CHAPTER xxiv.

An Act for reviving the powers and extending the time for the completion of a portion of the Railway and Works authorised by the Brading Harbour Improvement Railway and Works Act 1874 and for other purposes. A.D. 1881.

[3rd June 1881.]

WHEREAS by the Brading Harbour Improvement Railway and Works Act 1874 (in this Act called the Act of 1874) the Brading Harbour Improvement Railway and Works Company (in this Act called the Company) were incorporated for the purposes therein mentioned: 37 & 38 Vict. c. cxcv.

And whereas the Company have proceeded with the construction of the works authorised by the Act of 1874 and have executed the greater part of such works but have not completed the small portion of railway herein-after mentioned and it is expedient that the power to construct such portion of railway should be revived as by this Act provided:

And whereas the railway by this Act authorised is to be constructed wholly upon the lands of the Company and therefore no power for the compulsory purchase of lands is needed:

And whereas it is expedient that the Company be authorised to raise further moneys for the purposes of this Act and for the general purposes of their undertaking:

And whereas plans and sections of the portion of railway the powers for making which are by this Act revived describing the lines situation and levels of the proposed works and the lands houses and other property in or through which they will be made together with a book of reference to such plans were duly deposited with the clerk of the peace for the county of Southampton and those plans sections and book of reference are in this Act respectively referred to as the deposited plans sections and book of reference:

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And whereas the Company have under the authority of the Act of 1874 acquired certain lands suitable for building and other purposes and it is expedient that provision should be made for enabling the Company and their assigns to grant building leases of and to sell the whole or any part of such lands:

And whereas it is expedient that other provisions be made with respect to the Company and their undertaking:

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

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Short title.

1. This Act may be cited for all purposes as Brading Harbour Improvement Railway and Works (Additional Powers) Act 1881.

Incorporation of general Acts.

2. The following Acts and parts of Acts so far as they are applicable for the purposes of and are not varied by or inconsistent with this Act are incorporated with and form part of this Act (that is to say):—

8 & 9 Vict. c. 16.

The provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (that is to say):

The distribution of the capital of the Company into shares:

The transfer or transmission of shares:

The payment of subscriptions and the means of enforcing the payment of calls:

The forfeiture of shares for nonpayment of calls:

The remedies of creditors of the Company against the shareholders:

The borrowing of money by the Company on mortgage or bond:

The conversion of the borrowed money into capital:

The consolidation of the shares into stock:

The giving of notices: and

The provision to be made for affording access to the special Act by all parties interested:

26 & 27 Vict. c. 118. 32 & 33 Vict. c. 48.

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 as amended by the Companies Clauses Act 1869:

8 & 9 Vict. c. 20.

The Railways Clauses Consolidation Act 1845: and

Part I. (relating to construction of a railway) and Part II. (relating to extension of time) of the Railways Clauses Act 1863. A.D. 1881. 26 & 27 Vict. c. 92.

Interpretation of terms.

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

The expression "the railway" means the railway by this Act authorised.

The expression "the undertaking" means the undertakings by the Act of 1874 and this Act or either of them authorised.

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.

Revival of powers to complete railway authorised by 37 & 38 Vict. c. cxcv.

4. Subject to the provisions of this Act and so far as is necessary to carry the same into effect the powers conferred by the Act of 1874 for making the portion of railway herein-after described are by this Act revived and the Company may in the lines and according to the levels shown upon the deposited plans and sections complete and make ready for public traffic so much of the line shown on the deposited plans as now remains incomplete (that is to say) so much thereof as lies between Bembridge and St. Helen's commencing by a junction with the railway from Brading to St. Helen's Quays and landing places at a point about one hundred yards east of St. Helen's station and terminating at Bembridge railway station both stations now in course of construction and such last-mentioned railway shall be carried over the River Yar by means of an open viaduct.

Deposit money not to be repaid except so far as railway opened.

5. Whereas pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her present Majesty chapter twenty a sum of five hundred and five pounds thirteen shillings and ninepence consolidated three pounds per centum Bank annuities being at the price at which the same were purchased equal in value to five per centum upon ten thousand pounds the amount of the estimate in respect of the railway has been transferred into the Chancery Division of the High Court of Justice in England in respect of the application to Parliament for this Act which sum is in this Act referred to as the deposit fund: Be it enacted that notwithstanding anything contained in the said

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Act but subject to the other provisions of this Act the said deposit fund or the balance thereof as the case may be shall not be transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act or the survivors or survivor of them which persons survivors or survivor are or is in this Act referred to as the depositors unless the Company shall previously to the expiration of the period limited by this Act for completion of the railway open the same for the public conveyance of traffic: Provided that if within such period as aforesaid the Company open any portion of the railway for the public conveyance of traffic then on the production of a certificate of the Board of Trade specifying the length of the portion of the railway opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion which the length of the railway so opened bears to the entire length of the railway the Court shall on the application of the depositors or the majority of them order the portion of the deposit fund specified in the certificate to be transferred to them or as they shall direct and the certificate of the Board of Trade shall if signed by the secretary or by an assistant secretary of the said Board be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of this Act having passed anything in the above-mentioned Act to the contrary notwithstanding.

Application of deposit.

6. If the Company do not previously to the expiration of the period limited for the completion of the railway complete the same and open it for the public conveyance of traffic then and in every such case the deposit fund or so much thereof as shall not have been retransferred to the depositors shall be applicable and after due notice in the London Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement or abandonment of the railway or any portion thereof and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Chancery Division of the High Court of Justice in England may seem fit. And if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or the balance thereof or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and accordingly be transferred to or for the account of Her Majesty's Exchequer in such manner as the Chancery Division thinks fit to order on the applica-

tion of the solicitor to Her Majesty's Treasury and shall be carried to and form part of the Consolidated Fund of the United Kingdom or in the discretion of the Chancery Division if the Company is insolvent and has been ordered to be wound up or a receiver has been appointed shall wholly or in part be transferred to such receiver or to the liquidator or liquidators of the Company or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof: Provided that until the deposit fund shall have been retransferred to the depositors or shall have become otherwise applicable as herein-before mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.

Period for completion of works.

7. If the railway is not completed within two 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 railway or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Extension to this Act of sections 32 to 36 and sections 7 and 8 of 37 & 38 Vict. c. cxcv.

8. Sections thirty-two thirty-three thirty-four thirty-five and thirty-six of the Act of 1874 (relating to tolls and charges to be taken by the Company) and sections seven and eight of that Act (relating to the portion of the undertaking to be made and maintained in or through the lands of the late Sir Henry Oglander, Bart.) shall extend to and form part of this Act as fully and effectually as if those sections had been expressly repeated and re-enacted in this Act.

Power to raise additional capital.

9. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 from time to time raise for the purposes of this Act and for the general purposes of their undertaking any additional capital not exceeding in the whole sixty thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by any one or more of those modes respectively but the Company shall not issue any share of less nominal amount than ten pounds.

Shares not to be issued until one-fifth part paid up.

10. The Company shall not issue any share created under the authority of this Act 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

11. Except as is by this Act otherwise provided the capital in new shares or stock created by the Company under this Act and

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shares or stock to be subject to same incidents as other shares or stock.

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 whatsover 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 so created shall form part of the capital of the Company.

Dividends on new shares or stock.

12. Every person who becomes entitled to new shares or stock issued by the Company under this Act shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend either preferential or ordinary as the case may be 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.

Conditions of new shares and stock.

13. The Company may attach to any shares or stock issued under this Act such conditions with respect to voting qualifications and other things as they from time to time think fit to declare before issuing the same.

Receipt clause in case of persons not sui juris.

14. If any money is payable to a shareholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to borrow on mortgage.

15. The Company may in respect of the additional capital of sixty thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage any sums not exceeding in the whole twenty thousand pounds 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 are issued and accepted and one half of such capital is paid up and the Company have proved to the justice who 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 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 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.

Repealing provisions of former Acts with respect to appointment of a receiver.

16. Every provision in any Act passed before the present session of Parliament whereby the Company are authorised to raise by borrowing money for the purposes of their undertaking with respect to the appointment of a receiver for enforcing payment by the Company of arrears of interest or principal or principal and interest shall be and the same is hereby repealed but without prejudice to any appointment of a receiver heretofore made or proceedings now pending.

Appointment of a receiver.

17. 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 and 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 two thousand pounds in the whole.

Former mortgages to have priority.

18. The principal moneys secured by all mortgages 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 have priority over the principal moneys secured by any mortgages granted by virtue of this Act.

Power to Company to create debenture stock.

19. 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 at any time after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company and shall have priority over all principal moneys secured by such mortgages.

Application of moneys raised under this Act.

20. All moneys raised under this Act whether by shares stock debenture stock or borrowing shall be applied and any of the moneys which the Company now have in their hands or which they have power to raise under the Act of 1874 and which may not be required for the purposes to which they are by such Acts

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made specially applicable may be applied by the Company in or about the following purposes (that is to say):—

The completion of the works authorised by the Act of 1874 and this Act:

The formation of roads and setting out the whole or any part of the lands acquired by the Company:

The undertakings and purposes of the Act of 1874 and this Act or either of them.

Power to grant building leases of land.

21. Subject to the provisions of this Act the Company and their assigns from time to time if and when they think fit may convey or demise for any term of years all or any part of any lands acquired by them and not required for the railway or works by the Act of 1874 or this Act authorised to any person corporation company or association agreeing to erect thereon or on any parts thereof buildings on such plan and elevation and generally of such character as the Company or their assigns may approve and the Company or their assigns in every such conveyance or lease shall reserve the best rent which can be reasonably obtained not being in the nature of a fine and shall contain a covenant on the part of the lessee for the payment of any rent thereby reserved and such other covenants reservations terms and conditions as the Company or their assigns think reasonable and shall contain a clause in the nature of a condition for re-entry on nonpayment of any rent thereby reserved or non-performance of the covenants on the part of the lessee therein contained: Provided always that a duplicate or counterpart of every such lease shall be executed by the lessee therein named and be delivered to the Company or their assigns.

Power to make agreements as to building leases &c.

22. Subject to the provisions of this Act the Company and their assigns may if they think fit from time to time enter into any agreement for a conveyance or lease as aforesaid on such terms and conditions as aforesaid and on making a conveyance or lease in pursuance thereof may alter the amount of the rent agreed to be reserved and may apportion the same and make separate leases of any parts of the land comprised in the agreement as they think fit and may alter or rescind any agreement and accept any re-conveyance or the surrender of any lease.

Sale of land subject to building leases.

23. Subject to the provisions of this Act the Company and their assigns as and when they think fit and either before or after any conveyance or lease as aforesaid is granted may sell and dispose of any rent reserved or agreed to be reserved for any lands and the reversion and inheritance in fee simple in possession (subject to

any lease or agreement of or concerning the lands) of the erections and buildings thereon except such as have been otherwise disposed of under this Act either altogether or in parcels by public auction or by private contract for such price as the Company think reasonable and subject to such stipulations and provisions for the enjoyment thereof and as to the nature of the erections and buildings to be at all times erected thereon and to such stipulations as to the title to be produced to the hereditaments sold as the Company or their assigns think fit.

Power to sell without previous grant of building leases.

24. Subject to the provisions of this Act the Company and their assigns if they think expedient may from time to time sell and dispose of any lands as aforesaid without having previously made or agreed to make any conveyance or lease thereof and convey and assure the same to the purchaser thereof for the best price which can be reasonably obtained and under and subject to such covenants and agreements on the part of the purchaser with respect to building thereon and with respect to any other matters and things as the Company or their assigns think fit.

Power to dispose of surplus lands.

25. Subject to the other provisions of this Act the Company and their assigns may from time to time sell lease or otherwise dispose of any lands or any part thereof acquired by them and not required for the purposes by the Act of 1874 and this Act authorised and may make execute and do any deed act or thing proper for effectuating any such sale lease or other disposition.

Reservation of water rights &c. on sale.

26. On any sale by the Company or their assigns of any lands they may reserve to themselves all or any part of the water or water-rights or any easements belonging thereto and may make the same subject to such reservations accordingly and may also make any such sale subject to such other reservations special conditions restrictions and provisions with respect to the use of water exercise of obnoxious trades or discharge or deposit of manure sewage or other impure matter as they think fit.

Consideration on sale.

27. Any sale of lands made under the provisions of this Act may be made in consideration of a gross sum or of an annual rent or of both or of any payment in any other form.

Purchaser or lessee to be capable of holding lands &c.

28. No sale or lease of land as aforesaid shall be made to or with any corporation company or association unless that corporation company or association is capable of holding lands or accepting such leases.

Confirmation of leases, sales, &c. made before the passing of this Act.

29. A certain indenture bearing date the fourteenth day of September 1875 and made between the Brading Harbour Improvement and Railway Company of the one part and the House and Land Investment Trust of the other part and a certain lease of a

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piece of land and premises at Bembridge in the Isle of Wight granted by the House and Land Investment Trust Limited to Charles Seymour and dated the eighteenth October 1880 are hereby respectively confirmed and shall be as binding and of as full force and effect in every respect against or in favour of the Company and their assigns and may be enforced as fully and effectually as if the same had respectively been entered into or made after the passing of this Act.

Extra charges by Isle of Wight Railway Company for goods traffic.

30. And whereas the railway of the Company forms a junction with the Isle of Wight Railway at or near the Old Quay at Brading and large quantities of goods traffic have been and will be carried to or from places on the railway of the Company from or to places on the Isle of Wight Railway and such traffic is only carried for short distances and at a considerable cost and so far as it is carried on the Isle of Wight Railway has not been and could not and cannot be remuneratively carried at the maximum rates for conveyance authorised by the Isle of Wight (Eastern Section) Railway Act 1860 unless charges be made at usual and reasonable rates for accommodation and terminal services not incidental to the conveyance of such traffic and whereas disputes have arisen as to the powers of the Isle of Wight Railway Company to make such charges as aforesaid and it is expedient that provision should be made for empowering such Company to make charges in respect of goods traffic not being incidental to the conveyance thereof be it enacted that:—Notwithstanding anything in the Isle of Wight (Eastern Section) Railway Act 1860 contained section forty of that Act shall be read and interpreted as if the concluding words of that section "otherwise than upon the premises of the Railway" were omitted therefrom.

23 & 24 Vict. c. clxii.

Saving rights of Commissioners of Sewers for the Isle of Wight.

31. Nothing in this Act contained shall alter prejudice or affect the rights powers or authorities of the Commissioners of Sewers for the Isle of Wight under or by virtue of the Act of 1874 as regards the undertaking by that Act authorised and all such rights powers and authorities shall apply to the works by this Act revived or authorised as fully and effectually as if such works were about to be executed under the powers of the Act of 1874.

No interest or dividend to be paid out of capital.

32. The Company shall not out of any money by this Act authorised to be raised pay to any shareholder interest or dividend on the amount of 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.

33. 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 any other railway or to execute any other work or undertaking.

Provisions as to general Railway Acts.

34. Nothing herein contained shall be deemed or construed to exempt the Company or the railway from the provisions of any general Act relating to railways or the better or more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates of small parcels authorised by the Act of 1874 and this Act.

Expenses of Act.

35. All costs charges and expenses of and incident to the preparing and applying for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

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