

TASMANIA.  

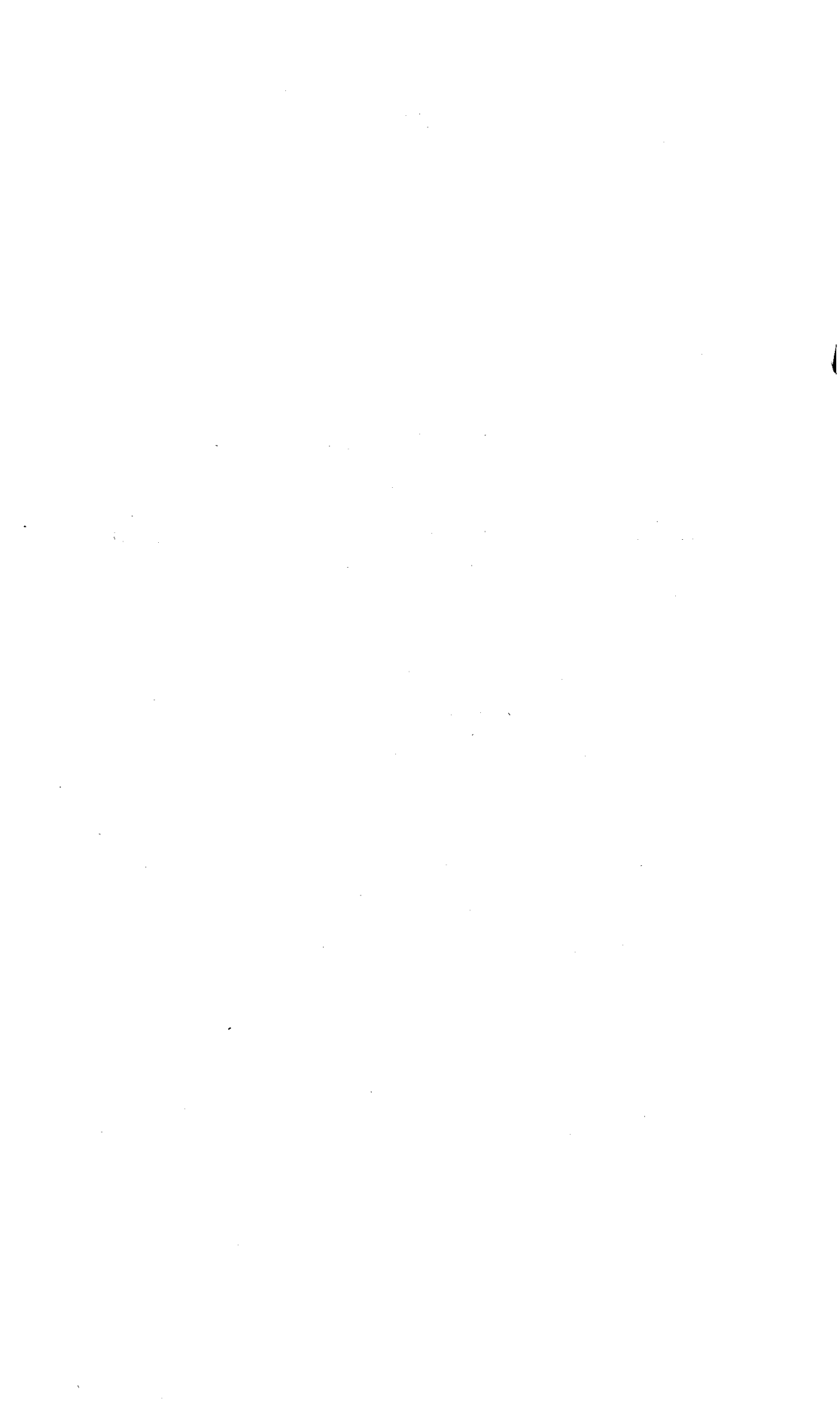
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THE LEVEN HARBOUR TRUST COMMISSION  
ACT 1936.  

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## ANALYSIS.

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## TASMANIA.



1936.

ANNO PRIMO

EDWARDI VIII. REGIS.

No. 6.

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AN ACT to validate certain Proceedings of the Leven Harbour Trustees and to provide for the Appointment of a Commission to administer the Affairs of the Leven Harbour Trust and to authorise such Commission to borrow for the purpose of the Trust a sum not exceeding Five Thousand Two Hundred Pounds.

A. D.  
1936.

[10 August, 1936.]

WHEREAS the Leven Harbour Trustees, on the eighteenth day of September, one thousand nine hundred and thirty-five, entered into a contract with *William George Ward* for the construction of certain works at the Port of Ulverstone at the contract price of four thousand nine hundred and sixty-seven pounds:

Preamble.

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*Leven Harbour Trust Commission.*

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A.D. 1936.

And whereas the said Trustees did not submit to the Governor proper plans and specifications of the said works or obtain the approval of the Governor in respect of the said works, as provided by the *Marine Act 1921* :

And whereas the Director of Public Works reported that the proposed works as then being constructed were unsound and unsafe ; and it is estimated that a further sum of one thousand and forty-two pounds twelve shillings and two pence will be required to provide for the completion of the said works and for additional work to ensure the safety thereof :

And whereas the said Trustees have applied the sum of two thousand three hundred and forty-nine pounds and two pence from their revenue account and the sum of eight hundred pounds from their loans account respectively in payments to the said *William George Ward* in respect of the said contract, and it is estimated that a further sum of two thousand eight hundred and sixty pounds twelve shillings will be required for the completion of the said works :

And whereas the said Trustees, being unable to meet their financial obligations, applied to the Governor for assistance and the Treasurer, with the approval of the Governor, has advanced to the said Trustees certain moneys, amounting in all to the sum of three thousand six hundred and fifty pounds :

And whereas the said Trustees, on the ninth day of June, one thousand nine hundred and thirty-six, acting, or purporting to act, in pursuance of the powers conferred upon them by section forty-two of the *Marine Act 1921*, appointed *Charles Arthur Dunning* and *Harry Elijah Roberts* as Trustees in the place of two Trustees who had resigned and the said *Charles Arthur Dunning* and *Harry Elijah Roberts* have since acted as such Trustees :

And whereas on the said ninth day of June, *Herbert Osborne Allen*, one of the said Trustees, resigned his office and was reappointed by the remaining Trustees :

And whereas the said *Harry Elijah Roberts* was not a qualified voter of the said Harbour Trust District and, under the provisions of the *Marine Act 1921*, was not legally qualified for appointment as such Trustee as aforesaid :

And whereas all the former Trustees, with the exception of *Herbert Osborne Allen*, have resigned their several offices as such Trustees :

*Leven Harbour Trust Commission.*

And whereas it is necessary to validate certain of the proceedings of the said Trustees, and to validate, ratify, and confirm the appointments made by them and the said advances made by the Treasurer, and to make provision for the administration of the affairs of the said Trust :

A.D. 1936.

Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

**1** This Act may be cited as the *Leven Harbour Trust Commission Act 1936*. Short title.

**2** The appointment on the ninth day of June, one thousand nine hundred and thirty-six, of *Harry Elijah Roberts* as one of the Leven Harbour Trustees, purporting to have been made in pursuance of section forty-two of the *Marine Act 1921*, shall be deemed to have been lawfully made, notwithstanding that the said *Harry Elijah Roberts* was not a qualified voter within the meaning of that Act ; and the said Harbour Trustees shall be deemed to have been lawfully and validly constituted as from the date of such appointment and all acts, matters, and things done by such Trustees since that date, in pursuance of the provisions of the *Marine Act 1921*, shall be, and be deemed to have been, valid and effectual. Validation of appointment of H. E. Roberts as a Trustee and of the proceedings of the Trustees thereafter.

**3** The application of the Leven Harbour Trustees of the sum of eight hundred pounds (borrowed by them under the authority of the *Leven Harbour Trustees Loan Act 1931*) for the purposes of a contract entered into by the said Trustees with *William George Ward* for the construction of certain works (in this Act called “the said works”) shall be deemed to have been validly made, notwithstanding the failure of the said Trustees to obtain approval of the said works, and the said Trustees shall be freed from personal liability in respect thereof. Validation of payment of £800 from loan moneys.

**4—(1)** The said recited advances made by the Treasurer to the said Trustees, amounting in all to the sum of three thousand six hundred and fifty pounds, are hereby authorised and confirmed and shall be deemed to have been made under this Act and to have been lawfully and validly made. Authorisation of payments made by Treasurer and power to make certain further advances.

*Leven Harbour Trust Commission.*

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(2) It shall be lawful for the Treasurer, with the approval of the Governor, to advance and pay to the said Trustees such further sums as the Governor may think necessary to enable the said Trustees to complete the said works, together with such further works as the Director of Public Works may consider necessary, to ensure that the said works, when completed, shall be safe and satisfactory, but such further advances, together with the amounts already advanced as aforesaid, shall not exceed an aggregate amount of five thousand two hundred pounds.

(3) All such amounts as aforesaid shall be repaid to the Treasurer as hereinafter provided.

Power to  
Trustees to  
borrow  
£5200.

5 It shall be lawful for the Leven Harbour Trustees, for the purposes of this Act, to raise, by way of loan under and in accordance with the *Local Bodies Loans Act 1881*, any sum or sums of money not exceeding in the whole the sum of five thousand two hundred pounds upon the security of any rates which the said Trustees are empowered to levy or of any revenues of the said Trustees.

Application  
of moneys.

6 All moneys borrowed by the said Trustees under the authority of this Act shall be applied in the order and in the manner following, that is to say, in or towards—

I. The repayment to the Treasurer of all moneys advanced, or to be advanced, by the Treasurer to the Trustees for or in relation to the said works, or any additional works in connection therewith: and

II. The reimbursement of the Trustees' revenue account of any amounts paid thereout for or on account of the construction of the said works—

and the balance, if any, may be applied by the Trustees for or towards any works which the Trustees are authorised to undertake.

Trustees to  
pay interest  
on advances.

7 The said Trustees shall pay to the Treasurer half-yearly, on the first days of January and July in every year, interest at the rate of four pounds ten shillings per centum per annum on all moneys advanced, or deemed to have been advanced, by the Treasurer under this Act from the date of each such advance respectively until repayment thereof.

*Leven Harbour Trust Commission.*

8—(1) If at the expiration of six months after the passing of this Act the said Trustees have failed to exercise the power to borrow conferred by section five, the amount of all moneys advanced by the Treasurer to the said Trustees in accordance with this Act, or so much thereof as shall not then have been repaid, shall forthwith become payable to the Treasurer.

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Procedure in case of default by trustees.

(2) If default is made by the said Trustees in payment of any moneys by this Act made payable to the Treasurer, as and when the same become due, the Treasurer shall have and may exercise in respect thereof all the powers and remedies conferred upon him by the *State Loans to Local Bodies Act 1929* in respect of a local body in default under that Act; and the provisions of section twenty-three of that Act shall apply in respect of such moneys as if the same had been advanced thereunder.

(3) In addition to any other powers hereby conferred upon him, the Treasurer may require the said Trustees to pay to him for or towards the liquidation of the amount owing by the said Trustees the whole of the proceeds of any rates which the said Trustees are empowered to levy or such proportion thereof as the Treasurer may direct until such amount, together with all interest payable in respect thereof, has been fully repaid.

9—(1) It shall be lawful for the Governor, by proclamation, to appoint a Commission, consisting of three persons, to take the place of the Leven Harbour Trustees, for a period of two years from the date on which such appointment takes effect.

Power to Governor to appoint Commission.

(2) Upon and after the date of a proclamation appointing a commission under this Act or such later date as may be specified therein for that purpose—

Powers and duties of Commission.

- i. All property, powers, rights, privileges, duties, obligations, and liabilities vested in, belonging to, or imposed upon the Leven Harbour Trustees, shall, by virtue of such proclamation, vest in, belong to, and be imposed upon the Commission:
- ii. For the purposes of any Act relating to the said Trustees the Commission shall be deemed to be the Trustees:

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*Leven Harbour Trust Commission.*

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A.D. 1936.  

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- iii. The Commission shall have the like rights and obligations in respect of any then subsisting contract made and entered into by the Trustees as if such contract had been made and entered into by the Commission, and all proceedings in respect of any such contract may be had and taken by or against the Commission in its own name :
- iv. The Commission, by force of its appointment, shall become a body corporate, and may use the common seal of the Trustees for any purpose for which the same could have been used by the Trustees :
- v. Any two members of the Commission shall constitute a quorum and may exercise any of the powers or functions of the Commission notwithstanding any vacancy on the Commission : and
- vi. The several members constituting the Harbour Trust shall forthwith cease to hold office, and all and every their rights, powers, and functions as such members shall thereupon cease and determine.

Members of  
Commission.

(3) The several persons constituting the Commission shall be paid out of the funds to be administered by it such remuneration, if any, as the Governor may determine.

13 Geo. V.  
No. 25.

(4) The members of the Commission shall not be subject, as such members, to the provisions of the *Public Service Act* 1923.

Revocation of  
appointment.

(5) The Governor by proclamation at any time may revoke the appointment of the Commission and by the same or an earlier proclamation give directions for the election of members to reconstitute the Harbour Trust in place of which such Commission was appointed, in accordance with the provisions of the *Marine Act* 1921, and it shall be the duty of such Commission to give effect to any such directions.

(6) Upon the revocation of the appointment of a Commission, the Harbour Trustees reconstituted as aforesaid shall take the place of the Commission in the same manner as the Commission took the place of the former Trustees and with the like consequences in all respects.



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*Leven Harbour Trust Commission.*

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**10** In the event of any moneys advanced by him to the said Trustees in accordance with this Act not having been repaid within the period of six months mentioned in section eight, it shall be lawful for the Treasurer to raise, borrow, and receive for the purposes of this Act any sum or sums of money not exceeding in the whole the sum of five thousand two hundred pounds or the amount of such advances not repaid, whichever is the less.

A.D. 1936.

Power to  
Treasurer to  
borrow in  
certain cir-  
cumstances.

