

CHAPTER 1.

An Act to empower the Corporation of Plymouth to acquire Lary Bridge to extend the Boundary of the Borough and for other purposes. A.D. 1897.
[3rd June 1897.]

WHEREAS by the Act 4 George IV. c. 10. (1823) the Right Honourable John Earl of Morley the then lord of the manor and honour of Plympton in the county of Devon and the lord of the said manor and honour for the time being were empowered to erect complete and maintain a bridge across the water of Lary from Pomphlet Point to or near to Great Prince Rock and for that purpose to construct build and keep in repair such bridge arches and other works and do all other things as he or they should think convenient or necessary for making erecting or preserving the said bridge and the said earl or the owner or owners of the said bridge were empowered to demand and take the tolls and charges in the said Act mentioned :

And whereas by the Act 5 George IV. c. 113. (1824) further provisions were made in regard to the construction of the said bridge and otherwise in respect of the undertaking :

And whereas the said bridge was duly constructed and is now in the possession of the Right Honourable Albert Edmund Earl of Morley or his lessees :

And whereas an agreement for the sale and transfer of Lary Bridge and others the undertaking authorised by the said Acts to the mayor aldermen and burgesses of the borough of Plymouth (in this Act called "the Corporation") has been made and it is expedient that the said agreement as set forth in the schedule to this Act (in this Act referred to as "the scheduled agreement") should be confirmed and carried into effect :

And whereas it is expedient that the municipal boundary of the borough should be extended as by this Act provided :

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

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And whereas estimates have been prepared by the Corporation for the purchase of Lary Bridge and otherwise in relation thereto and such estimates amount to the sum of forty-four thousand four hundred pounds :

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

And whereas an absolute majority of the whole number of the council at a meeting held on the thirty-first day of December one thousand eight hundred and ninety-six after ten clear days notice by public advertisement of such meeting and of the purposes thereof in the Western Morning News a local newspaper published or circulating in the borough such notice being in addition to the ordinary notices required for summoning such meeting resolved that the expense in relation to promoting the Bill for this Act should be charged on the borough fund and rate :

And whereas such resolution was published twice in the said Western Morning News and has received the approval of the Local Government Board :

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the council at a further special meeting held on the eleventh day of January one thousand eight hundred and ninety-seven in pursuance of a similar notice being not less than fourteen days after the deposit of the Bill in Parliament :

And whereas the owners and ratepayers of the borough by resolution in the manner provided in the Third Schedule of the Public Health Act 1875 consented to the promotion of the Bill for this Act :

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) :—

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the Plymouth Corporation Act 1897.

Interpretation.

2. In this Act unless the context otherwise requires—

“The Corporation” means the mayor aldermen and burgesses of the borough of Plymouth ;

“The existing borough” means the borough of Plymouth as existing immediately before the passing of this Act ;

“The added area” means the area added to the existing borough by this Act ;

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- “The borough” means the borough as extended by this Act ;
- “The council” means the council of the borough ;
- “The town clerk” means the town clerk of the borough ;
- “The borough fund” and “borough rate” mean the borough fund and borough rate of the borough ;
- “Lary Bridge” means the bridge constructed under the authority of the recited Acts (and known as Lary or Laira Bridge) together with the approaches and the toll houses conveniences and appurtenances to the said bridge belonging or therewith used or enjoyed and all rights of charging tolls under and all other the undertaking authorised by the recited Acts ;
- “Statutory security” means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security (not being annuities) authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or other local authority as defined by section 34 of the Local Loans Act 1875 other than securities of the Corporation and securities transferable by delivery ;

And the expression “superior courts” or “court of competent jurisdiction” or any other like expression in this Act 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.

3. This Act shall be carried into execution by the Corporation acting by the council. Execution of Act.

PART II.—LARY BRIDGE.

4. The scheduled agreement as set forth in the schedule hereto is hereby confirmed and made binding on the parties thereto and the same shall be carried into effect subject and according to the provisions of this Act : Confirmation of scheduled agreement.

Provided that nothing in this section or in the scheduled agreement shall take away prejudice or affect any right or title of the Queen's most Excellent Majesty to the foreshore and fundus under and adjacent to the Lary Bridge.

5. The sale under the scheduled agreement shall be carried into effect by a deed truly stating the consideration for such sale and duly stamped. Sale to be carried out by deed.

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On execution
of deed pro-
perty and
rights vested
in the Cor-
poration.

6. From and after the execution of the deed in the preceding section hereof mentioned the Corporation may and shall subject to the provisions of this Act and the terms of the scheduled agreement hold and enjoy all the property by such deed transferred to and vested in the Corporation and may and shall subject as aforesaid exercise all the powers authorities rights and privileges (including the right to demand and take tolls and pontage) of the Right Honourable Albert Edmund Earl of Morley or other the owner of the Lary Bridge under or by virtue of the recited Acts and those Acts shall accordingly be read and have effect as if the Corporation had been therein named instead of the Earl of Morley as the owner of the Lary Bridge.

Tolls to
cease after
1904.

7. The tolls and pontage authorised by the recited Acts shall cease to be leviable as from the thirty-first day of March one thousand nine hundred and four and as from that date the said bridge shall be open to the public free of toll.

Application
of tolls and
repair of
bridge.

8. All tolls and pontage received by the Corporation under this Part of this Act shall during the period they are entitled to demand and take the same be paid into the borough fund and the expenses which the Corporation may incur in repairing and maintaining Lary Bridge and the approaches thereto shall be defrayed out of the borough fund.

For protec-
tion of
Plymouth
Embank-
ment Com-
pany.

9. For the protection of the company of proprietors for embanking part of the Laira near Plymouth acting under three several Acts of Parliament one passed in the forty-second year of the reign of His late Majesty King George the Third intituled "An Act to enable His Majesty to grant certain parcels of land situate between Great Prince Rock and the village of Crabtree called 'Tothill Bay' and 'Lipson Bay' near to the borough of Plymouth in the county of Devon to certain persons therein named for the purpose of embanking and preserving the same from the sea" another passed in the forty-third year of the reign of the same King intituled "An Act to enable the company of proprietors for embanking part of the Lairy near Plymouth to make and maintain a road from a certain place called 'Efford Quay' in the parish of Egg Buckland in the county of Devon to the borough of Plymouth" and the third passed in the fifth year of the reign of His late Majesty King George the Fourth intituled "An Act for further extending the powers of the company of proprietors for embanking part of the Lairy near Plymouth" (herein-after called "the Plymouth Embankment Company") the following provisions shall have effect (that is to say) :—

(1) The Corporation shall not make nor construct nor permit to be made or constructed any road communication whatever for

vehicular or passenger traffic with the western end of Lairy Bridge or with any widening or extension of that bridge or with the western approach thereto or with the Embankment Road at any point to the east of the toll-gate or toll-house of the Plymouth Embankment Company situate at the eastern end of the Embankment Road nor construct nor permit to be constructed any works whatever nor do nor permit any act or thing to be done which shall or may in any way enable vehicular or passenger traffic proceeding to the said bridge from the town of Plymouth or from the said bridge to the said town to evade the tolls payable to the Plymouth Embankment Company unless and until the Corporation shall have purchased the undertaking property rights and interests of the Plymouth Embankment Company under and by virtue of the Acts in this section referred to or otherwise howsoever at the price of twenty-two thousand five hundred pounds such price to include the Plymouth Embankment Company's costs up to completion of the purchase and to be in full discharge of all claims to compensation in respect of loss of office or otherwise by any officer or servant of the Company :

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- (2) Nothing in this Act shall alter prejudice or affect any estate right title or interest of the Plymouth Embankment Company who shall and may from time to time and at all times hereafter until the completion of the purchase by the Corporation hold and enjoy all their lands tolls profits estates rights interests and privileges in as full ample and beneficial a manner to all intents and purposes as they have hitherto held and enjoyed the same.

PART III.—EXTENSION OF BOROUGH.

10. This Part of this Act shall except so far as is otherwise provided come into operation on the ninth day of November one thousand eight hundred and ninety-seven (which date is herein-after referred to as "the commencement of this Part of this Act") Provided that for the purposes of the parish burgess lists and burgess roll and other lists to be made under the Municipal Corporations Act 1882 and the Acts amending the same of the lists of county electors and the county registers to be made for the county in pursuance of the County Electors Act 1888 or any Act amending that Act of the lists and registers of parochial electors and any other lists or registers to be made in pursuance of the Local Government Act 1894 and of all proceedings preliminary or relating to any election of the mayor aldermen and councillors to be held on the ordinary day of election in the year one thousand

Commence-
ment of this
Part of this
Act.

A.D. 1897. eight hundred and ninety-seven this Act shall come into operation on its passing.

Extension of
borough and
Sutton ward.

11.—(1.) The boundaries of the existing borough are hereby extended so as to comprise and the borough shall accordingly comprise the existing borough and the area coloured green on the maps to be deposited as herein-after in this Part of this Act mentioned.

(2.) The area so added to the existing borough shall be annexed to and form part of the Sutton ward of the borough and the persons who immediately prior to the commencement of this Part of this Act are town councillors representing that ward shall continue to represent it as if they had been originally elected to represent the ward so enlarged. Provided that nothing in this Act shall take away or affect the power to alter the number or boundaries of the wards of the borough under the provisions of the Municipal Corporations Act 1882 or any Act amending that Act.

Deposit of
maps.

12. A map of the borough as extended by this Act signed in duplicate by Arthur Frederick Jeffreys Esquire the Chairman of the Committee of the House of Commons to whom the Bill for this Act was referred shall within two weeks of the passing of this Act be deposited in the Private Bill Office of the House of Commons and with the town clerk at his office and copies of the said map certified by the town clerk to be true shall be sent within one month after the passing of this Act to the Local Government Board to the Board of Agriculture to the clerk of the county council of Devon to the clerk to the Plympton St. Mary Rural District Council and to the Director-General of Her Majesty's Ordnance Survey at Southampton.

Copies of
map to be
evidence.

13. Copies of or extracts from the said map deposited with the town clerk certified by him to be true shall be received in all courts of justice and elsewhere as *prima facie* evidence of the contents of such map so far as relates to the boundaries of the borough and such map shall at all reasonable times be open to inspection by any person liable to any rate leviable within the borough and any such person shall be entitled to a copy of or extract from such map certified by the town clerk to be true on payment of a reasonable fee to be determined by the council for every such copy or extract. All sums received under this section shall be carried to the credit of the borough fund.

Powers and
duties of
justices &c.
extended.

14. The powers and duties of the quarter sessions recorder clerk of the peace and the coroner of the existing borough of the justices of the peace appointed for the existing borough and of the clerk to such justices and of the police constables and other peace officers of the existing borough shall extend to and apply throughout

the borough Provided that every person committing an offence in any part of the added areas prior to the commencement of this Part of this Act shall be tried adjudicated on and dealt with as if this Act had not been passed. A.D. 1897.

15. All local and general Acts and orders confirmed by Parliament and all charters which at the commencement of this Act are in force within the existing borough affecting the Corporation shall extend and apply to the borough. Acts and orders extended.

16. All byelaws and regulations and any list of tolls and table of fees made by the Corporation which at the commencement of this Part of this Act are in force in the existing borough shall thenceforth apply to the borough until altered or repealed and subject as aforesaid all byelaws and regulations made by the county council of Devon or the court of quarter sessions of the county of Devon or the Plympton St. Mary Rural District Council shall on that date cease to be in force or have any effect Provided that any proceedings which might have been taken by the said rural district council against any person for any offence against such last-mentioned byelaws and regulations committed before the commencement of this Part of this Act may be taken by the Corporation as if those byelaws and regulations had remained in force and the Corporation had been substituted therein for the said rural district council. Byelaws &c.

17. The town clerk and all other officers and servants of the Corporation of the existing borough who hold office at the commencement of this Part of this Act shall continue to be the town clerk and officers and servants of the Corporation of the borough and shall hold their offices by the same tenure as at that date. Town clerk and other officers continued.

18. The auditors who shall be in office at the commencement of this Part of this Act shall continue in office and shall be the borough auditors until the next ordinary day of election of borough auditors. Borough auditors.

19. All property vested in the Corporation at the commencement of this Part of this Act for the benefit of the existing borough shall be held by the Corporation for the benefit of the borough and the Corporation shall hold enjoy and exercise for the benefit of the borough all the powers which at the date aforesaid are exerciseable by or vested in the Corporation for the benefit of the existing borough and all liabilities which on the date aforesaid attached to the Corporation in respect of the existing borough shall from and after that date attach to them in respect of the borough. Corporation property &c.

20. All property and liabilities which immediately before the commencement of this Part of this Act are vested in or attach to the Property &c. of district council.

A.D. 1897. — Plympton St. Mary Rural District Council in relation exclusively to any part of the added area shall be transferred to vested in and attach to the Corporation as an urban authority and any property and liabilities vested in or attached to the said rural district council in relation to any part of the added area conjointly with any other area shall be a matter for adjustment under section 62 of the Local Government Act 1888.

Alteration
of school
districts.

21. For the purposes of the Elementary Education Acts 1870 to 1893—

- (a) The members of the existing Plymouth School Board who shall be in office at the commencement of this Part of this Act shall be deemed to have been elected and shall be the school board for the borough:
- (b) Any byelaws in force in the existing borough at the commencement of this Part of this Act shall thenceforth apply to the borough until revoked or altered:
- (c) The members of the school board for the parish of Plymstock who shall be in office at the commencement of this Part of this Act shall be deemed to have been elected and shall be the school board for that parish as diminished by this Part of this Act and the said school board shall cease to exercise any powers or duties within any part of the added area.

Electoral
division and
county
councillors.

22.—(1.) The Plympton Electoral Division of the county of Devon as diminished by the extension of the borough by this Part of this Act shall continue to be an electoral division of the county until altered under section 54 of the Local Government Act 1888 and the person who immediately prior to the commencement of this Part of this Act is the county councillor representing that division shall continue to represent it as if he had been originally elected to represent the division so diminished.

(2.) No county alderman or county councillor in office immediately before the commencement of this Part of this Act shall be deemed to lose his qualification by reason of the transfer of any part of the county of Devon to the borough by this Part of this Act.

Adjustment
of financial
relations
between the
county and
borough.

23. In any case where the extension of the borough by this Part of this Act shall affect the distribution of the proceeds of the local taxation licences and the share of the estate duty and of the local taxation (customs and excise) duties between the county council of Devon the borough or any other county borough in the county of Devon or any financial relations or questions between the said county and the borough or any adjustment which shall have been made in regard to the said proceeds and financial relations or questions equitable adjustments between the areas interested may

be made by the said councils by agreement before the thirty-first day of March one thousand eight hundred and ninety-eight and in default of such agreement by the Local Government Board and for the purposes of such adjustments the provisions of the Local Government Act 1888 relating to adjustments between administrative counties and county boroughs shall apply with the necessary modifications and the Local Government Board shall be substituted in such provisions for the commissioners appointed under the said Act.

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24. The general district rate to be levied in the added part of the borough shall not in any one year during a period of four years from the commencement of this Part of this Act exceed such an amount in the pound as when added to the poor rate borough and watch rates for the same year will make up a total rate of four shillings and threepence in the pound and in any one year during the ten years next following the expiration of the said period of four years will make up the total rate of four shillings and sixpence in the pound and in any one year during the ten years next following the last-mentioned period of ten years will make up the total rate of six shillings in the pound but in no case during the periods aforesaid shall the rate payable for the time being in the added areas exceed that payable for the time being in the existing borough.

Differential rating of added area.

25. The added area shall be amalgamated with the parish of Charles and shall be subject to the jurisdiction of the guardians of the poor of the town of Plymouth and the unrepealed provisions of any local Act and of any Provisional Order duly confirmed by Parliament affecting those guardians as the same respectively are in force at the commencement of this Part of this Act shall extend and apply to that area.

Alteration of parishes.

26. The parish council of Plymstock shall continue and shall be deemed to have been elected for and shall be the parish council of the parish of Plymstock as diminished by this Part of this Act and the said parish council shall cease to exercise any powers or duties within any part of the added area.

Parish councils.

27. Until new valuation lists are made the portions of the valuation lists of the parish of Plymstock which relate to hereditaments in the area added to the parish of Charles shall be deemed to form part of the valuation list of that parish.

Valuation lists.

28. For the purposes of the lists and registers of persons entitled to vote at an election of members of Parliament of the register of parochial electors and of jury lists the parishes affected by this

Saving for existing lists of parliamentary voters &c.

A.D. 1897. Part of this Act shall be deemed to continue unaltered until the new lists and registers come into operation.

Settlement
of paupers.

29. Every person who has acquired or who on or before the commencement of this Part of this Act shall acquire a settlement in either of the existing parishes affected by this Part of this Act shall be deemed to have acquired a settlement in the parish comprising the area in which the acts or circumstances conferring such settlement shall have been done or occurred or if such acts or circumstances shall have been done or occurred in both parishes such settlement shall be in the parish comprising the place of residence of such person at the time of acquiring such settlement.

Irremov-
ability of
paupers.

30. Any person who shall have acquired a status of irremovability from either of the existing parishes affected by this Part of this Act shall be deemed to have acquired a status of irremovability from the parish comprising the area in which he shall reside at the commencement of this Part of this Act or (if he shall then be in receipt of relief) from the parish comprising the area in which he was residing at the time of becoming chargeable.

Saving for
contribu-
tion orders
and precepts.

31. Notwithstanding the alteration in the areas of parishes effected by this Act all contribution orders made by the guardians of the poor of the Plympton Saint Mary Union and all precepts made by the Plympton Saint Mary Rural District Council before the commencement of this Part of this Act shall be as valid in law as if this Act had not been passed.

Arrears of
rates.

32. All arrears of rates due at the commencement of this Part of this Act in the added area shall be collected and recovered by the overseers of the existing parish of Plymstock as if this Act had not been passed and all such arrears of rates in the added area made for the purposes of the Public Health Act 1875 or the Highway Acts shall when collected and recovered be applied towards the discharge of any precept of the Plympton Saint Mary Rural District Council which at that date shall be in force and not satisfied.

PART IV.—FINANCIAL PROVISIONS.

Power to
borrow.

33.—(1.) The Corporation may from time to time independently of any other borrowing power borrow at interest on the security of the borough fund and borough rate any sum or sums of money for the purposes herein-after mentioned not exceeding the respective amounts following (that is to say) :—

(1) For the purchase of Lary Bridge and otherwise in relation thereto the sum of forty-four thousand four hundred pounds ;

(2) For paying the costs and expenses of this Act as herein-after provided the sum requisite for that purpose. A.D. 1897.

(2.) The Corporation may raise all or any moneys which they are by this Act authorised to borrow by mortgage.

34. The powers of borrowing money by this Act given shall not be restricted by any of the regulations contained in section 234 of the Public Health Act 1875 and in calculating the amount which the Corporation may borrow under that Act any sums which they may borrow under this Act shall not be reckoned. Certain regulations of Public Health Act as to borrowing not to apply.

35. The following sections of the Public Health Act 1875 shall extend and apply to mortgages granted under this Act (that is to say) :— Provisions of Public Health Act as to mortgages to apply.

Section 236 Form of mortgage ;

Section 237 Register of mortgages ;

Section 238 Transfer of mortgages.

36. The Corporation shall pay off all moneys borrowed by them under this Act within the respective periods (in this Act referred to as “the prescribed period”) following (that is to say) :— Periods for discharge of loan.

As to moneys borrowed for the purpose (1) mentioned in the section of this Act the marginal note whereof is “Power to borrow” within sixty years from the date or dates of the borrowing of the same ;

As to money borrowed for the purpose (2) in the said section mentioned within ten years from the date or dates of the borrowing of the same.

37. The Corporation shall pay off all moneys borrowed by them on mortgage under the powers of this Act either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by such instalments and partly by a sinking fund and the payment of the first instalment or the first payment to the sinking fund shall be made not later than the thirty-first day of March next following the time of borrowing the sum in respect of which the payment is made. Mode of payment off of money borrowed.

38.—(1.) If the Corporation determine to repay by means of a sinking fund any moneys borrowed by virtue of this Act such sinking fund shall be formed and maintained either— Sinking fund.

(A) By payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed A sinking fund so formed is herein-after called a non-accumulating sinking fund ; or

(B) By payment to the fund throughout the prescribed period of such equal annual sums as with accumulations at a rate

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not exceeding three pounds per centum per annum will be sufficient to pay off within the prescribed period the moneys for the repayment of which such sinking fund is formed. A sinking fund so formed is herein-after called an accumulating sinking fund.

(2.) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in statutory securities the Corporation being at liberty from time to time to vary and transpose such investments.

(3.) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Corporation towards the equal annual payments to the fund.

(4.) The Corporation may at any time apply the whole or any part of any sinking fund in or towards the discharge of the money for the repayment of which the fund is formed. Provided that in the case of an accumulating sinking fund the Corporation shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5.)—(A) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the equal annual payments to the fund are based any deficiency shall be made good by the Corporation :

(B) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the equal annual payments to the fund are based any such excess may be applied towards such equal annual payments.

(6.) Any expenses connected with the formation maintenance investment application management or otherwise of any sinking fund under this Act shall be paid by the Corporation in addition to the payments provided for by this Act.

(7.) If it appears to the Corporation at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Act together with the accumulations thereon (in the case of an accumulating sinking fund) will probably not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the Corporation to make such increased payments to the

sinking fund as will cause the sinking fund to be sufficient for that purpose. Provided that if it appears to the Local Government Board that any such increase is necessary the Corporation shall increase the payments to such extent as the Board may direct. A.D. 1897.

(8.) If the Corporation desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(9.) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Act together with the accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Local Government Board be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Corporation may reduce the payments to be made to the sinking fund either temporarily or permanently to such an extent as the Local Government Board shall approve.

(10.) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Local Government Board be sufficient to repay the loan in respect of which it is formed within the prescribed period the Corporation may with the consent of that Board discontinue the equal annual payments to such sinking fund until the Local Government Board shall otherwise direct.

(11.) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose as the Corporation with the consent of the Local Government Board may determine.

39. A person lending money to the Corporation under this Act shall not be bound to inquire as to the observance by the Corporation of any provisions of this Act or be bound to see to the application or be answerable for any loss misapplication or non-application of the money lent or of any part thereof. Protection of lender from inquiry.

40. The Corporation shall not be bound to see to the execution of any trust whether expressed implied or constructive to which any loan or security for loan given by them may be subject but the receipt of the person in whose name any loan or security for loan stands in the register of mortgages of the Corporation shall from time to time be sufficient discharge to the Corporation in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Corporation have had express or implied notice of any such trust or of any charge or incumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered in their register. Corporation not to regard trusts.

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Appointment
of receiver.

41.—(1.) The mortgagees of the Corporation by virtue of this Act may enforce the payment of arrears of interest or of principal or of principal and interest 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 one thousand pounds in the whole.

(2.) The application for the appointment of a receiver shall be made to the High Court and the Court if it thinks fit may appoint a receiver on such terms as it thinks fit and may at any time discharge the receiver and otherwise exercise full jurisdiction over him.

Power to
re-borrow.

42. If the Corporation pay off any moneys borrowed by them under this Act otherwise than by instalments or by means of a sinking fund or out of the proceeds of the sale of land or other property or out of fines or premiums on leases or out of other moneys received on capital account not being borrowed moneys they may from time to time re-borrow the same but all moneys so re-borrowed shall be repaid within the prescribed period and shall be deemed to form the same loan as the moneys originally borrowed and the obligations of the Corporation with respect to the repayment of the loan and to the provision to be made for such repayment shall not be diminished by reason of such re-borrowing.

Annual
return to
Local
Government
Board.

43.—(1.) The treasurer of the borough shall within twenty-one days after the thirty-first day of March in each year during which any sum is required to be paid as an instalment or annual payment or to be appropriated or to be paid to a sinking fund in pursuance of the provisions of this Act transmit to the Local Government Board a return in such form as may from time to time be prescribed by that Board and if required by that Board verified by statutory declaration showing for the year next preceding the making of such return or for such other period as the Board may prescribe the amounts which have been paid as instalments or annual payments and the amounts which have been appropriated and the amounts which have been paid to or invested or applied for the purpose of the sinking fund and the description of the securities upon which any investment has been made and the purposes to which any portion of the sinking fund or investment of the sum accumulated by way of compound interest has been applied during the same period and the total amount (if any) remaining invested at the end of the year and in the event of any wilful default in making such return the treasurer shall be liable to a penalty not exceeding

twenty pounds to be recovered by action on behalf of the Crown in the High Court. A.D. 1897.

(2.) If it appear to the Local Government Board by that return or otherwise that the Corporation have failed to pay any instalment or annual payment required to be paid or to appropriate any sum required to be appropriated or to set apart any sum required by this Act for any sinking fund or have applied any portion of any sinking fund to any purpose other than those authorised the Local Government Board may by order direct that the sum in such order mentioned not exceeding double the amount in respect of which default shall have been made shall be paid or applied as in such order mentioned and any such order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

44. The accounts of receipts and expenditure of the Corporation under this Act shall be audited examined and published in like manner and with the same consequences as the other accounts of the Corporation are audited examined and published under the Municipal Corporations Acts. Audit of accounts.

45. All moneys borrowed by the Corporation under the powers of this Act shall be applied only to the purposes for which they are authorised to be borrowed and to which capital is properly applicable. Application of money borrowed.

46. Nothing contained in this Act shall authorise the Corporation to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the Queen's Majesty. Saving rights of the Crown in the foreshore.

47. All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation and may be paid in the first instance out of any moneys in their hands but shall be charged to and recouped by the moneys which the Corporation are authorised to borrow under the powers of this Act. Costs of Act.

A.D. 1897.

The SCHEDULE.

MEMORANDUM OF AGREEMENT made this eighth day of December one thousand eight hundred and ninety-six between the Right Honourable Albert Edmund Earl of Morley (herein-after called the vendor) of the one part and the mayor aldermen and burgesses of the borough of Plymouth (herein-after called the Corporation) of the other part whereby it is agreed as follows:—

1. The vendor will sell to the Corporation and the Corporation will buy from the vendor for the sum of forty-three thousand and five hundred pounds First all that bridge known as the Laira Bridge situate in or near Catwater Harbour in the county of Devon and constructed over the contiguous water of the Lary under powers conferred by the Acts of Parliament 4 Geo. IV. cap. x. entitled "An Act for erecting a bridge over the water of the Lary" from Pomphlet Point to or near to Great Prince Rock in the county of "Devon" and 5 Geo. IV. cap. cxiii. entitled "An Act for altering and amending an Act of the last Session of Parliament for erecting a bridge over the water of Lary in the county of Devon" together with the approaches and the toll-houses conveniences and appurtenances to the said bridge belonging or therewith used or enjoyed and all rights of charging tolls and pontage under and all other the undertaking constituted by virtue of the said Acts. Secondly the soil and site of the said bridge toll-houses conveniences and appurtenances including all the interest (if any) of the vendor in the fundus or foreshore of the Lary underlying the arches of the said bridge and Thirdly all the interest (if any) of the vendor in the fundus or foreshore of the Lary for a distance of seventy feet on the south side of the said bridge.

2. The sale is made subject to all existing rights on the part of the public in respect of the premises and also to the existing tenancy thereof And also to the following stipulation or condition namely that the Corporation and their assigns shall not use the fundus or foreshore the vendor's interest in which is included in the sale otherwise than for the purpose of repairing improving or enlarging the said bridge.

3. The Corporation shall free the said bridge from all tolls on or before the thirty-first day of March one thousand nine hundred and four.

4. The purchase shall be completed and the purchase money paid at the expiration of six months after the Royal Assent shall have been given to such Act of Parliament as herein-after mentioned at the office of the vendor's solicitors and the vendor and other necessary parties (if any) will on completion convey the said premises to the Corporation their successors and assigns free from all incumbrances except as herein-before mentioned.

5. If from any cause whatever the purchase shall not be completed on the expiration of the said period of six months the Corporation shall pay interest

on the purchase money at the rate of four pounds per centum per annum A.D. 1897 from that day to the day of payment.

6. Up to the day fixed for completion the vendor and thereafter the Corporation shall bear all outgoings and be entitled to all tolls and profits in respect of the said premises and the said outgoings tolls and profits shall be apportioned for the purpose of this clause.

7. Copies of the lease dated the eleventh day of March one thousand eight hundred and eighty-six under or in accordance with the terms of which the bridge toll-house and tolls are at present held by the tenant thereof and also of the said memorandum of agreement of the twenty-fifth day of May one thousand eight hundred and eighty-three have been produced to and perused by the town clerk of the Corporation and the Corporation is to be deemed to have full notice of and to take subject to all the terms thereof.

8. The vendor is a tenant for life selling under the powers of the Settled Land Acts and the title to the said premises shall commence with the Act of Parliament 4 Geo. IV. cap. x. under which the said bridge was constructed.

9. The abstract of title shall be delivered to the town clerk of the Corporation within one calendar month after such Royal Assent shall have been given as aforesaid.

10. All objections and requisitions in respect of title or otherwise shall be sent in writing to Messrs. Travers Smith Braithwaite and Robinson the vendor's solicitors within two calendar months after the delivery of the abstract time in this respect being of the essence of this clause and subject to such objections and requisitions (if any) the title shall be deemed to be accepted.

11. The vendor so far as he has power so to do agrees that if the Corporation shall during the life of the vendor or within twenty-one years afterwards enlarge or widen the said bridge on the south side thereof to any extent not exceeding seventy feet and shall require for the approaches to the bridge as so widened or enlarged any land now belonging to the vendor or of which he is tenant for life as aforesaid and situate within seventy feet of any part of the present approaches to the said bridge on the south side of such approaches then the vendor or other proper parties will sell the land so required to the Corporation at a fair price to be determined in default of agreement under the arbitration clause herein-after contained.

12. The Corporation will forthwith at their own cost promote a Bill in Parliament containing a clause confirming this agreement (to be scheduled to the said Bill) and also a clause or clauses extending the boundaries of the borough of Plymouth so as to include the premises hereby contracted to be sold and also certain low-lying lands near Princes Rock aforesaid and unless an Act of Parliament be passed before the end of the year one thousand eight hundred and ninety-eight containing a section confirming this agreement and conferring on the Corporation all necessary borrowing and other powers enabling them to carry the same into effect and extending the boundaries of the said borough in manner aforesaid this agreement shall be void and of no effect.

13. The costs of this agreement and of the negotiations therefor and of any incidental to the said purchase and the completion thereof and in connexion with the said Bill shall be paid by the Corporation.

A.D 1897.

14. Any dispute or difference as to the meaning or effect of this agreement or as to any right or obligation of any person hereunder shall be determined by the award of two arbitrators or their umpire such arbitrators and umpire to be appointed and the arbitration to proceed in such manner in all respects as may be provided by the Arbitration Act 1889 or any statutory modification or re-enactment thereof for the time being in force.

15. This agreement is made subject to an Act of Parliament being passed within the time and conferring on the Corporation the powers referred to in paragraph 12 hereof and subject to any alteration or modification which Parliament may think fit to make therein. Provided nevertheless that if either party be unwilling to accept any such alteration or modification it shall be lawful for such party by notice in writing to the other party at any time before the Act confirming this agreement with such alteration or modification shall have received the Royal Assent to rescind this agreement and thereupon this agreement shall be void and of no effect.

In witness whereof the vendor has hereunto set his hand and seal and the Corporation have hereunto caused their common seal to be affixed the day and year first before written.

MORLEY.


Given under the corporate common seal in the
presence of—

CHARLES H. RADFORD

Mayor.

J. H. ELLIS

Town Clerk.



Corporate
Common
Seal.

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