CHAPTER lxxx.

An Act to confer further powers upon the King's Lynn Docks and Railway Company and for other purposes. A.D. 1889.

[26th July 1889.]

WHEREAS by the King's Lynn Docks and Railway Act 1865 (in this Act called "the Act of 1865") the King's Lynn Docks and Railway Company (in this Act called "the Company") were incorporated and authorised to construct a dock and other works at King's Lynn in the county of Norfolk: 28 & 29 Vict. c. lxxxviii.

And whereas the Act of 1865 was amended and the powers of the Company thereunder were extended by subsequent Acts and by the King's Lynn Dock Act 1877 (in this Act called "the Act of 1877") the Company were authorised to construct a new dock and other works: 40 & 41 Vict. c. cxvi.

And whereas the increasing requirements of traffic necessitate the widening of the Company's railway and it is expedient that they should be empowered to acquire the additional land necessary for that purpose:

And whereas plans showing the lands required for the purposes of this Act and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited with the clerk of the peace for the county of Norfolk and are herein-after respectively referred to as the deposited plans and book of reference:

And whereas the Company have certain balances of capital unissued under the Acts of 1865 and 1877 and they have also created under the King's Lynn Dock Act 1884 100,000*l.* in five per cent. preference stock of which 20,000*l.* only has been issued leaving a balance unissued of 80,000*l.* But by reason of diminution during recent years of the revenue of the Company applicable to dividend owing to exceptional circumstances and liabilities which the Company

A.D. 1889.

have been called upon to meet they have been unable to issue the said balance of capital or preference stock:

And whereas the Company is consequently indebted to various creditors in sums of money on some of which they have to pay a high rate of interest and the Company have not sufficient funds to pay off those debts:

And whereas the Company have also raised capital by means of terminable debentures (which debentures amount in the aggregate to 88,000*l.* or thereabouts) some of which are overdue and others are falling due and the Company have no funds to meet the same:

And whereas the Company have also an unexercised power of borrowing to the extent of about 33,000*l.* which they are unable to exercise by reason of their inability to issue the capital upon which these borrowing powers depend and the Company have not created debenture stock:

And whereas it would be to the advantage of the Company that they should be empowered at once to create and issue debenture stock in order to provide money for the discharge of liabilities incurred on capital account and for other purposes for which capital is urgently required and that they should be empowered out of moneys so raised by debenture stock to repay the said debentures as they fall due and by agreement to exchange such debentures into debenture stock:

And whereas the holders of more than three fourths in value of each class of the preference stocks of the Company have consented in writing to the provisions of this Act:

And whereas the Company have erected warehouses and other buildings upon the quays and property of the Company and it is expedient that they should have further powers as to granting leases thereof:

And whereas vessels resorting to the port of King's Lynn are liable to certain dues commonly known as beaconage stakeage bulk-break anchorage and ballast dues leviable by the corporation:

And whereas by reason of the construction of the dock and works of the Company the works and conveniences in respect of which such dues were originally levied have been in great part superseded and the said dues involve a heavy and unnecessary burden upon the shipping resorting to the said port and are detrimental to the interests of the said port and the town of King's Lynn and it is expedient that such provisions as herein-after contained should be made as to the reduction or abolition thereof:

And it is also expedient that such further powers as herein-after contained for the management and protection of their undertaking should be conferred upon the Company:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

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 Docks and Railway (Further Powers) Act 1889.

Incorporation of general Acts.

2. The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883 are incorporated with and form part of this Act.

Incorporation of Companies Clauses Acts.

3. The clauses and provisions of the Companies Clauses Consolidation Act 1845 in respect of the following matters (that is to say):—

The borrowing of money by the Company on mortgage or bond;

The conversion of borrowed money into capital;

The giving of notices;

The provision to be made for affording access to the special Act by all parties interested:

And also Part III. of the Companies Clauses Act 1863 relating to debenture stock:

are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

4. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction:

"The Company."

The expression "the Company" means the King's Lynn Docks and Railway Company;

"The corporation."

The expression "the corporation" means the mayor aldermen and burgesses of the borough of King's Lynn;

"Superior courts."

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

A.D. 1889.

Power to purchase additional lands.

5. Subject to the provisions of this Act the Company may purchase and take for purposes of or connected with their undertaking the lands herein-after described so far as the same are shown on the deposited plans and described in the deposited book of reference :—

(a) Land in the parish of Saint Margaret King's Lynn lying to the south-eastward of the Alexandra Dockyard ;

(b) Land in the same parish adjoining and on the southern side of the railway of the Company at about five chains westward of the point where the said railway crosses Pilot Street on the level ;

(c) Land adjoining and on the north side of the railway of the Company on the west side of the piece of water called the Loke in the parish of Saint Margaret King's Lynn including part of the soil of the Loke ;

(d) Land in the parish of Gaywood adjoining and on the southern or south-western side of the said railway between the Long Pond and the Gaywood River including part of the site of the said river and pond and a small piece of ground to the southward of the said river ;

(e) Land in the said parish of Gaywood adjoining and on the western side of the Company's railway extending from the bridge carrying the Gaywood Road over the said railway for a distance of sixteen chains or thereabouts to the station yard of the Great Eastern Railway Company ;

(f) Land in the said parish of Gaywood adjoining and on the eastern side of the railway of the Company extending from a point one chain or thereabouts southward of the said last-mentioned bridge to a point one and a half chains or thereabouts from Almshouse Lane.

As to taking houses of labouring class.

6.—(1) The Company shall not under the powers of this Act except with the previous consent in writing of the Local Government Board purchase or acquire in any city borough or other urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

(2) For the purposes of this section the expression "labouring class" 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 Gaywood River &c.

7. If the Company under the powers of this Act take any part of the site of the Gaywood River as shown on the deposited plans or construct any works over the same they shall leave beneath such works a clear waterway not less than that which exists beneath the bridge carrying the Company's railway over that river and if the Company construct any works upon or over the site of the pieces of water known as the Long Pond and the Loke and shown on the deposited plans they shall construct and maintain to the reasonable satisfaction of the corporation culverts to provide for the passage of water thereunder in the same lines at the same levels and of the same dimensions as any existing culverts by which such water is conveyed under the said railway at those places.

Period for compulsory purchase of lands.

8. The powers for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing thereof.

Creation of debenture stock.

9. The Company may at any time after the passing of this Act create and issue debenture stock to an amount not exceeding in the whole one hundred and fifty thousand pounds The interest or dividend on all such debenture stock shall rank pari passu without respect to the date of the resolutions by which the same or any part thereof may be created and subject to the priority of mortgages granted before the passing of this Act shall be a first charge upon the undertaking and revenues of the Company and all the powers of the Company to raise money by borrowing on mortgage or by debenture stock subsisting but unexercised at the passing of this Act are hereby repealed.

Application of money raised by debenture stock.

10. The money raised by such debenture stock may be applied in payment of the existing debts of the Company including debentures as they fall due and in purchasing the land authorised to be acquired by this Act and improving the Company's undertaking railway and works and to purposes to which capital is properly applicable but not otherwise:

Provided that out of the said sum of one hundred and fifty thousand pounds a sum of ninety thousand pounds shall be applied solely for the purpose of raising money to pay off existing debentures due and as they fall due or in redeeming any outstanding debentures by agreement with the holders thereof a sum of thirty thousand pounds shall be applied in the payment or discharge of the existing debts and liabilities of the Company incurred on capital

A.D. 1889.

account and a sum of not exceeding thirty thousand pounds shall be applied to purchasing the land authorised to be acquired under this Act and improving the Company's undertaking railway and works And provided also that no part of the last-mentioned sum of thirty thousand pounds shall be created or issued unless such creation and issue shall have been approved by not less than three fifths of the votes of the holders of the preference stocks of the Company present personally or by proxy at a meeting of such holders specially convened for the purpose.

Debenture stock.

11. Debenture stock created under this Act may be issued in exchange for and in redemption of any outstanding mortgages of the Company by agreement with the holders thereof and such debenture stock may by agreement be issued to any such holder on terms which shall entitle the holder thereof to dividend or interest at the same rate as would have been payable in respect of the mortgage for which it is substituted during the continuance of such mortgage and shall entitle the holder thereof thereafter to interest or dividend at the same rate as the rest of such debenture stock.

Debenture stockholders need not inquire as to compliance with this Act.

12. No person accepting debenture stock created under the powers of this Act shall be in any way bound to inquire whether the provisions of this Act in regard to the application of money raised by such debenture stock or otherwise relating thereto have been or will be complied with nor shall any such debenture stock be invalidated or prejudiced by any default on the part of the Company or the directors in the application of the money thereby raised in manner by this Act directed.

Receipt in case of persons not sui juris.

13. If any money is payable to a shareholder mortgagee or debenture stockholder in the Company being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Abolishing and limiting certain dues.

14. From and after the passing of this Act the dues heretofore leviable at the port 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 using the docks of the 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 at the docks or in the case of any such vessel regularly trading to and from the port 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.

Indemnity to Public Works Loan Commissioners.

15. Whereas under an indenture dated the twenty-sixth day of July one thousand eight hundred and seventy-eight made between the mayor aldermen and burgesses of the borough of King's Lynn in the county of Norfolk (herein called "the corporation") of the one part and William Williamson Willink of Bank Buildings in the city of London secretary of the Commissioners for carrying into execution the Public Works Loans Act 1875 (herein-after called "the Loan Commissioners") of the other part the sum of two thousand five hundred pounds was advanced by the Loan Commissioners to the corporation and charged firstly on certain rates and tolls described in the said indenture which are now commonly known as the light-ship dues and secondly upon certain other dues leviable by the corporation which include among others the dues extinguished or altered under the preceding section:

And whereas some of the instalments due under the said indenture to the Loan Commissioners by way of payment of interest and repayment of principal of the said loan have not yet matured and are unpaid and it has been arranged between the Company and the Loan Commissioners that in consideration of the Loan Commissioners assenting to the provisions of the preceding section the Company shall give such guarantee as herein-after provided Therefore if the corporation shall make default in payment of any instalments of principal or interest under the said indenture the Company shall within twenty-one days after such default pay to the Loan Commissioners the amounts of such instalments But the Company shall have the same right of recovering any sums so paid by them from the corporation as the Loan Commissioners would have had.

Removal of sludge &c.

16. The Company may dredge remove appropriate sell and deal with any mud or sludge from time to time accumulating within the docks of the Company.

Powers as to lighting.

17. The Company may enter into and carry into effect any agreements with any companies or persons with respect to the generating and supply of electricity or any other illuminating agent except coal gas for the purpose of lighting their undertaking and works and any warehouses yards and buildings on any part of the lands of the Company and for that purpose may use any lands for the time belonging to or held by them and may upon such lands erect and maintain any such works and buildings as they may find convenient and they may buy or hire all such machinery engines wires and

A.D. 1889.

apparatus as they may find convenient for the purpose of lighting by electricity or otherwise their undertaking and works and any warehouses yards or buildings on any part of the lands of the Company.

Provision for protection of the Postmaster General.

18.—1. It shall not be lawful for the Company or any companies or persons (in this section included in the expression "the Company") to lay down any electric line or to do any act or work for generating electricity or for the supply of electricity whereby any telegraphic line of the Postmaster General is or may be injuriously affected and before any such electric line is laid down or any such act or work is done within ten yards of any part of a telegraphic line of the Postmaster General (other than repairs or the laying of connexions with mains where the direction of the electric lines so laid down crosses the line of the Postmaster General at right angles at the point of shortest distance and continues the same for a distance of six feet on each side of such point) the Company or their agents not more than twenty-eight nor less than fourteen days before commencing such work shall give written notice to the Postmaster General specifying the course and nature of the work including the gauge of any electric line and the Company and their agents shall conform with such reasonable requirements (either general or special) as may from time to time be made by the Postmaster General for the purpose of preventing any telegraphic line of the Postmaster General from being injuriously affected by the said act or work.

2. Any difference which arises between the Postmaster General and the Company or their agents with respect to any requirements so made shall be determined by arbitration in manner provided by section 28 of the Electric Lighting Act 1882.

3. In the event of any contravention of or wilful non-compliance with this section by the Company or their agents the Company shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues or if the telegraphic communication is wilfully interrupted not exceeding fifty pounds for every day on which such interruption continues.

4. Provided that nothing in this section shall subject the Company or their agents to a fine under this section if they satisfy the court having cognizance of the case that the immediate doing of the act or execution of the work was required to avoid an accident or otherwise was a work of emergency and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the act or work was done a notice of the execution thereof stating the reason for doing or executing the same without previous notice.

5. For the purposes of this section a telegraphic line of the Postmaster General shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such line is whether through induction or otherwise in any manner affected by such act or work or by any use made of such work.

6. For the purposes of this section and subject as therein provided sections 2, 7, 8, 9, 10, 11, and 12 of the Telegraph Act 1878 shall be deemed to be incorporated with this Act as if the Company were undertakers within the meaning of those sections without prejudice nevertheless to any operation which the other sections of the said Act would have had if this section had not been enacted. 41 & 42 Vict. c. 76.

7. The Company shall not under any system by means of which electricity may be supplied permit any part of any circuit for lighting purposes to be connected with earth without the concurrence of the Postmaster General.

8. Whenever after the Company shall have commenced to supply electricity under this Act the Postmaster General requires to place any telegraphic line in under upon over or across the Company's property or any part thereof the Company shall furnish the Postmaster General with a map of their property on a suitable scale showing thereon the position of any electric lines or other works of the Company used for electric purposes.

9. If the Company fail to comply with any of the requirements of the last preceding subsection with respect to the said map they shall for every such offence be liable to a penalty not exceeding ten pounds and to a further penalty not exceeding two pounds for every day after the first day during which such offence continues.

10. The expression "electric line" has the same meaning in this section as in the Electric Lighting Act 1882.

11. Nothing in this Act shall affect any right or remedy of the Postmaster General under the Telegraph Acts 1863 to 1885 or under the Electric Lighting Acts 1882 and 1888 and all provisions contained in this Act in favour of the Postmaster General shall be construed to be in addition to and not in modification of the provisions of those Acts or any of them.

Supply of water.

19. The Company may also enter into and carry into effect any agreement as to the supply of water to the tenants and occupiers of any warehouses and buildings on the property of the Company and to vessels resorting to the docks of the Company.

Power to grant building leases.

20. The Company from time to time may grant leases for such term or terms as they may think fit of any of the lands of the Company not required or likely in the opinion of the Company to be required

A.D. 1889.

for any of the Company's works to any persons corporations or companies (such corporations or companies being capable at law to accept such leases) who shall covenant to improve such lands by laying out money in the construction or erection of warehouses or other buildings thereon or to carry on any trade or business thereon calculated to promote the business of the company including the oil mill warehouses engine house and premises connected therewith situate at the Alexandra Dock of the Company and they may also grant to such lessees the use during their respective leases of such quay-room rights of way and other easements as may be requisite or convenient for the purpose of the trade or business to be carried on in or at the warehouses or buildings to be erected by such lessees Provided that such grant shall not be made in such manner as to obstruct the general use by the public of the portions of the quays of the Company which are open for public use.

Terms and conditions of such leases.

21. Every such lease shall be made without fine and may be made with and subject to such exceptions reservations yearly or other rents or payments covenants conditions powers and provisions whatsoever as the parties thereto mutually agree on Provided always that by every such lease due provision shall be made for securing the payment performance and observance by the lessees thereunder of the rent (if any) covenants and provisions in and by the same respectively reserved and contained and on their part to be respectively paid performed and observed Provided also that a duplicate or counterpart of every such lease shall be executed by the lessees therein named and be delivered to the Company.

Company not to be bound to sell lands demised.

22. Anything in the Lands Clauses Consolidation Act 1845 to the contrary notwithstanding the Company shall not be bound to sell or dispose of any lands which may be included in any such lease or the reversion thereof.

Power to lease warehouses &c.

23. Notwithstanding anything in the Harbours Docks and Piers Clauses Act 1847 the Company may from time to time lease or grant the use or occupation of any warehouses and other buildings erected by the Company for such period or periods not exceeding seven years at such rents and on such terms and conditions as shall be agreed between the Company and the corporations companies or persons taking the same.

Damage to dock by vessels.

24. If any damage be done to any part of the docks or works of the Company by any vessel coming into or departing from the docks whether such vessel shall be in charge of a pilot or not the owner or master of such vessel shall be liable to make good to the Company the amount of any such damage and such amount may be recovered

by the Company from such owner or master From and after the passing of this Act it shall not be compulsory for vessels coming to or leaving the docks of the Company to employ any pilot when within a distance of one hundred yards measured in all directions from the outer gates of the docks.

Company not to be liable for loss by fire &c.

25. The Company shall not be liable to make good any loss or damage which may happen to any goods which at the request or with the consent of the owner or consignee thereof after due notice given of the effect of this enactment have been stored placed or left upon the docks works or quays instead of being stored or placed in the warehouses of the Company.

Increase of number of directors.

26. The Company may increase the number of the directors of the Company so that it shall be nine instead of eight.

Saving the rights of the Duchy of Cornwall.

27. Nothing contained in this Act or in any Act or Acts incorporated herewith shall extend to authorise the Company to take use enter upon or interfere with any land soil or water or any rights in respect thereof belonging to Her Majesty Her heirs or successors in right of the Duchy of Cornwall without the consent in writing of some two or more of such of the regular officers of the said duchy or of such other persons as may be duly authorised under the provisions of the Duchy of Cornwall Management Act 1863 section 39 to exercise all or any of the rights powers privileges and authorities by the said Act made exercisable or otherwise for the time being exercisable in relation to the said duchy or belonging to the Duke of Cornwall for the time being without the consent of such duke testified in writing under the seal of the Duchy of Cornwall first had and obtained for that purpose or (without the like consent) to take away diminish alter prejudice or affect any property rights profits privileges powers or authorities vested in or enjoyed by Her Majesty Her heirs or successors in right of the Duchy of Cornwall or in or by the Duke of Cornwall for the time being.

Interest not to be paid on calls paid up.

28. No interest or dividend shall be paid to any shareholder on the amount of the calls made in respect of the shares held by him out of any capital which the Company have been or may be authorised to raise either by means of calls or of any power of borrowing but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

Deposits for future Bills not to be

29. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum which by any standing

A.D. 1889.

paid out of capital.

order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking.

Provision as to general Railway Acts.

30. Nothing in this Act contained shall exempt the Company or the railway from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels.

Costs of Act.

31. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

Printed by Eyre and Spottiswoode,
FOR
T. Digby Pigott, Esq., the Queen's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
EYRE AND SPOTTISWOODE, East Harding Street, Fleet Street, E.C.; or
ADAM AND CHARLES BLACK, 6, North Bridge, Edinburgh; or
HODGES, FIGGIS, & Co., 104, Grafton Street, Dublin.