CHAP. clvi.

An Act to empower the Corporation of Bristol to subscribe to the Undertaking of the Bristol Port and Channel Dock Company; and for other purposes. [24th July 1871.]

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WHEREAS by "The Bristol Port and Channel Dock Act, 1864," (in this Act called "the Act of 1864,") the Bristol Port and Channel Dock Company (in this Act called "the Company") were incorporated for the purpose of making and maintaining (amongst other works) a dock at or near the mouth of the river Avon, on the Gloucestershire side of that river: 27 & 28 Vict. c. ccxli.

And whereas it is expedient that the mayor, aldermen, and burgesses of the city of Bristol (in this Act called "the Corporation") should be authorised to subscribe to the undertaking of the Company to the extent and in manner by this Act appearing, and to appoint a director or directors of the Company:

And whereas it is expedient that the powers of the Company of taking certain lands in this Act specified by compulsion should be revived, and that the time limited by the Act of 1864 for the construction of the works thereby authorised should be extended:

And whereas it is expedient that such powers as are in this Act in that behalf contained should be conferred upon the Company and upon the trustees or trustee for the time being and the tenant for life under the will of Philip John Miles, Esquire, deceased, with respect to the lease or sale to and purchase by the Company of certain parts of the estates and lands subject to the trusts and powers of the said will:

And whereas it is expedient that further provision should be made as in this Act contained with respect to the Company and their undertaking:

And whereas the objects of this Act cannot be attained 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

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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 for all purposes as "Bristol Port and Channel Dock Act, 1871."

Power to Corporation to subscribe to undertaking of Company.

2. The Corporation may from time to time subscribe any sum or sums of money which they think fit, not exceeding in the whole one hundred thousand pounds, towards the undertaking or any part of the undertaking of the Company under the Act of 1864, and may hold shares in the capital of the Company in respect of any such subscription, and shall have and enjoy all the rights and privileges, and be subject to the duties and liabilities of shareholders of the Company with relation to such shares, excepting that, if the Corporation shall by virtue of the provisions herein-after contained appoint directors of the Company, they shall not take part at any general meeting in the election of directors, and that, notwithstanding anything contained in the 76th section of "The Companies Clauses Consolidation Act, 1845," it shall not be necessary for any proxy appointed by the Corporation to attend a general meeting of the Company to be a shareholder of the Company, and that the Corporation shall not sell, dispose of, or transfer any of the said shares.

Providing for preliminary investigation by Corporation.

3. Before the Corporation subscribe or agree to subscribe any money towards the capital required for the purposes of the said undertaking, the Board of Trade shall, upon the joint application in writing of the Corporation and the Company, appoint two persons, one of whom shall be a civil engineer and the other a professional accountant, to inquire into the following matters; namely,

(*a.*) The fitness of the undertaking for effecting its proposed object, namely, the reception, accommodation, and the loading and unloading of ocean-going steamers and sailing vessels of large dimensions:

(*b.*) The sufficiency of the available capital of the Company, inclusive of any subscription by the Corporation, for the completion of the undertaking with all necessary machinery and works:

(*c.*) The pecuniary condition of the Company under the following among other heads:—The amount of capital subscribed, together with the names of the shareholders and the amount paid upon the shares. The contracts or other engagements entered into by the Company with respect to the purchase of lands or the execution of works, or for any other purpose:

The costs of the reference shall be paid by the Company.

The persons so appointed shall make their report in writing to the Corporation, and the report shall be printed, and a copy thereof sent to every member of the town council one month at least before the question of any subscription by the Corporation to the undertaking is discussed in the town council. A.D. 1871.

Power to Company and Corporation to appoint directors.

4. The Corporation may from time to time, in respect of any subscription to be made by them towards the undertaking of the Company under the powers of this Act, appoint directors of the Company; provided that if the Corporation subscribe one hundred thousand pounds, they shall have power to appoint four of the twelve directors of the Company, if seventy-five thousand pounds three directors, and if fifty thousand pounds two directors.

Mode of appointment of directors by the Corporation.

5. Every appointment of a director by the Corporation shall be in writing under the seal of the Corporation, and shall be deposited with the secretary of the Company, and may in like manner from time to time be revoked and renewed, and every person so appointed a director shall enter on his office immediately on his appointment, and shall remain in office during the pleasure of the Corporation, and the clauses and provisions of the Act of 1864 and "The Companies Clauses Consolidation Act, 1845," with respect to the appointment and rotation of directors, shall not apply to any director or directors to be so appointed by the Corporation, and it shall not be necessary for any such director to be a shareholder of the Company.

Power to Corporation to apply surplus revenue of dock estate, and to borrow money.

6. It shall be lawful for the Corporation from time to time, for the purposes of any subscription to be made or any agreement to be entered into by them under the powers of this Act, to apply any surplus revenue derived or to be derived from their docks estate, town dues, tolls, duties, wharfages, or other income derived from or arising in connexion with shipping, and also from time to time to borrow and take up on mortgage of their said dock and other estate and income aforesaid, and of any rate or fund or other property belonging to or under the control of the Corporation (which estate, income, rates, funds, and property, or such part or parts thereof respectively as shall be included in any mortgage, are in this Act referred to as "the mortgaged estate, income, and property,") such a sum of money as shall be required, not exceeding in the whole the sum of one hundred thousand pounds, and such money may be so raised at any rate of interest not exceeding five pounds per centum per annum; and every such mortgage may be made by an instrument in the form contained in the second schedule to this Act, or to that or the like effect, and shall be executed by affixing

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thereto the corporate seal of the city and county of Bristol. And every such mortgage shall be effectual for securing to the person advancing the sum of money in such mortgage expressed to be advanced, his executors, administrators, or assigns, the repayment thereof, with interest for the same, after such rate and at such time and in such manner as shall be provided in such mortgage. And the said mortgages shall be numbered in the order of succession in which they are granted, and copies or extracts of all such mortgages shall be kept by the secretary to the docks committee of the Corporation in a book to be provided for that purpose, and the persons to whom such mortgages or any transfers thereof shall be made, their executors and administrators, shall be creditors upon the mortgaged estate, income, and property in an equal degree one with another, and shall not have any preference or priority other than is provided under the powers of this Act.

Provision for payment of interest on mortgages.

7. For the purpose of paying off and satisfying all principal and interest moneys from time to time due under the provisions of this Act, the Corporation from time to time may, and when necessary shall, pay by and out of the mortgaged estate, income, and property, or out of any rate or fund belonging to them or under their control, such sums of money as shall be from time to time necessary in that behalf, and may apply any such rate or fund accordingly as if such principal and interest moneys were an expenditure necessarily incurred in carrying into execution, with reference to such city and county, the provisions of "The Act for the Regulation of the "Municipal Corporations in England and Wales."

Persons lending money on mortgage not bound to require proof that notices have been given, &c.

8. No person lending money to the Corporation and taking a mortgage for securing repayment of the same, executed in manner directed by this Act and purporting to be made under the authority of this Act, shall be bound to require proof that the several provisions of this Act have been duly complied with, and if the Corporation shall have executed a mortgage under this Act, then the Corporation shall be deemed to have had full powers to charge the property and to levy the rates mortgaged for repayment of the money so borrowed, with interest, notwithstanding any of the provisions of this Act may not have been complied with, and it shall not be competent for any ratepayer or other person to question the validity of any such charge, rates, or mortgage, on the ground that such provisions had not been complied with.

Rentcharge of 6,773*l.* 9*s.* 8*d.* and the existing

9. The annual rentcharge of six thousand seven hundred and seventy-three pounds nine shillings and eightpence, created by "The Bristol Dock Act, 1848," and all mortgages already granted

or hereafter to be granted or renewed by the Corporation under the powers of "The Bristol Dock Act, 1865," or of any Act which may be passed in the next or a future session of Parliament for extending and amending the powers of the same Act, not exceeding in the whole the sum of seventy-five thousand pounds, and all other mortgages granted by the Corporation before the passing of this Act, and which shall be subsisting at the time of the passing thereof, shall, during the continuance or the renewal of such mortgages, have priority over any mortgages to be created by virtue of this Act.

mortgages to have priority.

10. Provided also, that in every case in which any moneys shall have been borrowed under the powers of this Act, it shall be lawful for the Corporation to pay off the money so borrowed, and from time to time to raise and borrow the moneys necessary for that purpose, and also to pay the said last-mentioned moneys and the interest thereof under the powers of this Act, as if such moneys were borrowed under the powers firstly herein-before contained.

Power to raise money to pay off sums borrowed.

11. Nothing in this Act contained shall relieve the Corporation or the borough fund of the said city from any debt or payment to which they are now liable, nor shall anything in this Act contained diminish or impair any right, lien, or remedy which the creditors of the Corporation now have or are entitled to by virtue of the recited Acts otherwise or however.

Saving creditors of Corporation.

12. The time limited by the Act of 1864 for the purchase of the lands numbered (on the plans deposited for and referred to in that Act) 3, 4, 5, 11, 13, 14, 14a, and 14b in the parish of Westbury-on-Trym and Saint Stephen and Saint Nicholas, or some of them, in the city and county of Bristol and county of Gloucester, or one of them, and 3, 12, 14, 34, 36, 40, 41, 42, 45, 46, 47, 48, 51, 52, 53, 54, 55, 60, 60a, 66, 69, and 70, in the parish of Westbury-upon-Trym in the county of Gloucester, is hereby extended for the period of two years from the passing of this Act.

Extending period for purchasing certain lands under Act of 1864.

13. The time limited by the Act of 1864 for the construction of the works by that Act authorised is hereby extended for the period of three years from the passing of this Act.

Extending period for completion of works authorised by Act of 1864.

14. It shall be lawful for the Company from time to time to demise and lease any lands or hereditaments which have been or shall be purchased or acquired by them under the provisions of the Act of 1864 or this Act, and to lease or grant the use or occupation of any buildings, wharf, yards, cranes, machines, or other conveniences provided by the Company, and any such lease or grant may be for any term or period not exceeding ninety-nine years, and

Company may demise surplus lands.

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on such terms and conditions as the Company think fit (including, if the Company so think fit, conditions and covenants for the improvement of any lands demised or leased by the laying out of money by the lessee or lessees in the erection thereon of buildings or works calculated to improve the business of the docks), and, 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 or the reversion of any lands included in any lease containing any such covenants as aforesaid for the improvement of such lands (such leases being hereafter in this Act referred to as "improving leases"), and as regards any lands included in any leases not being improving leases, any demise or lease under this section shall be deemed to be a disposing of the lands included in the demise or lease within the meaning of section 128 of "The Lands Clauses Consolidation Act, 1845."

Confirming agreement in schedule.

15. The agreement (a copy whereof is set forth in the first schedule to this Act) between Philip William Skynner Miles, Esquire, of the one part, and the Company of the other part, is hereby confirmed, and full effect shall be given thereto accordingly.

Applying certain sections of the "Improvement of Land Act, 1864."

16. For the purposes of the sections of "The Improvement of Land Act, 1864," numbered 78 to 89 (both numbers inclusive), the whole and every part of the works of the Company authorised by the Act of 1864 shall be deemed to be a railway, and the Company shall be deemed to be a railway company within the meaning of those sections, and those sections shall apply accordingly.

Company may create debenture stock.

17. The Act of 1864 shall be read and have effect as if the Company had been thereby authorised to create and issue debenture stock, and Part III. (relating to debenture stock) of "the Companies Clauses Act, 1863," shall be deemed to have been incorporated with the said Act.

Saving rights of the Corporation of Bristol.

18. Nothing in this Act contained shall invalidate or prejudicially affect any rights, powers, duties, or privileges of the Corporation, either as conservators of the rivers Avon, Froome, and Severn, within the port of Bristol, or in their corporate character of the mayor, aldermen, and burgesses of Bristol, or as the local board of health, or as the docks committee for the said city, excepting in so far as those rights, powers, duties, or privileges are expressly varied by this Act, nor shall anything in this Act contained invalidate or prejudicially affect any of the powers now vested in or exercised by the Corporation, as owners of the port and docks of Bristol and conservators of the river Avon, to cleanse, dredge, and scour the floating harbour and docks there on the river Avon.

Company not exempt from Merchant Shipping Acts and general Acts.

19. Nothing in this Act contained shall exempt the Company or any of their works from the provisions of "The Merchant Shipping Law Amendment Act, 1853," "The Merchant Shipping Act, 1854," or of any Acts amending those Acts respectively, or any general Act relating to docks or dues on shipping or on goods carried in ships, now in force or which shall be passed during the present or any future session of Parliament.

Expenses of Act.

20. All costs, charges, and expenses of, and preparatory and incident to the applying for, obtaining, and passing of this Act shall be paid by the Company.

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The SCHEDULES referred to in the foregoing Act.

FIRST SCHEDULE.

THIS AGREEMENT is made the 9th day of June one thousand eight hundred and seventy-one, between Philip William Skynner Miles, of Kingsweston in the county of Gloucester, Esquire, of the one part, and the Bristol Port and Channel Docks Company (herein-after called "the Company") of the other part.

WHEREAS under the will of Philip John Miles, late of Leigh Court in the county of Somerset, Esquire, deceased, the said Philip William Skynner Miles is the tenant for life of an extensive and valuable estate near to the city of Bristol, and lying on the Gloucestershire side of the mouth of the river Avon, and known as the Kingsweston Estate: And whereas a portion of the lands upon which the existing docks and works of the Company are being constructed formed (until the purchase thereof by the Company) part of the said estate, and were purchased by the said Company from the said Philip William Skynner Miles, and are in the plan annexed hereto distinguished by the colour red: And whereas the lands which are the subject of this present agreement, and are in the said plan distinguished by the colour purple, green, and yellow, now form part of the said estate: And whereas the formation of the said dock, and development of the business intended to be carried on at the said dock will attract a considerable population to the neighbourhood of the said dock, and will promote the erection of houses and other buildings in the vicinity of such dock, and will thereby and otherwise greatly increase the value of the said estate: And whereas the price or consideration for the purchase of the said land already taken by the Company, and coloured red on the said plan, is a rentcharge at the rate of ten pounds per annum per acre of the land so taken: And whereas the negotiation for the purchase of such last-mentioned land proceeded under the belief that, in the event of any considerable amount of business being carried on at the said dock, further land would be required for warehouses, yards, wharves, and other works connected with such dock, and the Company entered upon the construction of the said dock and existing works of the Company, and much of the share capital of the Company was taken up on the understanding between the Company and the said Philip William Skynner Miles, that, so far as the said Philip William Skynner Miles might legally be entitled to give effect thereto, such further land as might be required for the development of the business of the Company, and the accommodation and despatch of the goods shipped to or from such dock would be sold to the said Company at the same rate per acre as the said land so already purchased by the Company: And whereas it is anticipated that the business carried on at the said dock will rapidly increase, and inasmuch as the development and extension of the business at the

said dock will render those portions of the said estate which are situated in the neighbourhood of the said dock more valuable, it will be to the advantage of the persons from time to time interested in the said estate that the accommodation and facilities for the storage, shipment, and landing of goods at the said dock should be as ample and convenient as possible: Now it is hereby agreed between the parties hereto as follows; that is to say,

1. This agreement shall be in all respects subject to the sanction of Parliament, and if not sanctioned by Parliament in the present or next succeeding session of Parliament shall be wholly void. The said Philip William Skynner Miles shall, at the expense of the Company, concur in all reasonable acts for obtaining the sanction of Parliament hereto.

2. If the dock shall be completed or opened within three years from the expiration of the present or any extended authorised period for completion, the Company may at any time or times within the period of ten years from the date hereof, but not after the expiration of such period, purchase at or for the price or consideration herein-after expressed, and upon the other terms herein-after expressed, such part or parts as the Company may think proper (but not exceeding in the whole fifty acres) of the land shown in the plan annexed hereto, as to so much thereof as is coloured purple, for the purpose of the extension of the said dock and works, and as to so much thereof as is coloured green, for the purpose of erecting or forming thereon warehouses, yards, wharves, sheds, offices, roads, drains, and other works and erections connected with the said dock, or convenient or suitable for the accommodation, storage, shipment, or landing of merchandise and other goods, and otherwise for carrying on the business of the Company, and so that the same land shall not be used for any other purpose without the consent in writing of the said Philip William Skynner Miles or other the person or persons who under the provisions of the will of the said Philip John Miles would for the time being have been entitled in possession to the said land if the same had not been purchased by the said Company.

3. The price or consideration to be paid for the said lands shall be either the sum of two hundred and fifty pounds per acre, and so in proportion for any less quantity than an acre, or at the option of the person or persons for the time being entitled to the rents and profits of the said lands or any part thereof shall be a rentcharge of ten pounds for each acre, and so in proportion for any less quantity than an acre of the land which shall be so purchased by the Company, such price to be paid prior to giving possession of the said lands or portions thereof, and any such rentcharge to commence as to each portion of land so purchased from whichever of the quarterly days of Lady-day, Midsummer, Michaelmas, or Christmas shall happen next before the Company shall take possession of such portion of land.

4. In case the consideration of such land or any part thereof shall be a rentcharge or rentcharges, then such rentcharge or rentcharges shall be secured in accordance with the "Lands Clauses Consolidation Act, 1845," and in such manner as shall be proper, having regard to the state of the title and the rights of persons interested in the said land respectively at the time of the purchase by the Company.

5. It shall be competent to the parties hereto, if they shall so agree, to substitute the whole or any portion of the lands coloured yellow on the said plan for any portion or portions of the land coloured green on the said plan.

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6. The right hereby conferred on the Company to purchase the said lands for the consideration aforesaid, and within the period aforesaid, shall be binding upon all persons who are or shall become entitled to or interested in the said lands or any part thereof under the said will of the said Philip John Miles, but nothing herein contained shall give the Company any right to or claim for damages against any person for or by reason of any refusal or neglect of any other person or persons to perform or observe this agreement or any part thereof.

7. Except as to the price or consideration to be paid for the said lands, all such of the provisions of the "Lands Clauses Consolidation Act, 1845," and of any Acts for amending the same as are not or shall not be inconsistent with this agreement, shall apply to the subject matters of this agreement, and may be made use of for giving effect to this agreement, and, except as aforesaid, all rights not inconsistent with this agreement, and reserved to or conferred on landowners by the general Acts incorporated in the Act of incorporation of the Company, are hereby reserved to all persons from time to time entitled to or interested in the said lands under the said will of the said Philip John Miles.

8. If any difference shall arise between Mr. Miles or other the persons last aforesaid and the Company as to the right of the Company to take any of the said lands coloured green, or as to the intended use or appropriation thereof, or as to the laying out and general arrangements of the same for the purposes aforesaid, or as to the laying out, maintenance, and user of any roads or drains over or in the same, or as to any other matter fairly arising under this agreement, the same shall, at the written request of either of the parties in difference, be referred to arbitration in manner prescribed by the "Companies Clauses Act, 1845."

9. The Company shall bear and pay all costs, charges, and expenses of and incident to the negotiations for and preparation of this agreement, and of and incident to the carrying the same into effect, or any arbitration held pursuant to the last preceding clause. In witness whereof the common seal of the said Company has been hereunto affixed, and the said Philip William Skynner Miles hath hereunto subscribed his hand the day and year first above written.

(Signed) Philip W. S. Miles.

Seal.

SECOND SCHEDULE.

THE BRISTOL PORT AND CHANNEL DOCK ACT, 1871.

Form of Mortgage.

No. £

By virtue of "The Bristol Port and Channel Dock Act, 1871," we, the mayor, aldermen, and burgesses of the city of Bristol, in consideration of the sum of paid to us by , do assign unto the said , h executors. administrators, and assigns, the [*here describe the property mortgaged*], and all the estate, right, title, and interest of the said mayor, aldermen, and burgesses in the same, to hold unto the said , h executors, administrators, and assigns, until the said sum of , together with interest for the same at the rate of for every one hundred pounds by the year be satisfied; and it is hereby stipulated that the said sum of shall be repaid on the day of one thousand eight hundred and , and also that the payment of principal secured by this mortgage shall be made on presentation of this mortgage at the bank of , or at such other place in the city of Bristol as the said mayor, aldermen, and burgesses shall, by at least one calendar month's public notice by advertisement in any of the newspapers published in the said city from time to time appoint, and also that on the day of one thousand eight hundred and all liability of the said mayor, aldermen, and burgesses for payment of interest shall cease, no default herein having been previously made by them; provided, that this mortgage is subject to the provisions of section 9 of the said Act, giving priority to the annual rentcharge therein specified, and other mortgages and charges therein described or referred to.

Given under our corporate seal this day of one thousand eight hundred and

L.S.

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