CHAPTER cxxxviii.

An Act to enable the Mayor Aldermen and Burgesses of the Borough of King's Lynn to exercise further powers for the Removal of Wrecks and to raise additional moneys for the removal of the wreck of the ship "Wick Bay" and for other purposes. A.D. 1894.

[31st July 1894.]

WHEREAS the borough of King's Lynn (in this Act called the borough) is subject to the Acts relating to municipal corporations and the mayor aldermen and burgesses of the borough (in this Act called the Corporation) acting by the council are the urban sanitary authority for the district thereof:

And whereas the Corporation are or claim to be under ancient charters the conservators of the port and harbour of King's Lynn and as such are charged with the duty of removing wrecks therein and it is expedient that further powers be conferred on them for that purpose and that provision be made as in this Act contained for the recovery of the expenses of and incident thereto:

And whereas in the year one thousand eight hundred and eighty-nine a large vessel named "The Wick Bay" was wrecked in the approach to the harbour of King's Lynn and great difficulties have arisen in the removal thereof and the estimated cost of such removal amounts to seventeen thousand six hundred and thirty-seven pounds and it is expedient that the Corporation should be authorised to borrow that sum for that purpose:

And whereas the Corporation formerly levied certain dues on all vessels resorting to the port of King's Lynn but by section 14 of the King's Lynn Docks and Railway (Further Powers) Act 1889 such of those vessels as used the docks of the King's Lynn Docks and Railway Company were exempted from certain of those dues and were liable as to the others of them to payment thereof on a reduced scale and it is expedient in the interest of the trade of the

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said port that the like provisions should be extended to vessels not using the said docks:

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

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

And whereas an absolute majority of the whole number of the council at a meeting held on the fourteenth day of March one thousand eight hundred and ninety-four after ten clear days notice by public advertisement of such meeting and of the purpose thereof in the "Lynn Advertiser" and the "Lynn News" newspapers published or circulating in the borough (such notice being in addition to the ordinary notices required for summoning such meeting) resolved that the expense in relation to promoting the Bill for this Act should be charged on the borough fund and borough rate of the borough:

And whereas such resolution was published twice in the said newspapers and has received the approval of a Secretary of State:

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the council at a further special meeting held in pursuance of a similar notice on the twenty-first day of June one thousand eight hundred and ninety-four being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas the owners and ratepayers of the borough by resolution in the manner provided in the Second Schedule of the Public Health Act 1875 consented to the promotion of the Bill for this Act:

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 (that is to say):—

Short title.

1. This Act may be cited as the King's Lynn Corporation Act 1894.

Incorporation of part of Commissioners Clauses Act.

2. The provisions of the Commissioners Clauses Act 1847 with respect to the mortgages to be executed by the commissioners (except sections 80 84 and 85) as far as they are applicable for the purposes of and not varied by or inconsistent with this Act are hereby incorporated with and form part of this Act.

Interpretation.

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

Terms to which meanings are assigned by enactments incorporated with this Act or which have therein special meanings

have in this Act and for the purposes of this Act the same respective meanings;

"The borough" means the borough of King's Lynn;

"The Corporation" means the mayor aldermen and burgesses of the borough;

"The council" means the town council of the borough;

"The town clerk" means the town clerk of the borough;

"The borough fund" and "the borough rate" respectively mean the borough fund and the borough rate of the borough;

"Dues" means and includes all dues tolls and rates leviable solely by the Corporation in respect of vessels or any cargo therein:

In the Commissioners Clauses Act 1847 for the purposes of this Act—

"The commissioners" and "the clerk to the commissioners" mean respectively the Corporation and the town clerk:

For the purposes of this Act—

The expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any enactments incorporated herewith shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt and not a debt or demand created by statute.

Further powers to Corporation as to removal of wrecks &c.

4. In addition to the powers conferred on the Corporation as the conservancy authority by the Removal of Wrecks Acts 1877 and 1889 the following provisions shall have effect (that is to say):—

If any vessel be wrecked sunk stranded or abandoned in any part of the port or harbour of King's Lynn and the owner master or person having the management thereof do not within twenty-four hours next after such vessel shall have been so wrecked sunk stranded or abandoned begin to take the necessary measures to endeavour to weigh or raise and to remove the same or within that period give security to the satisfaction of the Corporation for so doing and shall not with all convenient speed thereafter remove the same the Corporation may take possession of such vessel and sell break up blow up with any explosive substance or otherwise remove or dispose of such vessel and may recover and receive the moneys (if any) arising therefrom and may retain out of such moneys all or any expenses incurred by them in lighting watching buoying raising blowing up breaking up advertising or selling such vessel or any part thereof or otherwise in any manner or for any purpose

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whatsoever in respect or on account of such vessel or any part thereof rendering the balance (if any) to the person who was the owner master or other person having the management of such vessel immediately before it was wrecked sunk stranded or abandoned and if there be no such moneys or if any such moneys be insufficient to cover all such expenses and charges the Corporation may by proceeding or action in any court of summary or of competent jurisdiction recover such expenses and charges or the unsatisfied balance thereof respectively from such owner or from any person who was the owner of such vessel at any time after it was wrecked sunk stranded or abandoned and before it was sold by the Corporation or from the executors or administrators of such owner:

The word "vessel" shall for the purposes of this section include and extend to every article or thing or collection of things being or forming part of the cargo stores tackle furniture equipments or ballast of the vessel.

Incorporation of certain provisions of Harbours Docks &c. Act 1847 for protection of harbour.

5. The provisions of the Harbours Docks and Piers Clauses Act 1847 with respect to the protection of the harbour dock and pier and the vessels therein from fire or other injury shall extend and apply to the harbour and the vessels therein and to the quays and works of the Corporation in the harbour and in construing those provisions for the purposes of this Act the harbour dock or pier shall mean the harbour and the undertakers shall mean the Corporation.

Extending section 14 of the Act of 1889 to vessels not using the docks.

6. From and after the passing of this Act the dues heretofore leviable at the port and harbour of King's Lynn by the Corporation under the names of stakeage bulkbreak anchorage and ballast dues shall be extinguished and cease to be leviable in the case of vessels not using the docks of the dock company and there shall not be leviable in respect of the dues known as beaconage dues in the case of such vessels any greater sum than one penny in respect of each ton of cargo shipped or unshipped in the said port and harbour or in the case of any such vessel regularly trading to and from the said port and harbour any greater sum in any one year than two shillings per register ton of such vessel.

This enactment shall be without prejudice to the right of the Corporation to recover any arrears of such dues which may be owing and unpaid at the passing of this Act.

Incorporation of further portion of Harbours Docks &c. Act 1847.

7. The provisions of the Harbours Docks and Piers Clauses Act 1847 with respect to the collection and recovery of rates shall extend and apply to the collection and recovery of dues payable to the Corporation and shall be incorporated with and form part of this Act.

Power to borrow.

8. The Corporation may from time to time in addition to any moneys they are now authorised to borrow or which they are or may be authorised to borrow under the provisions of any other Act borrow at interest on the security of the borough fund and borough rate for the following purposes any sum or sums not exceeding the following sums (that is to say) :—

For paying the costs charges and expenses of and in relation to this Act as herein-after defined and of and in relation to the paying off and re-borrowing of moneys under the powers of this Act the sum requisite for the purpose ;

For paying the costs charges and expenses of and incidental to the removal of the wreck of "The Wick Bay" eighteen thousand pounds :

And in calculating the sums which the Corporation may borrow under the provisions of any other enactment the sums they may borrow under this Act shall not be reckoned and the powers of the Corporation as to borrowing and re-borrowing shall not be restricted by any of the provisions of the Public Health Acts.

Power to borrow under Local Loans Act 1875.

9.—(1.) The Corporation as to any moneys which they are by any statutory borrowing power authorised to borrow may if they think fit borrow such moneys under the powers and subject to the provisions of the Local Loans Act 1875 by means of a loan or loans to be raised by the issue of debentures debenture stock or annuity certificates or partly in one way and partly in another Any moneys borrowed by the Corporation in manner by this section authorised shall be a charge upon and shall be paid out of the same funds and rates as they would be charged upon and paid out of if raised by way of mortgage under such statutory borrowing power and such funds and rates shall in each case be deemed to be the local rate as defined by the Local Loans Act 1875 Every such loan shall be discharged within the time prescribed in that behalf.

(2.) All moneys paid into any sinking fund formed for the purpose of such discharge shall be invested by the Corporation in the manner in which sinking funds are by this Act authorised to be invested or applied.

As to repayment of borrowed moneys.

10. With respect to the repayment of moneys to be borrowed under the powers of this Act the following provisions shall have effect (that is to say) :—

The Corporation shall repay—

All moneys borrowed under the powers of this Act for payment of the costs charges and expenses thereof and for payment of the costs charges and expenses of and in relation to the

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paying off and re-borrowing of moneys under the powers of this Act within ten years from the date of the borrowing of the same respectively;

All moneys borrowed under the powers of this Act for the purpose of removing the wreck of "The Wick Bay" within forty years from the respective dates of the borrowing of the same:

And such repayment shall be effected—

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:

Every such instalment or instalments shall be paid out of the funds and rates on the security of which the principal moneys in respect of which it or they are so paid were borrowed.

As to sinking fund.

11. The following provisions shall apply as to the sinking fund (that is to say):—

(1.) The Corporation in every year after the respective dates in that behalf by this section prescribed shall appropriate and set apart out of the funds and rates on the security of which such moneys shall have been borrowed such equal annual sums as will with the accumulations thereof by way of compound interest after the rate of three pounds per centum per annum be sufficient to pay off the whole of the principal moneys borrowed on such security within the periods by this Act prescribed so far as the same are to be paid off by means of a sinking fund:

(2.) The first payment to the sinking fund for repayment of moneys to be borrowed under the powers of this Act shall be made on or before the twenty-fifth day of March next following the time of the borrowing of the moneys in respect of which the payment is to be made:

(3.) The yearly sums so to be appropriated and set apart shall be invested from time to time and accumulated in the way of compound interest by investing the same and the dividends interest and annual income thereof respectively in 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 and mortgage bond debenture debenture stock corporation stock annuity rentcharge or other security authorised by or under any Act of Parliament passed or to be passed of any municipal corporation in Great Britain (except

the Corporation) or of any other local authority within section 34 of the Local Loans Act 1875 other than a statutory security of the Corporation or securities transferable by delivery : A.D. 1894.

(4.) The Corporation may at any time apply the whole or part of such sinking fund in or towards the repayment of the borrowed moneys for the repayment of which such sinking fund was set apart in such order and manner as they deem proper Provided as follows (that is to say) :—

(A.) That in such case they pay into such sinking fund in each year afterwards and accumulate as herein-before prescribed until the whole of the borrowed moneys to which such sinking fund is applicable are discharged a sum equal to the interest produced by the sinking fund or part thereof so applied at the rate per centum on which the annual payments to the sinking fund are based ;

(B.) That whenever and so long as the securities constituting any sinking fund shall be equal in value at the market price of the day to the principal moneys then outstanding and to be paid off by means of such fund the Corporation may in lieu of investing the said yearly income apply the same in payment of the interest on such principal and may during such periods discontinue the payment to such sinking fund of the yearly sums required to be so paid thereto ;

(C.) That if and so often as the interest in any year derived from such investments is not equal to the income which would be derived therefrom at the rate per centum per annum on which the equal annual payments to the sinking fund are based such deficiency shall be made good out of the funds and rates on the security of which the moneys to be repaid have been borrowed but if and so often as the said interest in any year exceeds such income the difference between such interest and income shall be applicable in reduction of the sums which would otherwise be required to be paid into the sinking fund.

Power to re-borrow.

12. If the Corporation can at any time borrow any money at a lower rate of interest than any securities given by them and then in force shall bear or if the Corporation pay off any moneys borrowed by them under the powers of this Act otherwise than by means of instalments or of a sinking fund or out of the proceeds of the sale exchange or disposition of lands or other moneys received on capital account (other than borrowed moneys) they may

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re-borrow the same and so from time to time Provided as follows (that is to say):—

All moneys so re-borrowed shall be repaid within the period prescribed for the repayment of the moneys in lieu of which such re-borrowing shall have been made:

Any amounts from time to time re-borrowed shall be deemed to form the same loan as the moneys in lieu of which such re-borrowing shall have been made and the obligations of the Corporation with respect to the repayment of such moneys shall not be in any way affected by such re-borrowing.

Corporation not to regard trusts.

13. The Corporation shall not be bound to see to the execution of any trust whether expressed or implied or constructive to which any loan or security for loan given by them may be subject but the receipt of the person in whose name any loan or security for loan stands in the register book of the Corporation shall be a sufficient discharge to the Corporation in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Corporation have had notice of any such trust or of any charge or incumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered in their register and the Corporation shall not be bound to see to the application of the money paid on any such receipt or be answerable or accountable for any loss misapplication or non-application of any of such money.

Annual return to Local Government Board with respect to sinking funds &c.

14. The treasurer shall within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund or any instalment is required to be paid under this Act transmit to the Local Government Board a return in such form as may be prescribed by that Board and verified by statutory declaration if so required by them showing the amount which has been paid as an instalment or invested for the purpose of such sinking fund during the year preceding the making of such return and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund and the interest thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any wilful default in making such return the treasurer shall be liable to a penalty of not exceeding twenty pounds which shall be paid to the Local Government Board and shall be recoverable by that Board in the same manner as penalties recoverable under the Public Health Act 1875 in a summary

manner may be recovered by parties aggrieved within the meaning of that Act.

If it appear to the Local Government Board by such return or otherwise that the Corporation have failed to pay any instalment or to set apart the sum required by this Act for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Act the Local Government Board may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund and such order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

The provisions of this section shall apply mutatis mutandis to appropriations and annual repayments.

Application of moneys borrowed.

15. All moneys borrowed by the Corporation under this Act shall be applied to the purposes of this Act in respect of which the same were respectively borrowed and to which capital is properly applicable and to no other purpose.

Expenses of executing Act.

16. All expenses incurred by the Corporation in carrying into execution the provisions of this Act (except such of those expenses as are to be paid out of borrowed moneys) shall be paid out of the borough fund and borough rate.

Saving rights of Norfolk Estuary Company.

17. Nothing herein contained shall alter diminish prejudice take away or affect any rights powers or privileges of the Norfolk Estuary Company under the Norfolk Estuary Act 1877.

Costs of Act.

18. All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation out of moneys to be borrowed for the purpose under the provisions of this Act.

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