case may be) for paying which such sum is provided by the Corporation and shall not form part of the assets or consolidated revenue of the commissioners for any purpose nor shall any creditor of the commissioners (other than the holders of the first mortgages or the second mortgages (as the case may be)) have any claim thereto or right or interest therein in any circumstances or event whatsoever.

(6) The Corporation and the commissioners may enter into and carry into effect agreements relative to the preparation and submission of accounts the giving of notices by the commissioners to the Corporation of any sums which they will be required to provide under this section and generally for carrying the provisions of this section into effect.

6. All sums which shall be paid or provided by the Corporation under the last preceding section of this Act shall be deemed to be moneys borrowed by the commissioners for the purposes of the recited Acts and shall carry interest at the rate of five per centum per annum calculated from the respective dates on which such moneys shall have been paid or provided by the Corporation and such moneys and the sums advanced by the Treasury to the commissioners (other than sums secured by mortgages) and the interest on the said moneys and sums respectively shall rank *pari passu* for payment out of the consolidated revenue of the commissioners immediately after the interest on the second mortgages. Security for
sums paid by
Corporation.

7.—(1) Before the commencement of the year nineteen hundred and twenty-one and of every subsequent year up to and including the year nineteen hundred and twenty-nine the commissioners shall prepare and submit to the Corporation an Approval of
estimates.

A.D. 1920. estimate of the expenditure to be incurred by them in such year and to be defrayed out of the consolidated revenue of the commissioners in priority to the payment of interest on the first mortgages and second mortgages and such estimate shall stand referred to the finance committee of the Corporation for their approval.

(2) The commissioners shall not in any of the said years incur any expenditure to be defrayed out of their consolidated revenue in priority to the interest on the said mortgages in excess of the respective amounts named in the estimate for such year as approved by the finance committee or otherwise than in accordance with such estimate except with the previous consent of the finance committee evidenced by writing under the hand of the town clerk of the borough.

(3) The commissioners shall not in any of the said years borrow or raise any sum of money which or the interest on which will or may by any means come to rank as a charge on the consolidated revenue of the commissioners in priority to or *pari passu* with the interest on the second mortgages or the sums advanced by the Treasury mentioned in section 6 of this Act and the interest on the said sums except with the previous consent of the finance committee of the Corporation evidenced as aforesaid and of the Treasury.

(4) Provided that nothing herein contained shall prevent the commissioners from borrowing or raising moneys to be applied and which shall be in fact applied in payment of the whole or any part of the principal amounts secured by any of the first mortgages and second mortgages respectively and from issuing further first mortgages or second mortgages (as the case may require) in substitution for any of such principal amounts repaid nor from issuing further first mortgages and second mortgages in substitution for and by way of consolidation or subdivision of any of the first mortgages or second mortgages respectively but the rate of interest payable in respect of any moneys borrowed or raised under this subsection shall not exceed the rate which would be payable in respect of such principal amounts if the powers of this subsection had not been exercised and subject to the provisions of this Act the period fixed by any such substituted mortgage for repayment of principal shall not exceed the period fixed by the original mortgage for which it is so substituted.

8. Every holder of any of the first mortgages or second mortgages shall be bound at such time within three months after the passing of this Act as the commissioners shall by notice in writing sent through the post to such holder at his last known place of address appoint to lodge all the first mortgages and second mortgages held by him with the bankers of the commissioners for the time being and permit to be endorsed thereon notice of this Act and of any modifications effected by this Act of the rights expressed to be conferred by such mortgages on the holders thereof.

A.D. 1920.
Endorse-
ment of
mortgages.

9. No person being a trustee or executor or acting otherwise in any representative or fiduciary capacity shall incur or be under any liability by reason only of his having consented to or not opposed the passing of this Act or the proceedings preliminary thereto.

As to
trustees.

10.—(1) In addition to providing any moneys which they may become liable to provide under the foregoing provisions of this Act the Corporation may at any time advance by way of loan to the commissioners such sums of money as the commissioners may for the time being be authorised to borrow and may be desirous of borrowing from the Corporation on such terms and conditions as may be agreed between the Corporation and the commissioners.

Power for
Corporation
to lend
money and
guarantee
loans.

(2) The Corporation may guarantee the repayment of and the payment of interest upon money borrowed or to be borrowed by the commissioners in such manner as may be agreed between the Corporation and the commissioners.

(3) Provided that the Corporation shall not in the exercise of the powers of this section advance any money or give any guarantee after the year nineteen hundred and twenty-nine but nothing in this subsection shall prejudice or affect any rights obligations or liabilities of the Corporation or of any person in respect of any sums advanced or of any guarantee given by the Corporation in or before that year.

11.—(1) The Corporation may from time to time independently of any other borrowing power borrow at interest for the purposes mentioned in the first column of the following table the respective sums mentioned in the second column thereof and they shall pay off all moneys so borrowed within the respective periods (each of which is in this Act referred to as

Power to
borrow.

A.D. 1920. "the prescribed period") mentioned in the third column thereof (namely):—

1	2	3
Purpose.	Amount.	Period.
(A) For making any advance to the Commissioners or paying any capital sum becoming payable under any guarantee authorised by this Act.	The sums requisite.	A period exceeding by one year the period within which the commissioners are required to repay such advances or the loan in respect of which the guarantee is given or sixty years from the date or dates of borrowing whichever period is the shorter.
(B) For paying the costs charges and expenses of this Act as hereinafter defined.	The sum requisite.	Five years from the passing of this Act.

(2) In order to secure the repayment of any money borrowed under this section and the payment of interest thereon the Corporation may mortgage or charge the borough fund and the borough rate.

(3) The provisions of this section shall not limit the powers conferred upon the Corporation by section 55 (Power to use one form of mortgage for all purposes) of the Sunderland Corporation Act 1907.

Application
of Acts of
1899 and
1907.

12. The following provisions of the Sunderland Corporation Act 1899 and of the Sunderland Corporation Act 1907 shall subject as regards mortgages granted under section 55 (Power to use one form of mortgage for all purposes) of the Act of 1907 to the provisions of that section extend and apply to and for the purposes of this Act as if those provisions were with all necessary modifications re-enacted in this Act (namely):—

The Sunderland Corporation Act 1899—

Section 59 (Provision as to mortgages);

Section 68 (Protection of lenders from inquiry);

Section 69 (Annual return to Local Government Board with respect to sinking fund);

Section 70 (Audit of accounts):

The Sunderland Corporation Act 1907—

Section 48 (Certain regulations of Public Health Act 1875 as to borrowing not to apply);

- Section 49 (Mode of raising money); A.D. 1920.
Section 51 (Mode of payment off of money borrowed);
Section 52 (Sinking fund);
Section 59 (Expenses of execution of Act);
Section 66 (Inquiries by Local Government Board);
Section 72 (Recovery of demands);
Section 74 (Application of section 265 of Public Health
Act 1875).

13. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed and ascertained by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation out of the borough fund and the borough rate or out of money to be borrowed under this Act for that purpose. Costs of
Act.

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