CHAPTER cxxxviii.

An Act for authorising the construction of a Bridge over the River Medway at Maidstone; and for other purposes. A.D. 1877.

[2d August 1877.]

WHEREAS the borough of Maidstone (in this Act called "the borough") is an urban sanitary district, and the mayor, aldermen, and burgesses of the borough, acting by the council (in this Act referred to as "the Corporation"), are the sanitary authority of the borough:

And whereas the existing bridge at Maidstone over the River Medway is situate wholly within the borough, and is a public bridge repairable and maintainable by the Corporation:

And whereas that bridge is narrow and defective and insufficient for the traffic passing thereby, and it would be a public benefit if power were given to construct a new bridge with suitable and proper approaches thereto:

And whereas an estimate has been prepared by the Corporation showing an intended expenditure of thirty-two thousand pounds for the purchase of lands and for the construction of such new bridge and approaches, the same being permanent works within the meaning of the Public Health Act, 1875, and being situate wholly within the parish and borough of Maidstone:

And whereas the Board of Charity Commissioners for England and Wales, by order dated the ninth day of August one thousand eight hundred and seventy-six, made on the application of the wardens and commonalty of the new bridge of Rochester, in the county of Kent, (herein called "the bridge wardens,") ordered and directed, by way of scheme, that the bridge wardens as trustees of the charity called the Rochester Bridge Trust, might within twelve calendar months borrow and raise on the security of the charity estates a sum not exceeding thirty-three thousand pounds at a rate of interest and upon the conditions of repayment by annual instalments as therein mentioned, and that the sum so to be raised should

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be applied, subject to further order or direction of the Board, in the discharge of the mortgage debt then due on the said estates and towards the cost of making and forming a new bridge across the River Medway at Maidstone, with suitable and proper approaches thereto, and otherwise as therein mentioned:

And whereas the bridge wardens are willing and have resolved to make a contribution out of the funds raised under the said order towards the expenses of these works not exceeding the sum of sixteen thousand pounds:

And whereas it is expedient that the Corporation be authorised to apply that contribution towards those expenses, and to borrow on the security of the rates leviable by them such sum as may be sufficient with that contribution to defray those expenses:

And whereas an absolute majority, namely fifteen, of the whole number of the council, at a meeting held on the ninth day of May one thousand eight hundred and seventy-seven, after ten clear days notice by public advertisement of such meeting and of the purpose thereof in the South Eastern Gazette, a local newspaper published or circulating in the borough, such notice being in addition to the ordinary notices required for summoning such meeting, resolved that it was desirable to promote the Bill for this Act and to borrow money for that purpose:

And whereas such resolution was published twice in the South Eastern Gazette, a newspaper circulating in the borough, 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, namely seventeen, of the whole number of the council at a further special meeting held in pursuance of a similar notice on the thirtieth day of May one thousand eight hundred and seventy-seven, being no less than fourteen days after the deposit of the Bill in Parliament:

And whereas the owners and ratepayers of the borough, by resolution passed in the manner provided in the Third Schedule of the Public Health Act, 1875, in the case of a resolution of owners and ratepayers under that Act, have consented to the promotion of the Bill for this Act:

And whereas plans and sections showing the lines and levels of the works authorised by this Act, and also books of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act, were duly deposited with the clerk of the peace for the county of Kent, and are herein-after respectively referred to as the deposited plans, sections, and books of reference:

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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:

Short title.

1. This Act may be cited as the Maidstone Bridge Act, 1877.

Interretation of terms.

2. 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 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.

Certain provisions of General Acts herein named incorporated.

3. The following enactments (as far as they are applicable for the purposes of and are not varied by or inconsistent with this Act) are hereby incorporated with and shall form part of this Act; (that is to say,) the Lands Clauses Consolidation Acts, 1845, 1860, and 1869; section seventeen of the Railways Clauses Consolidation Act, 1845; sections thirteen, fourteen, eighteen, and nineteen (under the head "Protection of Navigation") of the Railways Clauses Act, 1863 The incorporated sections of the two last-mentioned enactments shall for the purposes of this Act have effect as if the word "Corporation" were therein substituted for the word "company," and as if the words "the bridge" were therein substituted for the word "work."

Power to make bridge and roads.

4. Subject to the provisions of this Act, the Corporation may make and maintain, in the lines and according to the levels shown on the deposited plans and sections, the bridge and roads in this section described, with all proper piers, abutments, landing stairs, wharves, conveniences, and other works connected therewith. The bridge and roads authorised by this Act are the following; (that is to say,)

(*a.*) A bridge for the passage of horses, carriages, carts, and passengers over the River Medway at Maidstone, commencing at a point in the High Street of Maidstone near the eastern side of the river two feet or thereabouts north of the eastern abutment of the existing bridge leading from the High Street to the West Borough, and terminating at a point on the western side of the said river two feet or thereabouts north of the western abutment of the existing bridge:

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(*b.*) An approach road, commencing at a point in the High Street sixty-two yards or thereabouts from the eastern end of the intended bridge, and terminating at such eastern end:

(*c.*) An approach road, commencing at a point in the London Road nearly opposite the entrance to the passenger station on the South-eastern Railway one hundred and sixty-two yards or thereabouts from the western end of the intended bridge, and terminating at such western end.

Power to take lands and divert roads, &c.

5. Subject to the provisions of this Act, the Corporation may enter on and take and use such of the lands shown on the deposited plans and described in the books of reference as they require for the purposes of the works authorised by this Act, and for such purposes may alter, stop up, and divert all roads, streams, water-courses, sewers, drains, gas and water and other pipes within the limits of deviation defined on the deposited plans.

Limits of deviation.

6. In making any of the works shown on the deposited plans the Corporation may deviate from the lines thereof within the limits of deviation shown on the deposited plans, and may deviate from the levels shown on the deposited sections to any extent not exceeding three feet.

Period for compulsory purchase of land.

7. The powers of the Corporation 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 of this Act.

Period for completion of works.

8. If the works shown on the deposited plans are not completed within seven years from the passing of this Act, then on the expiration of that period the power by this Act granted to the Corporation for making and completing the same, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Power to take easements by agreement.

9. Persons empowered by the Lands Clauses Consolidation Act, 1845, to sell and convey or release lands, may, if they think fit, subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act, 1860, and of this Act, grant to the Corporation any easement, right, or privilege, not being an easement of water, required for the purposes of this Act, in, over, or affecting any such lands, and the provisions of the said Acts with respect to lands and rentcharges, so far as the same are applicable in this behalf, shall extend and apply to such grants and to such easements, rights, and privileges as aforesaid respectively.

Power to excavate, &c. in river.

10. The Corporation may for the purposes and subject to the provisions of this Act from time to time dig, pile, and make proper

foundations in the River Medway, and on the lands on each side thereof, and make dams in the river during the making and repairing of the bridge authorised by this Act, and cut, level, embank, and secure the banks of the river, and cut, remove, scour, take, and carry away all trees, roots of trees, beds of gravel and sand, and other impediments, and execute all other works necessary or convenient for building, maintaining, and repairing the bridge and the approaches thereto, doing as little damage as may be, and making adequate compensation to all persons interested.

River not to be obstructed.

11. During the making and repairing of the bridge and roads authorised by this Act the Corporation shall take all precautions and provide all works and conveniences proper and sufficient for keeping the flow of water in the River Medway free from all avoidable obstructions.

Power to remove old bridge and sell materials.

12. When the bridge and roads authorised by this Act are completed and open for public traffic the Corporation may close the highways to the existing bridge over the River Medway at Maidstone, and take down and remove that bridge and the foundations and abutments thereof, with their appurtenances, and sell the materials thereof, and remove all impediments in the bed of the River Medway caused by the existing bridge to the navigation of that river; the net proceeds, after paying the expenses of removal, shall be applied exclusively for purposes for which money borrowed by the Corporation under this Act is applicable, or in discharge of money so borrowed, and any money so discharged shall not be re-borrowed.

New bridge to be vested in local board.

13. The bridge and roads to be constructed under this Act shall be vested in the Corporation.

Saving rights of Upper and Lower Medway Navigation Companies.

14. Save as herein is expressly enacted, nothing in this Act contained shall take away, diminish, lessen, or in any manner affect any of the rights, privileges, powers, or authorities of the Company of Proprietors of the Navigation of the River Medway, or the Company of Proprietors of the Lower Navigation of the River Medway.

Plans and sections of works to be approved by Board of Trade.

15. Previously to commencing any works interfering in any manner with the River Medway the Corporation shall deposit at the office of the Board of Trade plans, sections, and working drawings of the said work for the approval of the Lords Commissioners of Her Majesty's Privy Council for Trade, such approval to be specified in writing under the hand of the Secretary of the Board of Trade, and such work shall be constructed only in accordance with such approval, and when any such work shall have been com-

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menced or constructed it shall not be lawful for the Corporation at any time to alter or extend the same without obtaining previously to making any such alteration or extension the like consent or approval; and if any such work shall be commenced or completed, or be altered, extended, or constructed contrary to the provisions of this Act, it shall be lawful for the said Lords Commissioners of Her Majesty's Privy Council of Trade to abate, alter, and remove the same, and to restore the site thereof to its former condition, at the cost and charge of the Corporation, and the amount thereof shall be a debt due from the Corporation to the Crown, and be recoverable accordingly with costs of suit, or may be recovered with costs as a penalty is or may be recoverable from the Corporation.

Board of Trade may order local survey.

16. If at any time or times it shall be deemed expedient by the Lords Commissioners of Her Majesty's Privy Council of Trade to order a local survey and examination of any works of the Corporation which shall have been executed under the authority of this Act in, over, or affecting the River Medway, the Corporation shall defray the costs of every such local survey and examination, and the amount thereof shall be a debt due to Her Majesty from the Corporation, and if not paid upon demand may be recovered as a debt due to the Crown, with the costs of suit, or may be recovered with costs as a penalty is or may be recoverable from the Corporation.

Locks at Allington and Maidstone to be only opened at request of Corporation.

17. Whereas by an Act passed in the fifth year of the reign of His Majesty King George the Fourth, intituled "An Act for the "more effectually improving the navigation of the River Medway "from Maidstone to Halling, in the county of Kent, and to alter "and enlarge the powers of an Act of the forty-second year of his "late Majesty for improving the navigation of the said river," (herein-after referred to as "the Act of 1824,") it was enacted (section seventy) that for the purpose of affording to the said River Medway the benefit of a periodical scouring the locks at Castle Shoal and Maidstone should respectively be left open once every spring tide or at the tide next before or after the same, and provision was made for enforcing such opening; and whereas the benefit intended by the said enactment has not been realised, and it is expedient to repeal the said section and to substitute other provisions in lieu thereof: Be it therefore enacted as follows; (that is to say,)

Section seventy of the Act of 1824 is hereby repealed.

The proprietors of the locks on the River Medway at Allington and Maidstone shall, when required by the Corporation so to do, after forty-eight hours notice in writing, open the said locks at the spring tide next after the expiration of the said notice from the

period of one hour next after the time of low water at such lock respectively, and keep the same so open so as to leave as little impediment to the flow and ebb of the water as possibly may be until the time of low water at such locks respectively next following; and if the proprietors of the said locks respectively shall make default in so opening or keeping open the said locks, they shall respectively forfeit and pay to the Corporation for every such default a penalty of one hundred pounds.

18. Whereas by an Act passed in the forty-second year of the reign of His Majesty King George the Third, intituled "An Act for "repealing an Act passed in the thirty-second year of His present "Majesty's reign for improving the navigation of the River Medway "from the town of Maidstone through the several parishes of Maid-"stone, Boxley, Allington, and Aylesford, in the county of Kent, "and for the better and more effectually improving the navigation "of the said river," it was enacted (section ten) that if the Company of Proprietors of the Lower Navigation of the River Medway should at any time pen or dam up the water in the said river, whereby the same should be so raised as to flow and continue of any depth exceeding five feet in a certain lock therein described, being the Maidstone Lock, it should be lawful in every such case for the owner or occupier of Tovil Oil Mill, and also for the owner or occupier of the Church Mill therein respectively described, or any person acting under his or their authority respectively, to draw up or open any lock, gate, tumbler, or sluice of the same company so causing the water at the said lock to rise to any depth exceeding five feet, so as to reduce the said water at the said lock to five feet, and a penalty was imposed on the same company for every time that such water should exceed the said depth of five feet by the neglect or inattention of the same company; and whereas it would improve the navigation of the said river if the same company were enabled to pen back the water of the said river, so that it might attain a depth of six feet six inches in the said Maidstone Lock: Be it enacted, that so soon as the consent in writing of the Corporation and of the owners and occupiers of the said mills shall have been obtained to raise the depth of water in the said river at the said Maidstone Lock to six feet six inches instead of five feet as herein-before recited, the said section shall thereafter be read and construed throughout as if the depth of six feet six inches were inserted therein instead of the depth of five feet: Provided always, that if any person or company shall sustain any damage by reason of the water being penned or dammed up in pursuance of the present provision, full compensation shall be made to him or them by the said Company of Proprietors of the Lower Navigation of the River

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Provision for increasing depth of water in the Medway with certain consents.

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Medway, and any dispute as to the fact of damage or amount of compensation shall be settled by arbitration in manner provided by the Public Health Act, 1875.

Power to borrow money.

19. The Corporation may from time to time under this Act, in addition to any moneys they have borrowed or are authorised to borrow under any other Act, borrow on the credit of the general district rate of the borough any further sum or sums not exceeding in the whole twenty-four thousand pounds, and may mortgage that fund and rate for the purpose of securing the repayment with interest of any money so borrowed, or may raise the money by debentures, debenture stock, or annuity certificates, under the provisions of the Local Loans Act, 1875: Provided always, that the Corporation shall not under the powers of this Act borrow more than a sum which, with the amount of contributions received from the bridge wardens, shall amount to the sum of thirty-two thousand pounds, being the amount of the said estimate, without the sanction of the Local Government Board.

Regulation as to borrowing.

20. Sections two hundred and thirty-four (excepting sub-sections two and three) and two hundred and thirty-six to two hundred and thirty-nine (both inclusive) of the Public Health Act, 1875, shall apply to the borrowing of money by the Corporation under this Act, as if the money so borrowed were borrowed under and for the purposes of that Act, subject to the following modification; (that is to say,) the money may be borrowed for such time, not exceeding sixty years, as the Corporation determine. In the application of these sections the local authority shall be deemed to be the Corporation.

Existing mortgages to have priority.

21. All mortgages granted by the Corporation in pursuance of the provisions of any Act of Parliament before the passing of this Act, and subsisting at the passing thereof, shall, during the continuance of those mortgages, have priority over any mortgages granted under this Act.

Return of sinking fund to Local Government Board.

22. The clerk to the sanitary authority of the borough 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 to be paid off by instalments 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 invested or applied for the purpose of such sinking fund during the year preceding the making of such return, and the description of the securities upon which any investment has been made, the amount paid off by instalment, the purposes to which any portion of the sinking fund

or investment has been applied during the same period, the total amount, if any, remaining invested at the end of the year, and the manner in which any accumulations of the fund have been applied; and in the event of any wilful default in making such return, such clerk shall be liable to a penalty of not exceeding twenty pounds. If it appear to the Local Government Board, by such return or otherwise, that the Corporation have failed to set apart the sum required for the sinking fund or to pay any instalment, or have applied any portion of the moneys set apart for the sinking fund to any purposes other than those authorised, the Local Government Board may, if they think fit, by order direct that a sum not exceeding double the amount in respect of which the default has been made shall be set apart and invested or applied as part of the sinking fund, and that order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court of Justice.

Power to re-borrow.

23. The Corporation may from time to time re-borrow any amount borrowed by them under this Act and paid off otherwise than by instalments or by means of a sinking fund.

Protection of lenders from inquiry.

24. A person or body of persons lending money to the Corporation shall not be bound or entitled to inquire as to the observance by the Corporation of any provision of this Act, or be bound to see to the application, or be answerable for any loss, misapplication, or non-application, of the money lent, or of any part thereof.

Application of moneys contributed and borrowed.

25. All moneys received by the Corporation from the bridge wardens as a contribution for the purposes of this Act, and all moneys borrowed by the Corporation under this Act, shall be applied for purposes of this Act only.

Bridge wardens to pay instalments pari passu with Corporation.

26. When the Corporation shall from time to time have paid on account of the bridge and the approaches thereto by this Act authorised any sum or sums not exceeding in the aggregate the sum of thirty-two thousand pounds, the bridge wardens shall (within one month after notice in writing from the Corporation shall have been left at the office of the bridge wardens, specifying the sum or sums from time to time so paid) pay to the Corporation a moiety of the sum or sums so paid, such moiety being one thousand pounds at the least; provided that the last of such instalments shall not be payable until the engineer of the Corporation shall have certified that the works by this Act authorised have been completed.

Powers under Act to be cumulative.

27. The powers of the Corporation under and for the purposes of this Act shall be in addition to any powers which they may for the time being have for the same purposes under any other Act.

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Saving rights of the Crown in the foreshore.

28. 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 exerciseable by the Queen's Majesty, her heirs or successors.

Expenses of Act.

29. The costs, charges, and expenses preliminary to and of and incidental to the preparing, applying for, obtaining, and passing of this Act shall be paid out of the money borrowed for the purposes of this Act, or out of general district rates to be levied by the Corporation; but nothing in this Act shall exempt such costs, charges, and expenses from the operation of section six of the Municipal Corporations (Borough Funds) Act, 1872.

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