

DRY DOCK COMPANY. An Act to incorporate “The Sydney Dry Dock Company” and for other purposes therein mentioned. [24th October, 1853.]

Preamble.

WHEREAS a joint stock company called “The Sydney Dry Dock Company” has been lately established at Sydney in the Colony of New South Wales under and subject to the rules regulations and provisions contained in a certain deed of settlement bearing date the twenty-first day of September in the year of our Lord one thousand eight hundred and fifty-three purporting to be a deed of settlement of the said company And whereas by the said deed of settlement the several parties thereto have respectively and mutually covenanted and agreed that they and such other persons as should become proprietors of shares in the said company as therein provided should become a company under the name of “The Sydney Dry Dock Company” for making and maintaining within Port Jackson in the said Colony a dry dock or dry docks and slips capable of receiving vessels of all classes whether navigated by steam or otherwise and wherein and by means whereof such vessels may be inspected and repaired and for the repair of such vessels and for making and providing wharves yards and places for loading or unloading any such vessels and supplying the same with coals fresh water and all needful service stores and equipment and for the erection of warehouses storehouses sheds and other buildings for receiving and depositing goods and for the erection of offices workshops cranes weighing and other machines steam engines appliances and conveniences necessary for the purposes of such dry docks slips wharves and warehouses and for the purchase and use of steam tugs to be employed in connection with the said docks and otherwise in and about the said harbour of Port Jackson and it was by the said deed of settlement agreed that the capital of the said company should consist of one hundred thousand pounds divided into fifty thousand

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thousand shares of two pounds each or so much thereof as might from time to time be necessary and of such further sums not exceeding the sum of one hundred thousand pounds as might thereafter be raised by the creation allotment and sale of new shares as therein provided And whereas by the said deed of settlement provision has been made for the due management of the affairs of the company by directors to be from time to time elected and appointed by the shareholders of the said company And whereas the said company is desirous of being incorporated and of receiving the special powers hereinafter contained and it is expedient that the said company should be incorporated accordingly with the powers and subject to the provisions hereinafter contained Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof as follows—

1. Such and so many persons as have already become or at any time or times hereafter shall or may in the manner provided by and subject to the rules regulations and provisions contained in the said deed of settlement become proprietors of shares of or in the capital for the time being of the said company shall (subject nevertheless to the conditions regulations and provisions hereinafter contained) be one body politic and corporate in name and in deed by the name of “The Sydney Dry Dock Company” and by that name shall and may sue and be sued by any persons whether members of the said corporation or not and shall and may implead and be impleaded in all Courts whatsoever at law or in equity and may prefer lay and prosecute any indictment information and prosecution against any person whomsoever for any stealing embezzlement fraud forgery or other crime or offence and in all indictments informations and prosecutions it shall be lawful to state the money and goods effects bills notes securities or other property of the said company to be the money goods effects bills notes securities or other property of the said corporation and to designate the said company by its corporate name whenever for the purpose of any allegation of an intent to defraud or otherwise howsoever such designation shall be necessary and the said corporation shall have perpetual succession and a common seal which may be altered varied and changed from time to time at the pleasure of the said corporation.

Company incorporated.

2. The several laws rules regulations clauses and agreements contained in the said deed of settlement or to be made under or by virtue or in pursuance thereof shall be deemed and considered to be and shall be the by-laws for the time being of the said corporation save and except in so far as any of them are or shall or may be altered varied or repealed by or are or shall or may be inconsistent or incompatible with or repugnant to any of the provisions of this Act or of any of the laws or statutes now or hereafter to be in force in the said Colony but no rule or by-law shall on any account or pretence whatsoever be made by the said corporation either under or by virtue of the said deed of settlement or of this Act in opposition to the general scope or true intent and meaning of this Act or of any of the laws or statutes in force for the time being in the said Colony Provided that a true copy of the said deed of settlement and of any by-laws to be made by virtue or in pursuance thereof attested by three of the directors of the company shall be registered at the office for the registration of deeds at Sydney before the same shall be of any validity whatever as the by-laws of the said corporation.

Deed of settlement to constitute the by-laws of the corporation.

3. It shall be lawful for the said corporation from time to time to extend its capital by the creation allotment and disposal of new shares in the manner set forth and subject to the rules regulations and provisions contained in the said deed of settlement but so nevertheless that the total amount of capital shall not exceed two hundred thousand pounds.

Increase of capital.

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Capital and shares  
to be personalty.

4. The capital or joint stock and all the funds and property of the said corporation and the several shares therein and the profits and advantages to be derived therefrom shall be and be deemed personal estate and be transferable and transmissible accordingly subject to the regulations of the said deed of settlement.

Corporation not  
bound by trusts or  
equitable interests  
affecting shares.

5. The corporation shall not be bound in any manner by any trusts or equitable interests or demands affecting any shares of the capital standing in the name of any person as the ostensible proprietor thereof or be required to take any notice of such trusts or equitable interests or demands but the receipt of the person in whose name the shares shall stand in the books of the corporation shall notwithstanding such trusts or equitable interests or demands and notice thereof to the said corporation be a good valid and conclusive discharge to the corporation for or in respect of any dividend or other money payable by the said corporation in respect of such shares in accordance with the regulations in that behalf contained in the said deed of settlement and a transfer of the said shares as directed by the said deed by the person in whose name such shares shall so stand shall notwithstanding as aforesaid be binding and conclusive as far as may concern the said corporation against all persons claiming by virtue of such trusts or equitable interests or demands. Provided always that nothing therein contained shall be deemed or taken to interfere with or abridge the right and power of a Court of Equity to restrain the payment of any such dividend or other money payable thereafter by the corporation in respect of any such shares or the transfer thereafter of any such shares or to direct the payment of such dividends or other money by the corporation or the transfer of such shares by the person in whose name they may stand to such other person as such Court may think fit.

Sirius Cove with the  
permission of the  
Governor and  
Executive Council  
may be converted  
into docks.

6. Subject to the power hereinafter reserved to the Governor with the advice of his Executive Council it shall be lawful for the said corporation and they are hereby authorized and empowered to make and construct one or more dry dock or docks and slips wharves yards and places for loading and unloading vessels warehouses storehouses sheds and other buildings works matters and conveniences for carrying out the object of this Act in the cove or inlet known as Sirius Cove within the said Harbour of Port Jackson.

Survey to be made  
before commence-  
ment of works.

7. Before commencing any dry dock slip or works as aforesaid or any road to the same by this Act authorized to be made the said corporation shall by some qualified engineer to be by them appointed cause to be made proper surveys of the sites of such proposed dry docks slips and works connected therewith with a plan and sections of such dry docks slips and works and a map of the lands or other sites on which it is proposed the same should be constructed or through which any road to such docks slips and works shall be intended to pass together with a book of reference in which shall be entered the names of the owner or proprietor (if known) of each and every portion of the said sites and lands on or through which it is proposed to construct the said dry docks slips works and roads with a description specifying the positions of the said dry docks slips and works and setting forth the bearings of the said roads the nature and quality the state of cultivation the inclosures (if any) and the quantity of such land which shall or may be required for such dry docks slips and roads and the works connected therewith respectively.

Plan.

Book of reference.

Power to enter upon  
lands to make sur-  
veys &c.

8. For which said purposes it shall be lawful for the said corporation their directors surveyors engineers agents and workmen and all other persons by them authorized and they are hereby empowered to enter into and upon the lands of any person at or near the site of the intended docks slips and other works and to  
survey

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survey and take levels of same or of any part thereof and to stake or otherwise ascertain and set out the lines and superficial areas of the proposed dry docks slips works and roads in and over the said lands or such parts thereof as may be necessary for the laying out making constructing and the convenient operation of such dry docks slips and all other works and roads matters and conveniences as are hereby authorized to be made and also to take all such steps as shall be found necessary to ascertain the nature of the soil and substrata of such lands or any part thereof for all or any of the purposes aforesaid the said corporation their agents and workmen doing as little damage as may be in the execution of such survey and if required so to do making full satisfaction in manner hereinafter mentioned to all persons interested in any lands which shall be injured by such survey or by any steps which may be taken to ascertain the nature of the soil or the substrata of such lands as aforesaid and this Act shall be sufficient to indemnify the said corporation and all other persons for what they or any of them shall do by virtue of the powers hereby granted in the execution of such survey and examination as aforesaid.

9. The said map or plan and book of reference shall for thirty days before the commencement of the foundation of any such dry docks slips or other works as are hereby authorized to be made be kept in the office of the said corporation at Sydney and all persons shall and may have free liberty and permission to view and examine the same at all convenient times after the publication of the notice hereinafter mentioned.

Map and book of reference to be kept in the office of the corporation.

10. When and so often as the said corporation shall have determined upon making any dry dock slips works and roads as aforesaid the said corporation shall by advertisement in the *New South Wales Government Gazette* and in one or more of the Sydney newspapers at least thirty days before the commencement of the formation of any such dry docks slips works and roads respectively give notice that they intend to make the same or such part thereof as the said corporation may think fit in accordance with the said map or plan and book of reference.

Corporation to give notice of their intention to make dry dock.

11. A copy of the said map or plan and book of reference shall thirty days before the commencement of the formation of any such dry docks slips and works as are hereby authorized be transmitted to the Colonial Secretary and shall be by him laid before the Governor and His Executive Council and if it shall appear to the Governor and Executive Council that the proposed position extent or character of the works shewn by the said map or plan and book of reference would be a serious obstruction to navigation and a public injury or that it is proposed to appropriate to an unnecessary and injurious extent the lands of any person or to injure and prejudice any person to an extent or in a manner which is not reasonably called for in carrying out the purposes of this Act the said Governor by the advice of the said Executive Council may within such period of thirty days require the plans and proposals of the said company to be modified and altered as to him and them may seem just and reasonable and the same shall be modified or altered accordingly.

Map &c. to be submitted to the Governor and Executive Council who may require modifications.

12. Subject to the power hereinbefore reserved to the Governor with the advice of his Executive Council it shall be lawful for the company by their directors agents officers surveyors and workmen and all other persons by them authorized to take and appropriate to the use of the said company and for the purposes of this Act such of the lands so as aforesaid ascertained or set out and shewn in the said map or plan and book of reference as they shall think necessary for the making and constructing and the convenient operation and use of the said dry docks

Power to take lands for purposes of company.

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docks slips and other works and buildings hereby authorized to be made and constructed without any previous agreement with the owner or occupier of the said lands the said company their agents and workmen doing as little damage as may be in the execution of the powers hereby granted and the said company if required to do so making full compensation in manner hereinafter mentioned to all persons interested in any lands which shall be taken used or injured for all damages to be by them sustained in or by the execution of the power hereby granted.

When appropriation of lands finally determined plans thereof shall be kept in the office of the corporation for public inspection.

13. When the corporation shall have finally determined on any such appropriation the said corporation shall by advertisement in the *Government Gazette* and in one or more of the Sydney newspapers notify that such appropriation has been so determined upon in accordance with the said map or plan or book of reference subject to such alterations as shall have been made therein upon such final determination and a map or plan and book of reference in accordance with such final determination shall thenceforth be kept in the office of the said corporation at Sydney and all persons shall have free liberty to view and examine the same at all convenient times after the publication of the last-mentioned advertisement and such last-mentioned advertisement shall be deemed an act of final appropriation of the lands determined to be taken.

Lands taken to vest without conveyance.

14. When any lands which the company are by this Act authorized to take without the previous consent of the owner or occupier shall have been finally appropriated for the purposes herein mentioned such lands and the fee simple and inheritance thereof and all the estate use trust and interest of all persons therein shall thenceforth be vested in and become the sole property of the said company for the purposes of this Act for ever and it shall not be necessary to obtain a conveyance from the owners or persons interested in such lands to the said corporation.

Right to compensation.

15. The owners and all persons interested in any lands taken appropriated used or prejudiced by the corporation their officers agents or workmen under any of the provisions herein contained and all persons who shall have sustained any loss or damage whatever in or by the execution of this Act shall be entitled to reasonable compensation for the loss or injury sustained by them and such compensation shall be ascertained assessed and awarded as hereinafter mentioned Provided that such compensation shall be claimed within the period of two years from the date of the final appropriation of the lands in which the claimant was interested.

Period within which such compensation to be claimed.

Corporation may plead a tender or pay money into Court.

16. And in case the corporation and claimant shall not agree as to the sum to be paid for such compensation as aforesaid the amount to be paid shall be determined in the Supreme Court by an action for damages to be brought by the claimant against the corporation or upon an issue agreed to by the claimant and corporation respectively Provided that in all cases in which an action shall be brought in the Supreme Court in respect of any claim for such compensation as aforesaid it shall be lawful for the corporation to plead any tender which they may have made in bar of such action on paying into Court in the usual way according to the practice of the Court the amount of money tendered or to pay into Court such sum of money as the corporation shall think fit and to plead such payment in bar of the further maintenance of such action and whichever party shall succeed in such action or upon such issue as aforesaid shall be entitled to costs to be awarded and recovered according to the practice of the Court.

Sums to be paid for purchase of lands and for damages to be assessed separately.

17. Where such inquiry shall relate to the value of lands taken and appropriated by the corporation and also to compensation claimed for injury done or to be done to the lands held therewith the jury shall deliver their verdict separately for the sum of money to be paid

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paid for the taking of the lands required for the works or of any interest therein belonging to the party with whom the question of disputed compensation shall have arisen and for the sum of money to be paid by way of compensation for the damage (if any) to be sustained by the owner or occupier of the lands by reason of any act matter or thing otherwise injuriously affecting such lands by the exercise of the powers of this Act.

18. It shall be lawful for the said corporation to purchase and hold and for any person to convey to the said corporation any lands other than the lands hereby authorized to be taken without the previous consent of the owner or occupier which may be conveniently and advantageously used in connection with the said dry docks slips and other works or otherwise in carrying out the purposes and objects of this Act. Other lands may be purchased and conveyed.

19. Before it shall be lawful to put in force any of the powers hereinbefore conferred in relation to the appropriation of lands otherwise than by agreement for the purposes of the said dry docks slips works and roads not less than twenty thousand shares shall have been actually subscribed for and the sum of ten thousand pounds paid up. 20,000 shares to be subscribed before compulsory powers put in force.

20. A certificate under the hands of two Justices of the Peace in Petty Sessions certifying that the prescribed number of shares have been taken and the required sum been paid up shall be sufficient evidence thereof and on the application of the said corporation and the production of such evidence as the Justices shall think proper and sufficient such Justices shall grant such certificate accordingly. Evidence of subscription of required capital as above.

21. At any time after the passing of this Act the said corporation shall absolutely sell and dispose of all superfluous lands required by them as aforesaid and apply the purchase money arising from such sales to the purposes of this Act or as provided by the deed of settlement of the said corporation. Lands not wanted to be sold.

22. It shall be lawful for the said corporation from time to time and at all times hereafter to ask demand take recover and receive to and for the use and benefit of the said corporation tonnage rates to be established from time to time by the said corporation payable upon vessels using the said dry docks or slips and the tonnage of British vessels duly registered according to law shall be ascertained according to the certified tonnage in the register of such vessels and the tonnage of all other vessels shall be ascertained according to the rules of admeasurement for the time being established by law for regulating the admeasurement of the tonnage and burthen of the merchant shipping of the United Kingdom and of the rates and dues that may be established. Rates granted to the corporation.

23. The said corporation if required so to do by the Governor shall erect on a suitable spot within or near the dry docks or slips to be approved of by the said Governor and always thereafter maintain such buildings and sheds for the use of any tide surveyor or other officer of the Customs and his boat's crew as shall be approved of by the said Governor and shall also if required to the satisfaction of the said Governor provide all requisite accommodation for the use of any officers of revenue with fit weighing materials and shall at all times keep any buildings sheds watch-house boat-house hut and weighing materials which may be required to be provided in good and sufficient repair. Watch-houses and boat-houses for Customs officers.

24. If at any time any such building shed watch-house or boat-house hut or weighing materials shall be out of repair or not provided as required by the said Executive Council and notice thereof be given to the said corporation they shall repair or provide the same to the satisfaction of the said Executive Council or any person appointed by them for that purpose within three months after such notice or in default

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default thereof shall forfeit the sum of one hundred pounds for every month during which such building shed watch-house boat-house hut or weighing materials shall continue out of repair or be not provided such penalty to be recovered in the Supreme Court of the said Colony against the said corporation as a debt due to the Crown and to be sued for by any officer of Customs by the direction of the said Executive Council.

Restrictions on liability.

25. The total amount of debts engagements and liabilities of the said corporation shall not in any case exceed the amount of capital stock subscribed and actually paid up.

Dividend from the profits.

26. No dividend or bonus shall in any case be declared or paid out of the subscribed capital for the time being of the said corporation nor otherwise than out of the declared surplus capital net gains and profits of the business.

Actions or suits for calls.

27. In any action or suit to be brought by the said corporation against any proprietor of any shares in the capital of the said corporation to recover any sum of money due and payable to the said corporation for or by reason of any call made by virtue of this Act or of the said deed of settlement it shall be sufficient for the corporation to declare and allege that the defendant being a proprietor of such or so many shares in the capital of the said corporation is indebted to the said corporation in such sum of money (as the call in arrears shall amount to) for such call of such sum of money upon such or so many shares belonging to the said defendant whereby an action hath accrued to the said corporation without setting forth any special matter and on the trial of such action or suit it shall not be necessary to prove the appointment of the directors who made such call or any other matters except that the defendant at the time of making such call was a holder or proprietor of one or more share or shares in the capital of the said corporation and that such call was in fact made and that such notice thereof and of the time fixed for the payment thereof was given as is directed by the said deed of settlement and the said corporation shall thereupon be entitled to recover what shall appear due.

Contracts &c. under the deed of settlement before Act.

28. Nothing herein contained shall prejudice or be deemed to prejudice any call made or any contract or other act deed matter or thing entered into made or done by the said corporation prior to or under or by virtue of the said deed of settlement before this Act shall come into operation but the same call contract act deed matter or thing shall be as valid and effectual to all intents and purposes as if this Act had not been passed and may be enforced in like manner as if the said company had been incorporated before the same call contract act deed matter or thing had been made entered into or done.

Execution against shareholders.

29. If any execution either at law or in equity shall have been issued against the property or effects of the said corporation and if there cannot be found sufficient corporate property whereon to levy such execution then such execution may be issued against any of the shareholders to the extent of their shares respectively in the capital of the corporation not then paid up Provided always that no such execution shall issue against any shareholder except upon the order of the Court in which the action suit or other proceeding shall have been brought or instituted made upon motion in open Court after sufficient notice to the persons sought to be charged and upon such motion such Court may order execution to issue accordingly and for the purpose of ascertaining the names of the shareholders and the amount of capital remaining to be paid up on their respective shares it shall be lawful for any person entitled to any such execution at all reasonable times to inspect without fee the register of shareholders required by the said deed of settlement to be kept in the office of the said corporation and so much of the share account of such shareholders

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shareholders as shall be sufficient to shew the amount of their respective shares so remaining to be paid up. Provided further that in the event of the assets of the corporation being insufficient to meet its engagements the shareholders shall in addition to the amount already paid and to be paid upon their shares in the capital of the said corporation be responsible to the extent only of a sum equal to the amount of their said shares. Liability of shareholders.

30. If by means of any such execution any shareholder shall have paid any sum of money beyond the amount then due from him in respect of calls he shall forthwith be reimbursed such additional sum by the directors out of the funds of the corporation. Reimbursement of shareholders.

31. The directors for the time being shall have the custody of the common seal of the said corporation and the form thereof and all other matters relating thereto shall from time to time be determined by the directors in the same manner as is provided in and by the said deed of settlement for the determination of other matters by the board of directors and the directors present at a board of directors of the said corporation shall have power to use such common seal for the affairs and concerns of the said corporation and under such seal to authorize and empower any person without such seal to execute any deeds and do all or any such other matters and things as may be required to be executed and done on behalf of the said corporation in conformity with the provisions of the said deed of settlement and of this Act but it shall not be necessary to use the corporate seal in respect of any of the ordinary business of the corporation or for the appointment of an attorney or solicitor for the prosecution or defence of any action suit or proceeding. Custody and use of corporate seal.

32. In case it shall at any time be thought expedient by the said corporation to raise any sum or sums of money by way of loan it shall be lawful for the said corporation by any order of any general meeting of the said corporation to borrow and take up at interest in addition to the money which the said corporation are authorized to raise in extension of their capital as aforesaid any such sum as to them shall seem meet and convenient not exceeding at any time one-third of the amount of the capital of the said corporation then actually paid up and the said corporation after an order shall have been made for that purpose by any general meeting are hereby authorized and empowered to assign the property of the said corporation and the rates arising or to arise by virtue of this Act or any part thereof (the costs and charges of assigning the same to be paid out of the said rates) as a security for any such sum of money to be borrowed as aforesaid with interest to such person or to his trustee as shall advance the same all which said mortgages or assignments shall be made under the common seal of the said corporation and in the words or to the effect following (that is to say)—

“ No.

Form of mortgage.

“ The Sydney Dry Dock Company by virtue of an Act passed  
 “ in the                      year of the reign of Her Majesty  
 “ Queen Victoria intituled ‘ *An Act to incorporate a*  
 “ *Company to be called ‘ The Sydney Dry Dock Company’*”  
 “ in consideration of the sum of                      paid to the  
 “ said company by                      of                      doth  
 “ assign unto the said                      his (*or her*) executors  
 “ administrators and assigns the said company’s under-  
 “ taking and all and singular the rates arising by virtue  
 “ of the said Act and all the estate right title and interest  
 “ of in and to the same To hold unto the said  
 “                      his (*or her*) executors administrators  
 “ and assigns until the said sum of

“ together



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“ together with interest for the same after the rate of  
 “ for every one hundred pounds for a year  
 “ shall be fully paid and satisfied.

“ Given under the common seal on this

“ day of in the year of our Lord 18 .”

And all and every the person and persons to whom such mortgage or assignment shall be made shall be equally entitled one with the other to his her or their proportion or proportions of the said rates and premises according to the respective sums in such mortgages or assignments mentioned to be advanced without any preference by reason of the priority of date of any such mortgage or assignment or any other account whatsoever and an entry or memorial of every such mortgage or assignment containing the number and date thereof and the name or names of the person or persons with the proper additions to whom the same shall have been made and of the sum borrowed together with the rate of interest to be paid thereon shall within fourteen days next after the date thereof be entered in a book or books to be kept by the clerk or other officer of the said corporation which said book or books shall and may be perused at all reasonable times by any of the proprietors or creditors of the said corporation or other person interested therein without fee or reward and every person to whom any such mortgage or assignment shall have been made as aforesaid or who shall be entitled to the money due thereon shall and may from time to time transfer his right and interest therein to any person whomsoever which transfer shall or may be in the words or to the effect following (that is to say)—

Form of transfer of mortgage.

“ I (*or we*) of in consideration of the  
 “ sum of paid by of do  
 “ hereby transfer a certain mortgage number made  
 “ by the Sydney Dry Dock Company bearing date the  
 “ day of for securing the sum  
 “ of and interest and all my (*or our*) right  
 “ and property therein to the said his (*or her*)  
 “ executors administrators and assigns.

“ Dated this day of in the year of our Lord 18 .”

And every such transfer shall within twenty-eight days after the date thereof be produced to the manager or clerk of the said corporation who shall cause an entry or memorial to be made thereof in the same manner as the original mortgages or assignments for which the said clerk shall be paid such sum as the said corporation shall appoint not exceeding two shillings and sixpence and after such entry made every transfer shall entitle such assignee his executors administrators and assigns to the full benefit thereof and payment thereon and it shall not be in the power of any person who shall have made such transfer to make void release or discharge the same or any sum of money thereon due or thereby secured or any part thereof.

Interest of money to be paid in preference to dividends.

33. The interest of the money which shall be raised by mortgage as aforesaid shall be paid half-yearly to the several persons entitled thereto in preference to any interest or dividends due or payable by virtue of this Act to the said shareholders or any of them and shall from time to time be fully paid and discharged or provided for before the yearly or other interest or dividends due to the said shareholders or any of them shall be paid made or provided and in case the same or any part thereof shall be behind and unpaid for the space of twenty-one days next after the same shall have become due and payable as aforesaid and the same shall not be paid within seven days next after demand thereof in writing shall have been made to the said corporation or left at the office of the said corporation it shall be lawful for two or more Justices of the Peace in Petty Sessions assembled and

and they are hereby required on request to them made by or on behalf of any mortgagee whose interest shall be so in arrear by an order under their hands to appoint one or more person or persons to receive the whole or such part of the said rates as are liable to pay such interest so due and unpaid as aforesaid and the money so to be received by such person or persons is hereby declared to be so much money received by or to the use of the person to whom such interest shall be then due until the same together with the costs and charges of recovering and receiving the rates shall be fully satisfied and paid and after such interest and costs shall have been paid and satisfied the power and authority of such receiver and receivers for the purposes aforesaid shall cease and determine or otherwise the said interest so due and unpaid as aforesaid shall be sued for and recovered with costs by an action of debt in the Supreme Court of the said Colony.

34. No person to whom any such mortgage or assignment shall be made or transferred as aforesaid shall be deemed a proprietor of any share or shall be capable of acting or voting by virtue of such assignment either as principal or by proxy as such at any meeting of the said corporation for or on account of his having lent or advanced any sum of money on the credit of any such mortgage or assignment.

Mortgagees not to vote.

35. In case the said corporation shall raise any sum or sums of money by mortgage and shall afterwards be required or be desirous to pay off and shall pay off all or any part of the principal sum secured by such mortgages or any of them then and in every such case it shall be lawful for the said corporation and they are hereby authorized and empowered immediately or at any time or times thereafter again to raise in lieu of the principal money so paid off or to be paid off by them so much and such sum and sums of money as they shall from time to time have paid off or be required or be desirous to pay off to the holders of the mortgages or any of them or any part thereof and so from time to time as often as the same shall happen but so nevertheless that the mortgage debts of the said corporation shall not in any event exceed one-third of the amount of the capital of the said corporation actually paid up.

In case mortgage is paid off power to raise the amount again.