CHAPTER cxvii.

An Act to authorise the Sutton Harbour Improvement Company to construct a new Quay and to revive and extend the powers of the Sutton Harbour Act 1889 for the construction of a Quay and Roadway and the establishment of a Fish Market in connexion with their existing Undertaking at the Harbour of Sutton Pool in the County of Devon to provide for the conversion and consolidation of their existing and authorised shares and to raise further capital and for other purposes. [6th July 1895.] A.D. 1895.

WHEREAS by the Sutton Harbour Act 1847 (in this Act called "the Act of 1847") the Sutton Harbour Improvement Company (in this Act called "the Company") were incorporated for the purpose of improving the harbour of Sutton Pool and of making additional works connected therewith and by the Sutton Harbour (Tramways) Act 1872 the Sutton Harbour Act 1874 and the Sutton Harbour (Duchy of Cornwall) Act 1876 respectively further powers were conferred upon the Company:

And whereas by the Sutton Harbour Act 1889 (in this Act called "the Act of 1889") the Company were among other things authorised to construct a quay and roadway and to establish and regulate a fish market in connexion with their existing undertaking and to acquire lands for such purposes from the Duchy of Cornwall:

And whereas by the Act of 1889 it was provided (section 10) that the works thereby authorised should be completed within five years from the passing of that Act and (section 51) that the mayor aldermen and burgesses of the borough of Plymouth (in the Act of 1889 and this Act called "the corporation") should have the option of purchasing the interest of the Company in the lands forming the site of the authorised works and the market buildings quays and other works constructed by the Company upon those lands for the consideration and subject to the terms and provisions in the Act of

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1889 contained And (by section 56) it was further provided as follows :—

"As to construction of sewerage works."

"The Company shall defer the commencement of the construction of the market buildings and works until the corporation shall have obtained the consent of the Local Government Board to the raising of the money required for defraying the cost of the sewage tanks herein-after mentioned and the additional sewerage works necessary to complete the drainage system of which the said sewage tanks are intended to form part and such other consents as may be necessary for or in connexion with the proposed sewage tanks and sewerage works and the corporation shall with all due diligence apply for all such consents and if the corporation shall by written notice within three months after obtaining such consents so require the Company shall within two years from the receipt of such notice construct in connexion with the said market works sewage tanks of such size and dimensions as the corporation may require and together with all necessary and proper ancillary works in accordance with plans and specifications to be submitted to and approved by the borough surveyor and the Company shall complete the same in all respects to the satisfaction of the borough surveyor and the corporation shall within six months after such completion recoup to the Company the amount expended by them in the execution of the provisions of this section with interest at the rate of four per centum per annum thereon from the completion of the works until payment and from and after the completion of the said sewage tanks the corporation shall have the exclusive user of the same and shall have all necessary and proper access to the said tanks for the purpose of connecting therewith the additional sewerage works herein-before mentioned and for the maintenance of the tanks and works and all facilities in regard to the user thereof respectively and the powers of the corporation to borrow money under the Public Health Act 1875 shall be available as if the purposes of this section were purposes of that Act" :

And whereas the size and dimensions of the sewage tanks and works aforesaid were duly agreed upon by the Company and the corporation but the consent of the Local Government Board to the raising of the money required for defraying the cost of the sewage tanks and sewerage works of which such tanks were to form part was not obtained by the corporation until the 7th day of May 1892 or nearly three years from the date of the passing of the Act of 1889 and although the Company have since proceeded with diligence in the construction of the works authorised by the Act of 1889 it has

been found impossible to complete the same within the time limited as aforesaid which expired on the 26th day of August 1894:

And whereas it is expedient that the powers for the construction of the works authorised by the Act of 1889 or such portions thereof as have not already been completed should be revived and extended with any necessary modifications:

And whereas the construction of a new quay in Coxside Creek forming part of Sutton Harbour would be of local and public advantage:

And whereas plans and sections showing the lines and levels of the new quay and works authorised by this Act and of such portions of the works authorised by the Act of 1889 as have not already been completed 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 lands required or which may be taken for the purposes or under the powers of this Act or under the powers of the Act of 1889 as revived and extended by this Act were duly deposited with the clerk of the peace for the county of Devon and are herein-after referred to as "the deposited plans sections and book of reference":

And whereas it is expedient that the Company should be authorised to raise further moneys that provision should be made for the conversion and consolidation of their existing and authorised shares and that certain provisions of the Act of 1889 should be amended in manner herein-after mentioned:

And whereas the Company have not created or issued any debenture stock but they have borrowed on bonds under the powers contained in the Act of 1847 nineteen thousand pounds:

But 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 Sutton Harbour Act 1895.

Incorporation of general Acts.

2. The following Acts and parts of Acts are (except where expressly varied by or inconsistent with the provisions of this Act) incorporated with and form part of this Act (that is to say):—

The provisions of the Companies Clauses Consolidation Act 1845—

With respect to the distribution of the capital of the Company into shares;

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With respect to the transfer or transmission of shares;
With respect to the payment of subscriptions and the means of enforcing the payment of calls;
With respect to the forfeiture of shares for nonpayment of calls;
With respect to the remedies of creditors of the Company against the shareholders;
With respect to the borrowing of money by the Company on mortgage or bond;
With respect to the conversion of borrowed money into capital;
With respect to the consolidation of the shares into stock;
With respect to the provision to be made for affording access to the special Act by all parties interested:

Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863:

The Lands Clauses Acts:

The Harbours Docks and Piers Clauses Act 1847 (except sections 16 to 19 of that Act).

Interpretation.

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

Power to make and maintain quay &c.

4. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works herein-after mentioned and may enter upon take and use such of the lands delineated on the said plans and described in the deposited book of reference as may be required for that purpose.

The works herein-before referred to and authorised by this Act are---

(1) A quay (in this Act called "Coxside Quay") situate within or bounded by an imaginary line drawn from and commencing at the western end of Creek Quay in the harbour of Sutton Pool and running thence in a westerly direction for a distance of 456 feet or thereabouts to a point eight feet or thereabouts

south of Slip Quay thence in a north-westerly direction for a distance of 38 feet or thereabouts thence in a circular direction westward for a distance of 15 feet or thereabouts thence in a south-easterly direction for a distance of 80 feet or thereabouts to a point on the Slip Quay 95 feet or thereabouts in a north-westerly direction from the south-west corner of Slip Quay with all necessary buildings approaches landings works and conveniences connected with the said quay:

(2) The deepening of the bed of the harbour of Sutton Pool for approach to Coxside Quay over an area outside the said quay comprised within an imaginary line drawn from the point east of the commencement of the said quay to a point on the north distant about 130 feet in Coxside Creek thence in a westerly direction for a distance of 775 feet or thereabouts thence in a southerly direction for a distance of 305 feet or thereabouts thence in an easterly direction to a point 95 feet or thereabouts in a north-westerly direction from the south-west corner of Slip Quay.

Limits of deviation.

5. Subject to the provisions of this Act the Company in constructing the works by this Act authorised may deviate laterally from the lines thereof to any extent not exceeding the limits of lateral deviation shown on the deposited plans and may also deviate vertically from the levels thereof shown on the deposited sections to any extent not exceeding five feet upwards and five feet downwards Provided that no deviation from the lines of any of the said works marked on the deposited plans on in over through or across tidal lands or tidal water shall be made without the previous consent of the Board of Trade.

Lights on works.

6. The Company shall on or near the works below high-water mark hereby authorised during the whole time of the constructing altering or extending of such works exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) as the Board of Trade 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 Company 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.

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Survey of works by Board of Trade.

7. If at any time the Board of Trade deems it expedient for the purposes of this Act to order a survey and examination of a work constructed by the Company on in over through or across tidal lands or tidal water or of the intended site of any such work the Company shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Company to the Crown and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company.

Abatement of work abandoned or decayed.

8. If a work constructed by the Company under the powers of this Act on in over through or across tidal lands or tidal water is abandoned or suffered to fall into decay the Board of Trade may abate and remove the work or any part of it and restore the site thereof to its former condition at the expense of the Company and the amount of such expense shall be a debt due from the Company to the Crown and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company.

Period for compulsory purchase of lands.

9. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Period for completion of works.

10. If the works by this Act authorised are not completed within seven years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for making and completing the works or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Extending time for purchase of lands.

11. The powers of the Company under the Act of 1889 for the compulsory purchase of lands for the construction of the market quay roadway market buildings and works by that Act authorised (so far as the same have not been already exercised by the Company) are hereby revived and extended for a period of three years from the passing of this Act.

Extension of time for completion of works.

12. The powers of the Company for the construction of the market quay roadway market buildings and works authorised by the Act of 1889 are hereby revived and extended for a period of seven years from the passing of this Act and the Act of 1889 shall be read and have effect as if such extended period had been originally named in the said Act as the period limited for the completion of the works thereby authorised.

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Describing works not already constructed.

13. The works authorised by the Act of 1889 and not already constructed and completed at the passing of this Act are the following (that is to say):—

(A) A quay situate within or bounded by an imaginary line drawn from and commencing at the western end of the northern face of the West Pier in the harbour of Sutton Pool at the junction of the Barbican Quay therewith and running thence in a northerly direction for a distance of 317 feet or thereabouts where it would join the quay wall constructed under the powers of the Act of 1889:

(B) A roadway commencing at the southern end of the Parade Quay wall where it joins the Ship Inn and to be 36 feet or thereabouts in width and extending or running in an easterly direction for a distance of 296 feet or thereabouts along the southern side of the portion of Sutton Pool on the surface of the quay constructed under the powers of the Act of 1889 and abutting upon the northern face of the buildings and Smart's Quay adjoining the said portion of Sutton Pool:

Together with certain works or portions of works authorised by the Act of 1889 and partly constructed upon lands purchased by the Company but not actually completed by the Company at the passing of this Act.

Company may erect market buildings.

14. The Company may construct erect and maintain upon the site or area of the quay constructed under the powers of the Act of 1889 and also upon the site or area of the foregoing quay (A) all such sheds offices stores and other buildings and enclosures erections warehouses cellars wharves quays landing-places roadways approaches and conveniences as are suitable for and connected with the establishment of a market for the sale of fish.

Power to Company to cross roads &c.

15. It shall be lawful for the Company and they are hereby authorised to cross open break up alter stop up divert or interfere with temporarily all or any of such ways streets lanes alleys courts passages footpaths market-places landing-places quays stairs or places sewers drains aqueducts culverts gas water telegraphic telephonic pneumatic electric and other pipes tubes and apparatus shown on or within the limits of the deposited plans as they may deem it necessary or convenient so to cross open break up alter stop up or divert or interfere with in or for the construction of the works by this Act authorised or any of them or for any of the purposes of this Act Provided that the Company shall provide substituted sewers and drains to the satisfaction of the borough surveyor for any sewers and drains interfered with and shall make full compensation to any person who suffers damage in consequence

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of the exercise of the powers of this section Provided also that the Company shall not break up alter divert or in any way interfere with any telegraphic pipes tubes or apparatus belonging to or used by Her Majesty's Postmaster-General except in accordance with and subject to the provisions of the Telegraph Act 1878 Provided further that nothing in this section shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 and 1888 to which the provisions of section 15 of the former Act apply.

Power to make subsidiary works.

16. Subject to the provisions of this Act and within the limits defined on the deposited plans the Company in connexion with the works by this Act authorised to be executed by them and as part and for the purposes thereof may make junctions and communications with any existing ways or streets contiguous to or intersected or interfered with by the said works and may widen or alter the lines or levels of any existing ways or streets for the purpose of connecting the same with the said works and may temporarily stop up or use all or any part of the carriageway or footway of any such ways or streets but so far only as may be necessary for and during the execution of any of the works by this Act authorised and the Company shall make full compensation to all persons injured by the exercise of the powers of this section.

Lands may be purchased &c. by agreement.

17. The Company may by agreement purchase any additional lands not exceeding in the whole two acres necessary or convenient for the purposes of or in connexion with Coxside Quay or of or in connexion with the works by the Act of 1889 and this Act authorised or for the general purposes of the Company's undertaking but nothing in this Act shall exempt the Company from any action indictment or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any lands taken under the powers of this section.

Restrictions on displacing persons of labouring class.

18.—(1.) The Company shall not under the powers of this Act or under the powers of the Act of 1889 as revived or extended by this Act purchase or acquire in any city borough or urban district or any parish or part of a parish not being within an urban district ten or more houses which on the fifteenth day of December next before the passing of this Act or of the Act of 1889 as the case may be were or since those days respectively have been or shall hereafter be occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until the Company—

(A) Shall have obtained the approval of the Local Government Board to a scheme providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of

December next before the passing of this Act or of the Act of 1889 as the case may be or for such number of persons as the Local Government Board shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such persons and to all the circumstances of the case; and

(b) Shall have given security to the satisfaction of the Local Government Board for the carrying out of the scheme.

(2.) The approval of the Local Government Board to any scheme under this section may be given either absolutely or conditionally and after the Local Government Board have approved of any such scheme they may from time to time approve either absolutely or conditionally of any modifications in the scheme.

(3.) Every scheme under this section shall contain provisions prescribing the time within which it shall be carried out and shall require the new dwellings proposed to be provided under the scheme to be completed fit for occupation before the persons residing in the houses in respect of which the scheme is made are displaced:

Provided that the Local Government Board may dispense with the last-mentioned requirement subject to such conditions (if any) as they may see fit.

(4.) Any provisions of any scheme under this section or any conditions subject to which the Local Government Board may have approved of any scheme or of any modifications of any scheme or subject to which they may have dispensed with the above-mentioned requirement shall be enforceable by a writ of Mandamus to be obtained by the Local Government Board out of the High Court.

(5.) If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court and shall be carried to and form part of the Consolidated Fund of the United Kingdom:

Provided that the Court may if it think fit reduce such penalty.

(6.) For the purpose of carrying out any scheme under this section the Company may appropriate any lands for the time being belonging to them or which they have power to acquire and may

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purchase such further lands as they may require and for the purpose of any such purchase sections 176 and 297 of the Public Health Act 1875 shall be incorporated with this Act and shall apply to the purchase of lands by the Company for the purposes of any scheme under this section in the same manner in all respects as if the Company were a local authority within the meaning of the Public Health Act 1875 and the scheme were one of the purposes of that Act.

(7.) The Company may on any lands belonging to them or purchased or acquired under this section or any provisional order issued in pursuance of this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell demise or let or otherwise dispose of such dwellings and any lands purchased or acquired as aforesaid and may apply for the purposes of this section to which capital is properly applicable or any of such purposes any moneys which they may be authorised to raise or apply for the general purposes of their undertaking:

Provided that all lands on which any buildings have been erected or provided by the Company in pursuance of any scheme under this section shall for a period of twenty-five years from the date of such scheme be appropriated for the purpose of such dwellings and every conveyance demise or lease of such lands and buildings shall be endorsed with notice of this enactment:

Provided also that the Local Government Board may at any time dispense with all or any of the requirements of this sub-section subject to such conditions (if any) as they may see fit.

(8.) The Local Government Board may direct any inquiries to be held by their inspectors which they may deem necessary in relation to any scheme under this section and for giving effect to any of the provisions of this section and the inspectors of the Local Government Board shall for the purposes of any such inquiry have all such powers as they have for the purposes of inquiries by that Board under the Public Health Act 1875.

(9.) The Company shall pay to the Local Government Board a sum to be fixed by that Board in respect of the preparation and issue of any Provisional Order in pursuance of this section and any expenses incurred by that Board in relation to any inquiries under this section including the expenses of any witnesses summoned by the inspector and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector.

(10.) Any houses on any of the lands shown on the deposited plans occupied or which may have been occupied by persons of the

labouring class within five years before the passing of this Act or the Act of 1889 as the case may be which have been acquired by or on behalf of the Company and for which houses no substitutes have been or are directed to be provided by any scheme approved by the Local Government Board under the powers of the Act of 1889 shall for the purposes of this section be deemed to have been acquired under the powers of this Act and to have been occupied on the fifteenth day of December last by the same number of persons belonging to the labouring class as were occupying the said houses at the date of their acquisition Provided that if the Local Government Board is unable to ascertain the number of such persons who were then occupying the said houses the said houses shall be deemed to have been occupied by such number of such persons as in the opinion of the Local Government Board they might have been sufficient to accommodate.

(11.) 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 of such persons who may be residing with them.

Power to take easements &c. by agreement.

19. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege not being an easement right or privilege of water in which other than the parties to the agreement have an interest 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.

Company not to be bound to sell lands demised.

20. 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 lease made or to be made by the Company or the reversion thereof.

Provisions of Act of 1889 made applicable to works &c. authorised by this Act.

21. The several provisions contained in the Act of 1889 with respect to the fish market with respect to the powers of the harbour master with respect to byelaws and all other powers whatsoever of the Company or their officers in relation to the undertaking of the Company shall extend and apply to the works and purposes by this Act authorised as fully in all respects as if the same were and had been works and purposes authorised by the Act of 1889.

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As to works to be constructed for the corporation.

22. The sewage tanks sewers sewerage works or other ancillary works authorised and required by the Act of 1889 to be constructed by the Company on the requisition of the corporation in accordance with plans and specifications to be approved as therein mentioned and to the satisfaction of the borough surveyor shall be constructed and completed by the Company and shall be deemed to have been duly executed in all respects by them notwithstanding that the same were not in fact constructed and completed within two years from the receipt of written notice in that behalf from the corporation as required by the Act of 1889.

Power to deepen approaches.

23. It shall be lawful for the Company with the consent in writing of the Board of Trade so far as the interests of navigation are concerned to excavate and dredge all such parts of the harbour of Sutton Pool and of the approaches thereto and also by agreement to dredge such parts of any adjoining lands as may be necessary and convenient for the purpose of providing access by water at low tides to Coxside Quay and to the quay and fish market by the Act of 1889 and this Act authorised and they may also with the like consent of the Board of Trade dredge any other parts of the harbour of which they are owners in fee Provided always that such excavations and dredging where they are in the harbour under the jurisdiction of the Cattewater Harbour Commissioners shall be made and carried out and at all times continued to the satisfaction of the said commissioners.

As to material dredged.

24. Subject to the provisions of this Act the Company may use and appropriate in the works connected with their undertaking or otherwise dispose of the soil and material dredged by them from time to time Provided that no such dredged materials shall be deposited below high-water mark within the limits of the dockyard port of Plymouth or at a less distance than three miles from land.

Company may apply funds &c.

25. The Company may apply for the purposes of this Act to which capital is properly applicable any sum or sums of money which by any former Act or Acts they are authorised to raise by shares or stock or debenture stock or by borrowing and which may not be required for the special purposes (if any) for which the same were or was authorised to be raised.

Power for Company to raise additional capital.

26. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise any additional capital not exceeding in the whole thirty thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partly by any one or more of those modes respectively but the Company shall not issue any share of less nominal value than ten pounds nor shall any share vest in the person or

corporation accepting the same unless and until a sum not being less than one-fifth of the amount of such share shall have been paid in respect thereof.

Except as otherwise provided new shares or stock to be subject to same incidents as other shares or stock.

27. Except as by this Act otherwise provided the capital in new shares or stock created by the Company under this Act and the new shares or stock therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares or stock were shares or stock in that capital.

The capital in new shares or stock shall form part of the capital of the Company.

Dividends on new shares or stock.

28. Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares or to the whole amount of such stock as the case may be.

Restriction as to votes in respect of preferential shares or stock.

29. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned.

New shares or stock raised under this and any former Act may be of same class.

30. Subject to the provisions of any Act already passed by which the Company are authorised to raise capital by new shares or stock and to the provisions of this Act the Company may if they think fit raise by the creation and issue of new shares or stock of one and the same class all or any part of the aggregate capital which they are by such other Act and this Act respectively authorised to raise by the creation and issue of new shares or stock.

Power to borrow additional moneys.

31. The Company may in respect of the additional capital of thirty thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of the undertaking any sum not exceeding ten thousand pounds and may borrow in respect of each sum of ten thousand pounds (being part of such sum of thirty thousand pounds) the proportionate amount of three thousand three hundred and thirty-three pounds six shillings and eight pence but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares in each case are issued and accepted and one half of such capital is paid up and the Company have proved to the justice who

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is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for the whole of such capital have been issued and accepted and that one half of such capital has been paid up and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one half of so much of the said additional capital as is to be raised by means of stock is fully paid up and the Company have proved to such justice as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted and to the extent aforesaid paid up bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also so far as the said additional capital is raised by shares that such persons or corporations or their executors administrators successors or assigns are legally liable for the same and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

Debenture stock.

32. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863. but notwithstanding anything therein contained the interest of all debenture stock and of all mortgages at any time after the passing of this Act created and issued or granted by the Company under any previous Act or this Act or any subsequent Act shall subject to the provisions of any subsequent Act rank pari passu (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock issued after the passing of this Act.

Repealing provisions of former Acts for appointment of receiver.

33. The provisions of any previous Act or Acts relating to the Company for the appointment of a receiver at the instance of mortgagees of the Company are by this Act repealed but without prejudice to any appointment heretofore made or proceedings now pending.

For appointment of a receiver.

34. The mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a

receiver is made shall not be less than seven thousand pounds in the whole.

Existing mortgages to have priority.

35. All mortgages and bonds granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages and bonds and subject to the provisions of the Acts under which such mortgages and bonds were respectively granted have priority over any mortgages granted by virtue of this Act but nothing in this section contained shall affect any priority of any debenture stock at any time created and issued by the Company.

Moneys borrowed on mortgage to have priority.

36. All moneys borrowed under this Act from the time when the same shall be advanced and the interest for the time being due thereon shall have priority against the Company and all the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act but nothing in this section shall affect any claim in respect of land acquired by the Company for the purposes of this Act or injuriously affected by the construction of the works by this Act authorised or by the exercise of any of the powers conferred upon the Company.

Conversion of ordinary and preference share capital into stock.

37. The existing ordinary and preference share capital of the Company may if or when fully paid up be converted into ordinary and preference stock of the like amount respectively.

New certificates.

38.—(1.) In the event of any such conversion as aforesaid the Company may call in and cancel all the existing certificates of such ordinary and preference shares as may be converted into stock and shall issue in lieu thereof to all holders of such shares respectively a new certificate or new certificates for an equivalent amount of ordinary or preference stock as the case may be.

(2.) Every such new certificate shall be issued free of charge.

(3.) No person shall be entitled to a new certificate until he shall have delivered up to the Company to be cancelled the share certificate for which such new certificate is to be substituted or shall have proved to the reasonable satisfaction of the Company the loss or destruction thereof.

Vesting ordinary and preference stock in present holders of ordinary and preference shares.

39. The ordinary stock or preference stock representing the ordinary shares or preference shares so converted shall be vested in the several persons who immediately before such conversion were the registered proprietors of the ordinary or preference shares for which the same is substituted And all the stock so vested shall be subject and liable to the same trusts powers provisions declarations

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incidents agreements charges liens and incumbrances as immediately before such conversion affected the shares for which the same is substituted and every deed or other instrument or any testamentary disposition of or affecting the existing shares shall take effect with reference to the substituted stock.

Application of moneys.

40. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only to the purposes of this Act to which capital is properly applicable.

Powers of purchase by corporation continued.

41. Sections 51 and 52 of the Act of 1889 and the provisions of the Plymouth Corporation Act 1890 shall be and remain applicable to the fish market quay and market buildings of the Company authorised by the Act of 1889 notwithstanding that portions thereof may be constructed or completed under the powers of this Act.

For the protection of the corporation.

42. The following provisions for the protection and benefit of the corporation shall apply and have effect:—

(1) Nothing in this Act shall be deemed to empower the Company to establish a fish market upon Coxside Quay or to use any part of that work for fish market purposes:

(2) The Company shall provide and keep in good order and always available such ladders chains and life-saving appliances and apparatus at the market quay referred to and described in section 4 of the Act of 1889 as the engineers of the corporation and of the Company or (failing agreement) the Board of Trade shall determine:

(3) The Company shall so long as the fish market belongs to the Company light the market quay as defined by section 4 of the Act of 1889 to the reasonable satisfaction of the corporation.

Amending sub-section (iii.) of section 52 of Act of 1889.

43. Section 52 sub-section (iii.) of the Act of 1889 shall be read and have effect as if the last three lines of that sub-section were repealed and as if in lieu thereof the following words were inserted. "And save also that the Company may from time to time permit "such partial or temporary use of the said quay by the corporation "as the Company may from time to time see fit" and the said sub-section (iii.) of the Act of 1889 shall be deemed to be amended accordingly.

Interest not to be paid on calls paid up.

44. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him 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 paid out of capital.

45. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum which by any standing 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 or execute any other work or undertaking.

Company not exempt from provisions of any future general Act.

46. Nothing in this Act shall exempt the Company from the provisions of any general Act hereafter passed with respect to markets or from any revision by Parliament of the tolls by the recited Acts granted to the Company.

Costs of Act.

47. 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.

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