CHAPTER lxxvi.

An Act to incorporate the Trustees of the Borough Market (Southwark) to confer further powers upon the Trustees as incorporated and for other purposes. [4th June 1930.]

A.D. 1930.

WHEREAS there is in the parish of St. Saviour in the metropolitan borough of Southwark a market known as the Borough Market which is vested in a body of trustees (hereinafter called "the existing Trustees") constituted under the Southwark (Borough Market) Scheme 1907 (hereinafter called "the Borough Market Scheme") which was confirmed by the London Government Scheme (Southwark Borough Market) Confirmation Act 1907 and the said market is held and carried on by the existing Trustees under and in pursuance of the powers and provisions of the Borough Market (Southwark) Acts 1754 to 1892 and the Borough Market Scheme:

And whereas the existing Trustees are twenty-one in number of whom five are ex-officio trustees and are the persons for the time being holding the offices of the Warden of the Great Account the Renter Warden the College Warden the Bell Warden and the Newcomen's Warden who are appointed annually by the council of the metropolitan borough of Southwark (hereinafter called "the borough council") on the nomination of the councillors elected for the St. Saviour's Ward which is co-terminous with the said parish of St. Saviour in pursuance of the provisions of the Borough of Southwark (St. Saviour's) Scheme 1901 confirmed by Order in

A.D. 1930.

Council dated the twenty-fifth day of March one thousand nine hundred and one and the remaining sixteen are trustees appointed from time to time by the borough council in manner provided by the Borough Market Scheme:

And whereas under the Borough Market (Southwark) Acts 1754 to 1892 the said market was held by the predecessors of the existing Trustees in trust for the benefit of the said parish of St. Saviour and all surplus revenue therefrom was applicable in diminution of the parochial rates or assessments of the said parish and now by the Borough Market Scheme all revenue from the said market after defraying costs charges and expenses and interest and sinking fund payments on borrowed moneys is required to be paid by the existing Trustees to the borough council and applied by the borough council in relief of the rates of the said parish and any deficiencies of revenue are required to be paid by the borough council who for the recoupment thereof are empowered to levy a rate not exceeding sixpence in the pound with and as an additional item of the general rate over the said parish of St. Saviour:

And whereas the predecessors of the existing Trustees were empowered by the Act 28 George II chapter xxiii (being the first of the said Acts 1754 to 1892) to borrow any sum or sums of money not exceeding in the whole six thousand pounds by means of annuities and by the Act 30 George II chapter xxxi (being the second of the said Acts 1754 to 1892) to borrow any further sum or sums of money not exceeding in the whole two thousand pounds by means of annuities and sums amounting to six thousand pounds and two thousand pounds respectively were so borrowed by the predecessors of the existing Trustees but all the annuities representing such moneys have long ago been paid off:

And whereas by the Borough Market (Southwark) Act 1892 (being the last of the said Acts 1754 to 1892) the predecessors of the existing Trustees were empowered to borrow for the purpose of paying the costs of that Act the sum requisite for that purpose and for the purposes of their former Acts any sum or sums not exceeding one hundred thousand pounds and the existing Trustees or their predecessors in exercise of the said last-mentioned power have borrowed sums amounting to eighty-six

thousand eight hundred and thirty pounds whereof fifty-two thousand and eighty-five pounds four shillings and elevenpence has been repaid by the Trustees leaving thirty-four thousand seven hundred and forty-four pounds fifteen shillings and one penny now owing by the existing Trustees and the existing Trustees are entitled to raise further sums amounting to thirteen thousand one hundred and seventy pounds under that power:

And whereas the management by a large unincorporated body of trustees of an undertaking such as the said market gives rise to many inconveniences and it is expedient that the existing Trustees should be incorporated:

And whereas it is expedient that further powers of borrowing money should be conferred upon the body of trustees incorporated by this Act for the purposes of the Borough Market (Southwark) Acts 1754 to 1892 and the general purposes of their market undertaking:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas the objects aforesaid 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 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:—

Short title.

1. This Act may be cited as the Borough Market (Southwark) Act 1930 and the Borough Market (Southwark) Acts 1754 to 1892 the London Government Scheme (Southwark Borough Market) Confirmation Act 1907 and this Act may be cited together as the Borough Market (Southwark) Acts 1754 to 1930.

Incorporation of part of Commissioners Clauses Act 1847.

2. The provisions of the Commissioners Clauses Act 1847 with respect to the mortgages to be executed by the commissioners (except sections 80 and 84) so far as the same are applicable for the purposes of and are not varied by or inconsistent with this Act are incorporated with and form part of this Act and in construing the said provisions as so incorporated the expression "the commissioners" shall mean the Trustees and the expression "the clerk to the commissioners" shall mean the clerk to the Trustees.

A.D. 1930.

Interpretation.

3. In this Act unless the subject or context otherwise requires—

"The Borough Market Scheme" means the Southwark (Borough Market) Scheme 1907 confirmed by the London Government Scheme (Southwark Borough Market) Confirmation Act 1907;

"The Act of 1892" means the Borough Market (Southwark) Act 1892;

"The existing Trustees" means the body of trustees constituted in pursuance of the Borough Market Scheme and existing immediately before the passing of this Act;

"The Trustees" means the body of trustees incorporated by this Act;

"The Minister" means the Minister of Health;

"Statutory security" means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or other local authority as defined by section 34 (Definitions) of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Trustees;

"The incorporation" means the incorporation of the Trustees by this Act.

Incorporation of Trustees.

4.—(1) The body of trustees from time to time existing and constituted in pursuance of the Borough Market Scheme shall be and is hereby made a body corporate under the name of "the Trustees of the Borough Market Southwark" with perpetual succession and a common seal and power to acquire hold use and dispose of lands and other property for the purposes of the Borough Market (Southwark) Acts 1754 to 1930 without licence in mortmain.

(2) The Trustees may by and in the said name sue or be sued in any court or place of judicature within Great Britain and do all things incidental or appertaining to a body corporate.

(3) The seal of the Trustees shall be authenticated by the signature of the chairman or vice-chairman of the Trustees and some other one of the Trustees and of the clerk to the Trustees or some other person authorised by the Trustees to act in that behalf.

(4) Every document purporting to be an instrument issued by the Trustees and to be sealed with the seal of the Trustees authenticated in manner provided by this section or to be signed by the clerk to the Trustees or any person authorised to act in that behalf shall be received in evidence and be deemed to be such an instrument without further proof unless the contrary is shown.

Existing Trustees to continue in office.

5. The persons holding office as the existing Trustees immediately before the passing of this Act shall continue in office until the date at which they would respectively have ceased to hold office if this Act had not been passed.

Title to office and method of appointment of Trustees to remain unchanged.

6. Nothing in this Act contained shall alter the title to office of ex-officio trustees or the method or conditions of appointment of appointed trustees as the same are now regulated by the Borough Market Scheme.

Application of existing Acts.

7. The Borough Market (Southwark) Acts 1754 to 1892 and the Borough Market Scheme shall except as expressly modified by this Act apply to the Trustees in like manner as they applied to the existing Trustees immediately before the passing of this Act.

Present property vested in Trustees.

8. Subject to the provisions of this Act all the lands buildings rights and easements which immediately before the passing of this Act were vested in the existing Trustees or any person in trust for them or to which the existing Trustees are in anywise entitled or which immediately before the passing of this Act were the property of the existing Trustees and all moneys securities credits effects and other property whatsoever which immediately before the passing of this Act belonged to the existing Trustees or to any trustee on their behalf and the benefit of all contracts and engagements entered into by or on behalf of the existing Trustees and immediately before the passing of this Act in force shall be and the same are hereby vested in the Trustees to the same extent and for

A.D. 1930.

the same estate and interest as the same were previously to the passing of this Act vested in the existing Trustees or any trustee on their behalf and may subject and according to the provisions of the Borough Market (Southwark) Acts 1754 to 1930 be held and enjoyed sued for and recovered maintained dealt with and disposed of by the Trustees as they think fit.

Nothing to affect previous rights and liabilities.

9. Everything before the passing of this Act done or suffered by or with reference to the existing Trustees shall be as valid as if the incorporation had not taken place and the incorporation and this Act respectively shall accordingly be subject and without prejudice to everything so done or suffered and to all rights liabilities claims and demands both present and future which if the incorporation had not taken place and this Act had not been passed would be incident to or consequent on any and every thing so done or suffered and with respect to all such rights liabilities claims and demands the Trustees and their property shall to all intents and purposes represent the existing Trustees and the property of the existing Trustees as the case may be and the generality of this enactment shall not be restricted by any of the other sections and provisions of this Act.

Contracts prior to Act to be binding.

10. All purchases sales conveyances grants assurances deeds contracts bonds and agreements entered into or made before the passing of this Act by to or with the existing Trustees or any trustees or persons acting on their behalf or by to or with any other person to whose rights and liabilities they have succeeded and now in force shall be as binding and of as full force and effect in every respect against or in favour of the Trustees and may be enforced as fully and effectually as if instead of the existing Trustees or the trustees or persons acting on behalf of the existing Trustees the Trustees had been a party thereto.

Actions &c. not to abate.

11. Notwithstanding the incorporation any action suit prosecution or other proceeding instituted before the passing of this Act by or against the existing Trustees or any person on their behalf or any trustee for them shall not abate or be discontinued or be prejudicially affected by this Act but on the contrary shall continue and take effect both in favour of and against the Trustees as it would have done in favour of or against the existing

Trustees or any of them or any such person or trustee as aforesaid if this Act had not been passed the Trustees being only substituted in or in relation thereto respectively for the existing Trustees or any one or more of them or any such person or trustee as aforesaid.

Debts to be paid and received by Trustees.

12. All debts due to the existing Trustees or to any person on their behalf or any trustee for them with all interest (if any) due or to accrue due thereon shall be paid to the Trustees and shall be recoverable by them and all debts due by the existing Trustees or any such person or trustee as aforesaid with all interest (if any) due or to accrue due thereon shall be paid by the Trustees and shall be recoverable from them.

Officers continued.

13. All officers of and persons employed by the existing Trustees in office or employment at the passing of this Act shall continue in their respective offices and employments according to the tenure of their respective offices and employments and as if they had been appointed by the Trustees and be deemed to be officers of or persons employed by the Trustees and they and their respective sureties shall be liable as if they respectively had been appointed by and had become bound to the Trustees.

Books &c. to remain evidence.

14. All books and documents which if the incorporation had not been effected would have been evidence in respect of any matter for or against the existing Trustees shall be admitted in evidence in respect of the same or the like matter for or against the Trustees.

Power to borrow.

15. The Trustees may from time to time independently of and in addition to any other borrowing power borrow at interest on the security of their market undertaking any sum or sums of money not exceeding in the whole the following sums (that is to say) :—

For the purpose of paying the costs charges and expenses of this Act the sum requisite for that purpose;

For the purposes of the Borough Market (Southwark) Acts 1754 to 1930 and the general purposes of the market undertaking of the Trustees any sum or sums not exceeding one hundred and fifty thousand pounds.

A.D. 1930.

Repayment of borrowed moneys.

16. The Trustees shall pay off all moneys borrowed by them under the powers of this Act within the following periods each of which is in this Act referred to as "the prescribed period" (that is to say) :—

As regards money borrowed to defray the costs charges and expenses of this Act within five years from the passing of this Act;

As regards money borrowed for all other purposes within fifty years from the time of the borrowing thereof;

and such repayments shall be made either—

By equal yearly or half-yearly instalments of principal or of principal and interest;

Or by means of a sinking fund;

Or partly by such instalments and partly by a sinking fund.

Incorporation of sections from Act of 1892.

17. The following sections of the Act of 1892 shall with all necessary modifications and subject to the provisions of this Act extend and apply to the exercise of the powers of this Act as if the same were re-enacted in this Act (that is to say) :—

Section 9 (Power to borrow under Local Loans Act 1875);

Section 11 (Protection of lenders from inquiry);

Section 12 (The Trustees not bound to regard trusts of moneys lent them);

Section 13 (For appointment of receiver);

Section 15 (Application of money borrowed);

Section 16 (Annual return to Local Government Board with respect to sinking funds).

Sinking fund.

18.—(1) If the Trustees determine to repay by means of a sinking fund any moneys borrowed by virtue of this Act such sinking fund shall be formed and maintained either—

(*a*) by payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed A sinking fund so formed is hereinafter called a "non-accumulating sinking fund"; or

(*b*) by payment to the fund throughout the prescribed period of such equal annual sums as with accumulations at a rate not exceeding three pounds ten shillings per centum per annum or such other rate as the Minister may from time to time approve will be sufficient to pay off within the prescribed period the moneys for the repayment of which such sinking fund is formed A sinking fund so formed is hereinafter called an "accumulating sinking fund."

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall subject to the provisions of this Act unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in statutory securities the Trustees being at liberty from time to time to vary and transpose such investments.

(3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Trustees towards the equal annual payments to the fund.

(4) The Trustees may at any time apply the whole or any part of any sinking fund in or towards the discharge of the moneys for the repayment of which the sinking fund is formed Provided that in the case of an accumulating sinking fund the Trustees shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund or part thereof so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5) (*a*) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any deficiency shall be made good by the Trustees.

(*b*) If and so often as the income of an accumulating sinking fund is in excess of the income which would

A.D. 1930. be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any such excess may be applied towards such annual payments.

(6) Any expenses connected with the formation maintenance investment application management or otherwise of any sinking fund under this Act shall be paid by the Trustees in addition to the payments provided for by this Act.

(7) If it appears to the Trustees at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Act together with the probable accumulations thereon (in the case of an accumulating sinking fund) will not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the Trustees to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose and if it appears to the Minister that any such increase is necessary the Trustees shall increase the payments to such extent as the Minister may direct.

(8) If the Trustees desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(9) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Act together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Minister be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Trustees may reduce the payments to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Minister be sufficient to repay within the prescribed period the moneys for the payment of which the sinking fund is formed.

(10) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the

opinion of the Minister be sufficient to repay the moneys in respect of which the sinking fund is formed within the prescribed period the Trustees may with the consent of the Minister discontinue the annual payments to such sinking fund until the Minister shall otherwise direct.

(11) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose or purposes as the Trustees with the consent of the Minister may determine.

Interest on securities held jointly.

19. Where more persons than one are registered as joint holders of any security of the Trustees any one of them may give an effectual receipt for any interest thereon unless notice to the contrary has been given to the Trustees by any other of them.

Receipt in case of persons not sui juris.

20. If any money is payable to a holder of any security of the Trustees being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Trustees.

Power to re-borrow.

21.—(1) The Trustees shall have power—

(*a*) to borrow for the purpose of paying off any moneys previously borrowed under the Act of 1892 or under this Act which are intended to be forthwith repaid; or

(*b*) to borrow in order to replace moneys which during the previous twelve months have been temporarily applied from other funds of the Trustees in repaying moneys previously borrowed under the Act of 1892 or under this Act and which at the time of such repayment it was intended to replace by borrowed moneys.

(2) Any moneys borrowed under this section shall for the purposes of repayment be deemed to form part of the original loan and shall be repaid within that portion of the period prescribed for the repayment of that loan which remains unexpired and the provisions which are for the time being applicable to the original

A.D. 1930.

loan shall apply to the moneys borrowed under this section.

(3) The Trustees shall not have power to borrow for the purpose of making any payment to a sinking fund or of paying any instalment or making any annual payment which has or may become due in respect of borrowed moneys.

(4) The Trustees shall not have power to borrow in order to replace any moneys previously borrowed which have been repaid—

(*a*) by instalments or annual payments; or

(*b*) by means of a sinking fund; or

(*c*) out of moneys derived from the sale of land; or

(*d*) out of any capital moneys properly applicable to the purpose of the repayment other than moneys borrowed for that purpose.

(5) Section 7 of the Act of 1892 is hereby repealed.

As to adoption of Local Government and other Officers' Superannuation Act 1922.

22.—(1) Notwithstanding anything contained in the Local Government and other Officers' Superannuation Act 1922 the Trustees shall be deemed to be a local authority within the meaning and for the purposes of the said Act and shall be entitled to adopt the said Act notwithstanding that there may be less than fifty officers or servants occupying posts proposed to be designated as established posts for the purposes of the said Act.

(2) For the purposes of the application of the said Act to the Trustees the persons for the time being holding office as the Trustees shall be deemed to be the members of the local authority and the parish of Saint Saviour in the metropolitan borough of Southwark shall be deemed to be the area of the Trustees.

(3) This section shall cease to have effect if at any time the metropolitan borough council of Southwark admit officers and servants of the Trustees to participate in the benefits prescribed by the Shoreditch and other Metropolitan Borough Councils (Superannuation) Act 1922 in the like manner as if they were officers and servants of the said Council.

A.D. 1930.

Costs of Act.

23. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Trustees out of the revenues of their market undertaking or out of moneys to be borrowed by them for the purpose under the powers of the Act of 1892 and this Act.

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