CHAPTER xii.

An Act for conferring upon the Corporation of Weymouth and Melcombe Regis further Powers in relation to the Bridge over the Harbour; and for other purposes. A.D. 1879.

[23d May 1879.]

WHEREAS by an Act passed in the first year of the reign of King George the Fourth, intituled "An Act for repairing or "taking down and rebuilding the bridge within the borough and "town of Weymouth and Melcombe Regis in the county of Dorset," (in this Act referred to as the Act of 1820,) the mayor, aldermen, bailiffs, and capital or principal burgesses of the said borough and town (who are now styled the mayor, aldermen, and burgesses of the borough of Weymouth and Melcombe Regis, and are hereinafter referred to as the Corporation) were empowered to repair or to remove the then existing bridge over the harbour of Weymouth and Melcombe Regis, and to erect and maintain in lieu thereof a new bridge with an opening span or arch, and for such purpose to take and demand tolls and duties, and to levy a bridge rate or assessment on the owners of all houses, lands, tenements, and hereditaments within the borough: 1 G. 4. c. xl.

And whereas an Act was passed in the sixth year of the reign of King George the Fourth, intituled "An Act to amend and enlarge "the powers and provisions of several Acts relating to the harbour "and bridge of the borough and town of Weymouth and Melcombe "Regis in the county of Dorset," (which Act is herein referred to as the Act of 1825,) whereby, amongst other things, several of the provisions of the Act of 1820 were amended and repealed: 6 G. 4. c. cxvi.

And whereas by an Act passed in the eleventh year of the reign of Her present Majesty, intituled "An Act for reducing the dues of "the harbour of the borough and town of Weymouth and Melcombe "Regis in the county of Dorset, and consolidating the trusts created 10 & 11 Vict. c. lxviii.

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" by the Acts relating to such harbour and the bridge of the said " borough, and for other purposes," (which Act is in this Act referred to as the Act of 1847,) it was enacted, amongst other things, that in the event of a company being constituted for the purpose of establishing steam communication between the Channel Islands and the said harbour of Weymouth and Melcombe Regis, and a sum sufficient to pay off all principal moneys and interest recoverable under the provisions of the Acts of 1820 and 1825 being raised, those Acts should be repealed:

And whereas no part of the moneys lastly referred to has been or is likely to be raised, and nothing has practically been done under the said Act, and it is expedient that the said Act should be repealed:

And whereas by the Act of 1820 it was enacted that in certain circumstances which have since occurred the tolls, rates, and duties leviable in respect of the said bridge, excepting the tolls on vessels passing through the opening span thereof, should cease to be levied or exigible:

And whereas no tolls or duties, except as before mentioned, are now exacted, nor is any bridge rate or assessment levied within the borough:

And whereas the gradients of the existing bridge and its approaches are steep and inconvenient, and the swing bridge over the opening span thereof is narrow, and it is expedient that the bridge and its gradients should be improved, and that the said swing bridge should be removed and a new and better one substituted:

And whereas plans and sections showing the lines, situations, and levels of the intended new works, and the land which may be acquired under the powers of this Act, and a book of reference to such plans containing the names of the owners or reputed owners, lessees or reputed lessees, and of the occupiers of and describing such land, have been deposited with the clerk of the peace for the county of Dorset, and are in this Act referred to as the deposited plans, sections, and book of reference:

And whereas an estimate has been prepared by the Corporation of the cost of the works by this Act authorised, and such estimate amounts to four thousand six hundred and twenty pounds:

And whereas such works are permanent works within the meaning of section 234 of the Public Health Act, 1875:

And whereas an absolute majority of the whole of the town council of the borough, at a meeting held on the eighteenth day of November one thousand eight hundred and seventy-eight, after ten clear days notice by public advertisement of such meeting and the purposes thereof in the Weymouth and Portland Guardian, a

38 & 39 Vict. c. 55.

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local newspaper published or circulating in the said 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 in the first instance, so far as may be necessary, be paid for by the Corporation out of the borough fund and borough rate:

And whereas such resolution was published twice in the Weymouth, Portland, and Dorchester Telegram, a local newspaper published or circulating in the said borough, and has received the sanction 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 Town Council of the said borough at a further special meeting, held in pursuance of a similar notice on the sixth day of January one thousand eight hundred and seventy-nine, being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas the owners and ratepayers of the said borough, by resolution passed in manner provided in the third schedule of the Public Health Act, 1875, as to the passing of resolutions of owners and ratepayers, consented to the promotion of the Bill for this Act:

And whereas, for the reasons aforesaid, it is expedient that the Act of 1847 should be repealed, and that the Acts of 1820 and 1825 should be in some respects altered, and that the powers in this Act contained should be conferred upon the Corporation:

And whereas the purposes aforesaid 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 Weymouth and Melcombe Regis Bridge Act, 1879.

Incorporation of general Acts. 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. 32 & 33 Vict. c. 18. 10 & 11 Vict. c. 27. 10 & 11 Vict. c. 16.

2. The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, the clauses of the Harbours, Docks, and Piers Clauses Act, 1847, with respect to the construction of the harbour, dock, or pier, and the clauses of the Commissioners Clauses Act, 1847, with respect to mortgages granted by the Commissioners, except section 84 (money borrowed on security of rates to be paid off in limited period) and section 85 (mode of paying off mortgages), are, except where expressly varied by or inconsistent with the provisions of this Act, incorporated therewith.

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Interpretation of terms.

3. 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 expressions "the Commissioners" and "the clerk to the Commissioners" in the Commissioners Clauses Act, 1847, mean respectively the Corporation and the town clerk.

The expression "the harbour, dock, or pier" in the Harbours, Docks, and Piers Clauses Act, 1847, means the bridge and the works by this Act authorised; and 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.

Repeal of 10 & 11 Vict. c. lxviii.

4. The Act of 1847 is hereby repealed.

Power to make works according to deposited plans.

5. From and after the passing of this Act, subject to the provisions in this Act contained, the Corporation may make and maintain all or any of the works herein-after more particularly described in the line and upon the lands delineated on the deposited plans and described in the deposited book of reference and according to the levels described on the deposited sections; and the Corporation may enter upon, take, and use such of the lands delineated on the said plans and described in the said book of reference as shall be necessary for all or any of such purposes.

Description of works.

6. The works by this Act authorised are,—

1. The removal of the present swing bridge and the construction and maintenance of an opening bridge:
2. The alteration of the levels of the roadway of the present bridge and of its approaches:
3. All necessary incidental works and conveniences:

Provided always, that in the exercise of the said powers the Corporation shall do as little damage as may be, and shall make full satisfaction in manner herein, and in any Act incorporated herewith, provided, to all parties interested for all damage by them sustained by reason of the exercise of such powers.

Limits of deviation.

7. The Corporation may in the execution of any of the aforesaid works deviate laterally from the lines delineated on the plans in respect thereof to any extent within the limits of deviation shown upon such plans, and vertically from the levels shown upon the

sections to any extent not exceeding three feet: Provided always, that, except with the consent of the Great Western and London and South-western Railway Companies, the Corporation shall not deviate vertically so as in any way to reduce the height of the bridge under which the branch railway to the harbour is carried to that part of the harbour which is seaward of the bridge, and they shall not deviate laterally so as in any way to reduce or injuriously interfere with the span of the said bridge or to make the passage under the bridge less convenient than it is at present.

Period for compulsory purchase of lands.

8. The powers of the Corporation with respect to 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.

Limits of time for completion of works.

9. If the works by this Act authorised be not completed within four years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Corporation in relation thereto shall cease to be exercised, except as to so much thereof as is then completed.

Works affecting navigation to be approved by the Board of Trade.

10. It shall not be lawful for the Corporation to 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 or bridge across any creek, bay, arm of the sea, or navigable river, where and so far up the same as the tide flows and reflows, without the previous consent of the Board of Trade, to be signified in writing under the hand of the secretary or one of the assistant secretaries of the Board of Trade, and then only according to such plan and under such restrictions and regulations as the said Board of Trade may approve of, such approval being signified as last aforesaid; and where any such work or bridge shall have been 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 or bridge shall be commenced or completed contrary to the provisions of this Act, it shall be lawful for the said Board of Trade to abate 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 may be recovered in the same manner as a penalty is recoverable against the Corporation.

Lights on or near works during construction thereof.

11. The Corporation shall on or near the works hereby authorised, during the whole time of the constructing, altering, or extending thereof, exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) as the Board of Trade

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from time to time requires or approves, and (notwithstanding the enactments for the time being in force respecting lighthouses) shall also on or near the works when completed always maintain, exhibit, and keep burning at their own expense every night from sunset to sunrise such lights (if any) for the guidance of ships as the Board of Trade from time to time requires or approves.

If the Corporation fail to comply in any respect with the provisions of the present section, they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds.

Survey of works, &c. by Board of Trade.

12. If at any time the Board of Trade deems it necessary to order a survey and examination of the works hereby authorised or of the intended site of any such works, the Corporation shall defray the expense of the survey and examination, and the amount thereof shall be a debt due from the Corporation to the Crown, and be recoverable accordingly with costs, or the same may be recovered with costs as a penalty is recoverable from the Corporation.

Abatement, &c. of works abandoned or decayed.

13. If any of the works hereby authorised are abandoned or suffered to fall into decay, the Board of Trade may abate and remove the same, or any part of the same, and restore the site to the former or proper condition thereof, at the expense of the Corporation; and the amount of such expense shall be a debt due from the Corporation to the Crown, and be recoverable accordingly with costs, or the same may be recovered with costs as a penalty is recoverable from the Corporation.

Extending 1 G. 4. c. xl. as to swing bridge and tolls in respect thereof.

14. All the provisions contained in the Act of 1820 as to the swing or draw arch therein referred to, whether as to tolls for opening the said swing or draw arch, and exemptions therefrom, or otherwise, shall extend and apply to the new opening bridge by this Act authorised.

As to steam and other vehicles likely to injure bridge.

15. No carriage or vehicle propelled or moved by steam power or machinery shall cross the bridge except with the consent of the Corporation, and on payment of such tolls as they may demand: Provided that the Corporation shall be at liberty to refuse the passage over the bridge of any carriage or other vehicle if they should consider the structure of the bridge might be thereby injured or endangered.

Extending to this Act the powers of 1 G. 4. c. xl. and 6 G. 4. c. cxvi. as to bridge and tolls.

16. From and after the completion of the works by this Act authorised the Corporation may erect a toll-house and toll-gate upon or near the bridge, and take and collect thereat, subject to the exceptions and provisions in that Act contained with reference to such tolls, the several tolls authorised by the 21st section of the Act of 1825; and all the provisions of that Act and of the Act of 1820, as

altered by the Act of 1825, with respect to the existing bridge and the tolls to be taken thereat, shall, so far as they are applicable, extend and apply to this Act.

Power to borrow money on security of tolls.

17. The Corporation may for the purposes of this Act from time to time borrow on mortgage, on the security of the tolls and charges payable to them under this Act, such sums of money as they may from time to time require for any of the purposes of this Act, not exceeding in the whole six thousand pounds: Provided always, that if the Corporation shall at any time pay off any such moneys otherwise than by instalments or by means of a sinking fund, they may from time to time re-borrow the amount so paid off, and in calculating the sum which the Corporation may borrow under any other enactment any sums they may borrow under this Act shall not be reckoned; and the powers of the Corporation under this Act as to borrowing and re-borrowing shall not be restricted by any of the provisions of the Public Health Act, 1875, or the Municipal Corporations Acts: Provided also, that no money shall be re-borrowed for a period longer than the unexpired portion of the term sanctioned in respect of the original loan.

Saving as to existing mortgages of Corporation.

18. Provided always, that the mortgages granted by the Corporation under this Act shall be without prejudice to any mortgages granted by the Corporation prior to the passing of this Act while the same are respectively in force.

Limiting time of repayment of borrowed money.

19. The repayment of any money borrowed by the Corporation under this Act shall be made by equal annual instalments of such an amount as will repay the principal and interest within a period of not exceeding fifteen years from the time of borrowing.

Sinking fund for payment of moneys borrowed.

20. The Corporation shall, on the first day of November one thousand eight hundred and eighty, and thenceforth annually on the same day, set apart out of the tolls received by them under this Act and (as a collateral security) out of the borough fund and borough rate, as a sinking fund for the payment of moneys borrowed under this Act, such a sum as will be sufficient to pay within the said period of fifteen years such portion of the principal moneys borrowed under this Act as shall not be repayable by yearly or half-yearly instalments, to be accumulated in the way of compound interest by investment in securities in which trustees are by law for the time being authorised to invest; and the Corporation shall from time to time apply the said sinking fund in payment of the principal moneys until the whole thereof have been fully paid:

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Provided always, that whenever any of such principal moneys have been so paid off the Corporation shall thenceforward, until the whole of such principal moneys have been paid off, pay into the sinking fund every year, in addition to the other sums herein-before required to be set apart and appropriated, a sum equal to the annual interest of the principal money so paid off: Provided further, that whenever and so long as the yearly income arising from the sinking fund shall be equal to the annual interest of the principal moneys then due and outstanding, the Corporation may, in lieu of investing the said yearly income, apply the same in payment of such interest, and may during such periods discontinue the payment to the sinking fund of the yearly sums herein-before required to be paid thereto.

Annual return to Local Government Board with respect to sinking fund.

21. The town clerk 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 paid as an instalment 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 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, such clerk shall be liable to a penalty 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 by this Act for the sinking fund, or to pay any instalment, or have applied any portion of the moneys set apart for that fund 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 Her Majesty's High Court of Justice.

Application of money borrowed.

22. The money raised under the authority of this Act by mortgage shall be applied in the payment of the costs, charges, and expenses preliminary to and of and incidental to the preparing, applying for, obtaining, and passing of this Act, and in the

alteration and improvement of the bridge and approaches, and the erection of a new swing bridge, and the making of the works connected therewith by this Act authorised.

Application of revenue under this Act.

23. The Corporation shall keep accounts (which shall be audited in the same manner as is required in the case of their other accounts) of all moneys received or paid by them in the execution of this Act, separate from their other accounts, and shall, subject to the provisions of this Act, apply all money from time to time received by them under this Act, except borrowed money, as follows; (that is to say,)

First. In payment of the costs, charges, and expenses of and incident to the collecting and recovering of tolls, and of borrowing money under this Act:

Second. In payment of the cost of maintaining the bridge:

Third. In payment of the interest on money borrowed under this Act:

Fourth. In payment of the principal of moneys borrowed under this Act:

Fifth. In providing the reserve fund herein-after mentioned.

Tolls to cease after certain time.

24. When and so soon as the whole of the moneys borrowed or disbursed by the Corporation under the powers and for the purposes of this Act shall have been repaid, and a further sum of five hundred pounds as a reserve fund for bridge repairs and maintenance shall have been raised, the tolls and charges on the said bridge shall cease, and all persons, with their horses, carts, carriages, and other animals, matters, and things, shall thereafter have liberty to pass over the same free of toll.

Fund for repairs, &c.

25. The Corporation may invest the said sum of five hundred pounds in Government or any other security in which by law trust moneys may from time to time be invested, and may continue the same on such security, to remain, with the compound interest arising therefrom, as and for a fund to meet any unforeseen accident that may happen to the said bridge, and to keep the same, with the approaches thereto, in good repair.

Byelaws, &c. for swing bridge.

26. The Corporation may, subject to the provisions of this Act, from time to time make, alter, and repeal such byelaws, rules, and regulations with respect to the swing bridge and the working and use thereof, and passage of ships and vessels through the same, as they may deem expedient; but no such byelaw, rule, or regulation shall come into operation until the same be allowed by the Board of Trade.

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Expenses of Act.

27. All costs, charges, and expenses of and incident to the preparing, applying for, obtaining, and passing of this Act shall in the first instance be paid by the Corporation out of the borough fund of the borough, but ultimately out of moneys borrowed under this Act.

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