CHAPTER xliv.

An Act to enable the Mayor Aldermen and Burgesses of the Borough of King's Lynn to cover over a portion of the Mill Fleet and with the consent of the Commissioners of Sewers for the County of Norfolk to use the Middleton Stop Drain as storm overflows and to raise additional moneys and for other purposes. A.D. 1896.

[2nd July 1896.]

WHEREAS the borough of King's Lynn (in this Act called "the borough") is subject to the Acts relating to municipal corporations and under the government of the mayor aldermen and burgesses of the borough (in this Act called "the Corporation") acting by the council:

And whereas it is expedient that the Corporation be empowered to cover over in the borough a portion of a tidal stream known by the name of "the Mill Fleet":

And whereas it is expedient to authorise the Corporation with the consent of the commissioners of sewers for the county of Norfolk to connect their sewers with the drain passing through the said borough and known as the Middleton Stop Drain and to use portions of that drain as storm overflows for their said sewers:

And whereas it is expedient that further borrowing and other powers be conferred upon the Corporation:

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 estimate has been prepared by the Corporation for the covering in of the Mill Fleet and for the execution of the works connected therewith by this Act authorised and such estimate amounts to four thousand six hundred and eighty-nine pounds:

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And whereas the works included in the before-mentioned estimate are permanent works within the meaning of the two hundred and thirty-fourth section of the Public Health Act 1875:

And whereas an absolute majority of the whole number of the council at a meeting held on the fourth day of December one thousand eight hundred and ninety-five 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 the Local Government Board:

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 fourth day of March one thousand eight hundred and ninety-six 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 Third Schedule of the Public Health Act 1875 consented to the promotion of the Bill for this Act:

And whereas plans and sections showing the lines situation and levels of the work by this Act authorised and the lands on in or through which it is to be constructed and a book of reference to those plans containing the names of the owners or reputed owners and of the occupiers of and describing such lands have been deposited with the clerk of the peace for the county of Norfolk and are in this Act referred to as the deposited plans and sections and book of reference:

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 1896.

Incorporation of Lands Clauses Acts.

2. The Lands Clauses Acts so 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.

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Interpretation.

3. In this Act unless the subject or context otherwise requires— 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" and "the treasurer" respectively mean the town clerk and the treasurer of the borough;

"The district fund" and "the general district rate" respectively mean the district fund and the general district rate of the borough.

Power to construct work.

4. Subject to the provisions of this Act the Corporation may wholly in the county of Norfolk in the lines or situation and according to the levels shown on the deposited plans and sections and upon the lands shown on sheet No. 1 of the said plans and described in the deposited book of reference construct and maintain the following work (that is to say):—

Work A The arching or otherwise covering over and the narrowing and partially filling in of so much of the Mill Fleet in the parish of Saint Margaret in the borough as lies between the eastern side of the bridge carrying the London Road thereover and the western side of the bridge known as "Lady Bridge":

And they may exercise the following powers (that is to say):—

Within the limits defined on the deposited plans of the said Work A upon lands belonging to or acquired by them or in respect of which they acquire easements for the purpose construct and place all such walls piers abutments piling arches girders culverts sewers drains sluices tidal flaps valves mains pipes appliances and conveniences as may be necessary or expedient for the purposes of the before-mentioned work;

Deviate laterally from the lines of the said work as shown on the deposited plans to the extent of the limits of lateral deviation shown thereon and deviate vertically from the levels shown on the deposited sections to any extent not exceeding two feet downwards and two feet upwards;

Enter upon take and use such of the lands shown on sheet No. 1 of the deposited plans and described in the deposited book of reference as may be necessary for any of the purposes aforesaid;

Appropriate and use as part of their corporate estate the site created by such arching or covering over of the Mill Fleet:

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The Corporation shall make compensation to all owners lessees and occupiers of lands and houses whose property or rights (if any) shall be injuriously affected or taken away by the exercise of the powers of this section Such compensation in case of difference to be settled in manner provided by the Lands Clauses Acts.

Works below high-water mark not to be commenced without consent of Board of Trade.

5. The Corporation shall not under the powers of this Act construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of such approval being signified as last aforesaid and where any such work may have been constructed the Corporation shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals If any such work be commenced or completed contrary to the provisions of this Act the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the costs and charges of the Corporation and the amount of such costs and charges shall be a debt due from the Corporation to the Crown and shall be recoverable accordingly with costs.

Temporary stoppage of streets.

6. The Corporation may during the execution and for the purposes of any work by this Act authorised from time to time stop up for any reasonable time any street and prevent all persons (other than those bonâ fide going to or returning from any house in the street) from passing or using the same.

Power to Corporation to use portions of drain of Norfolk Court of Sewers.

7. The Corporation may with the consent of the Commissioners and on such terms as may from time to time be agreed on between the Corporation and the Commissioners use as storm overflows for the Corporation sewers the Middleton Stop Drain and may upon any lands for the time being belonging to the Corporation or in respect of which they have acquired an easement for the purpose construct and maintain such works as may be necessary for enabling the said drain to be used for the purpose aforesaid.

For protection of King's Lynn Docks and Railway Company.

8. Nothing in this Act contained or shown on the deposited plans shall authorise the Corporation without the previous consent in writing of the King's Lynn Docks and Railway Company to enter upon take or use or acquire any easement in over or under or construct any works upon any lands of that Company.

Saving rights of Norfolk Commis-

9. Nothing in this Act contained shall take away lessen interfere with or prejudice the rights powers or authorities now vested in belonging to or enjoyed by Her Majesty's Commissioners of Sewers

for the county of Norfolk commonly called "the Norfolk Court of Sewers."

sioners of Sewers.

Corporation empowered or may be required to underpin or otherwise strengthen houses near works.

10. And whereas in order to avoid in the execution and maintenance of any works authorised by this Act injury to the houses and buildings within one hundred feet of any of such works it may be necessary to underpin or otherwise strengthen such houses and buildings Therefore the Corporation at their own costs and charges may and if required by the owners and lessees of any such house or building shall subject as herein-after provided underpin or otherwise strengthen the same and the following provisions shall have effect (that is to say):—

(1) At least ten days' notice shall unless in case of emergency be given to the owners lessees and occupiers or by the owners and lessees of the house or building so intended or so required to be underpinned or otherwise strengthened:

(2) Each such notice if given by the Corporation shall be served in manner prescribed by section 19 of the Lands Clauses Consolidation Act 1845 and if given by the owners and lessees of the premises to be underpinned or strengthened shall be sent to the town clerk at his office:

(3) If any owner lessee or occupier of any such house or building or the Corporation as the case may require shall within seven days after the giving of such notice give a counter-notice in writing that he or they as the case may be disputes the necessity of such underpinning or strengthening the question of the necessity shall be referred to an engineer to be agreed upon or in case of difference to an engineer to be appointed at the instance of either party by the Board of Trade:

(4) Such referee shall forthwith upon the application of either party proceed to inspect such house or building and determine the matter referred to him and in the event of his deciding that such underpinning or strengthening is necessary he may and if so required by such owner lessee or occupier shall prescribe the mode in which the same shall be executed and the Corporation may and shall proceed forthwith so to underpin or strengthen the said house or building:

(5) The cost of the reference shall be in the discretion of the referee:

(6) The Corporation shall be liable to compensate the owners lessees and occupiers of every such house or building for any inconvenience loss or damage which may result to them by reason of the exercise of the powers granted by this enactment:

(7) If in any case in which any house or building shall have been underpinned or strengthened on the requisition of the

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Corporation such underpinning or strengthening shall prove inadequate for the support or protection of the house or building against further injury arising from the execution or use of the works of the Corporation then and in every such case unless such underpinning or strengthening shall have been done in pursuance of and in the mode prescribed by the referee the Corporation shall make compensation to the owners lessees and occupiers of such house or building for such injury provided the claim for compensation in respect thereof be made by such owners within twelve months and by such lessees or occupiers within six months from the discovery thereof:

(8) Nothing in this enactment contained nor any dealing with any property in pursuance of this enactment shall relieve the Corporation from the liability to compensate under the sixty-eighth section of the Lands Clauses Consolidation Act 1845 or under any other Act:

(9) Every case of compensation to be ascertained under this enactment shall be ascertained according to the provisions of the Lands Clauses Acts:

(10) Nothing in this section shall repeal or affect the application of the ninety-second section of the Lands Clauses Consolidation Act 1845.

Restriction on taking houses of labouring class.

11. The Corporation shall not under the powers of this Act purchase or acquire ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

For the purpose of this section the expression "labouring class" means and includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

As to level of cellars &c.

12. It shall not be lawful after the passing of this Act for any person to erect within the borough a building the lowest floor or cellar of which shall be less than thirteen feet above Ordnance datum without the consent in writing of the Corporation and any person who shall erect or cause to be erected any building in contravention of the said condition or prohibition shall be liable to a penalty not exceeding one hundred pounds and to a daily penalty not exceeding

forty shillings for every day such offence shall continue after conviction thereof. A.D. 1896.

Power to borrow.

13. 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 district fund and general district 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 the sum necessary for the purpose ;

For covering in the Mill Fleet and executing the work connected therewith by this Act authorised four thousand six hundred and eighty-nine pounds ;

For executing such works as may be necessary for enabling them to use the said drain as a storm overflow such sum or sums as the Local Government Board may sanction :

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.

Provisions as to mortgages.

14. The following sections of the Public Health Act 1875 shall extend and apply mutatis mutandis to and in relation to all mortgages made under the powers of this Act (that is to say) :—

Section 236 (Form of mortgage) ;

Section 237 (Register of mortgages) ;

Section 238 (Transfer of mortgages) ; and

Section 239 (Receiver may be appointed in certain cases).

Power to borrow under Local Loans Act 1875.

15.—(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 money 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.

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(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.

16. 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 within five years from the date of the borrowing of the same respectively; and

All moneys borrowed under the powers of this Act for the covering in of the Mill Fleet and the execution of the works in connexion therewith by this Act authorised within fifty years from the respective dates of the borrowing of the same;

All moneys borrowed under the powers of this Act with the sanction of the Local Government Board within such period as that Board may prescribe :

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.

17. 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 at a rate not exceeding 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 any mortgage bond debenture debenture stock corporation stock 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 annuities and rentcharges and securities transferable by delivery:

(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 securities 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.

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Power to reborrow.

18. If the Corporation can at any time pay off any securities given by them and then in force by borrowing money at a lower rate of interest 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 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.

19. 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.

20. 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 or by virtue of 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.

21. 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.

22. 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 district fund and general district rate.

Saving rights of the Crown in the foreshore.

23. Nothing contained in this Act shall authorise the Corporation to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exercisable by the Queen's Majesty Her heirs or successors.

Saving rights of Crown under Crown Lands Act.

24. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved by sections 21 and 22 of the Crown Lands Act 1866 and belonging to or exercisable on behalf of Her Majesty Her heirs or successors.

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Costs of Act.

25. 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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