

ANNO VICESIMO OCTAVO & VICESIMO NONO

VICTORIÆ REGINÆ.

Cap. clxxxviii.

An Act for amending and extending the "*Burnham* Tidal Harbour Act, 1860," and for enlarging the Powers of the *Burnham* Tidal Harbour Company; and for other Purposes.

[29th *June* 1865.]

WHEREAS by "The *Burnham* Tidal Harbour Act, 1860," (to which Act the Expression "the Harbour Act of 1860" when hereafter used in this Act refers,) the *Burnham* Tidal Harbour Company (hereafter in this Act called the Company) were incorporated and were empowered to take Lands compulsorily or by Agreement, and to execute the Works therein described, being Works for the Improvement of the Rivers *Brue* and *Parrett*, and the Conversion of Part of the River *Brue* into a Tidal Harbour, and Works connected therewith respectively, including, if thought expedient, the laying down, maintaining, and using of Lines of Railway as Sidings in connexion with the *Somerset Central* Railway as shown on the Plans therein referred to: And whereas the Company have proceeded to exercise the Powers conferred on them by the Harbour Act of 1860, except with respect to the said Sidings: And whereas by the Execution of the Works authorized by this Act the Construction of those Sidings will be rendered unnecessary: 23 & 24 Vict. c. cxci.

And whereas the Company have not taken or contracted for any Part of the Lands that would be requisite for the making of those Sidings or any Part thereof: And whereas it is expedient that they be authorized to abandon the Construction of those Sidings: And whereas it is expedient that the Time limited by the Harbour Act of 1860 for the Completion of the Works thereby authorized be (except as to those Sidings) extended: And whereas it is expedient that the Company be authorized to execute certain Works in addition to those authorized by the Harbour Act of 1860, and to raise further Monies: And whereas the Undertaking of the *Somerset Central* Railway Company in the Harbour Act of 1860 named has been amalgamated with the Undertaking of the *Dorset Central* Railway Company, and those Two Companies have been dissolved and incorporated into One Company called the *Somerset and Dorset* Railway Company (hereafter in this Act called the *Somerset and Dorset* Company): And whereas the Purposes of this Act cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows; (that is to say,)

Short Title.

1. This Act may be cited as "The *Burnham* Tidal Harbour Act, 1865."

8 & 9 Vict. c. 18., 10 & 11 Vict. c. 27., 23 & 24 Vict. c. 106., and 26 & 27 Vict. cc. 92. & 118. incorporated.

2. "The Companies Clauses Act, 1863," "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," and "The Harbours, Docks, and Piers Clauses Act, 1847," and Sections 13, 18, and 19 of Part I. of "The Railways Clauses Act, 1863," (so far as the Provisions of those Acts are applicable to the Purposes of and are not inconsistent with this Act,) are incorporated with this Act.

Interpretation of Terms.

3. With respect to the Interpretation of Terms in and for the Purposes of this Act the following Provisions shall have effect; namely,

1. In this Act and in any Act herewith incorporated the Term "Quarter Sessions" or "Court of Quarter Sessions" means the Court of General or Quarter Sessions of the Peace for the County of *Somerset*:
2. In this Act and in any Act herewith incorporated the Term "Court of competent Jurisdiction" shall have effect as if the Debt or Demand with respect to which that Term is used was an ordinary Simple Contract Debt, and not a Debt or Demand created by Statute:

3. In this Act the Term "the deposited Plans, Sections, and Book of Reference" means the Plans, Sections, and Book of Reference deposited for the Purposes of the Application for this Act with the Clerk of the Peace for the County of *Somerset*:

4. In this Act and any Act herewith incorporated the Term "the Harbour" has the same Meaning as in the Harbour Act of 1860, and includes all Lands shown on the Plans deposited for the Purposes of this Act:

5. The several Terms to which Meanings are assigned by the Acts herewith incorporated have in this Act the same Meanings.

Number of Directors.

4. Notwithstanding anything in the Harbour Act of 1860, the Number of Directors of the Company elected by the Shareholders may, if the Company think fit, be increased to Seven, and the Period during which the *Somerset and Dorset* Company may appoint a Director of the Company is Five Years after the passing of this Act.

Additional Capital.

5. In addition to such Share Capital as the Company are for the Time being independently of this Act authorized to raise, they may from Time to Time by virtue of this Act raise as additional Capital such Sums as they think requisite not exceeding in the whole the Sum of Two hundred and twenty-five thousand Pounds.

Mode of raising additional Capital.

6. The additional Capital by this Act authorized shall be raised by the Creation and Issue of new ordinary Shares, as the Company from Time to Time think fit.

No Shares to issue until One Fifth paid up.

7. It shall not be lawful for the Company to issue any Share under the Authority of this Act, nor shall any such Share vest in the Person accepting the same, unless and until a Sum not being less than One Fifth Part of the Amount of such Share is paid up in respect thereof.

Rights, &c. as to new Shares.

8. Except so far as by or under the Authority of this Act or any Act herewith incorporated is otherwise provided, the additional Share Capital to be created by the Company under this Act, and the Shares therein, and the Holders of those Shares respectively, shall be subject and entitled to the same Powers, Rights, Privileges, and Liabilities in all respects as if that new Capital were Part of the ordinary Share Capital of the Company existing at the passing of this Act, and those Shares were Shares in that Capital; and for this Purpose all the Provisions of "The Companies Clauses Consolidation Act, 1845," applicable to the Company's existing ordinary Share Capital, shall extend

and

and apply to the said additional Share Capital, and with reference thereto those Provisions are hereby incorporated with this Act.

Power to borrow on Mortgage.

9. The Company may from Time to Time, in addition to any Sum which they are for the Time being independently of this Act authorized to raise by Mortgage, borrow at Interest on the Security of their Undertaking and Property any further Sums not exceeding in the whole Seventy-five thousand Pounds, and may mortgage their Undertaking and Property accordingly.

Company not to borrow until additional Capital subscribed for.

10. The Company shall not borrow any Money under this Act until the whole of the additional Capital authorized by this Act is in good Faith subscribed for or taken, and until One Half thereof is actually paid up, and until they prove to the Satisfaction of the Justice who is to certify under Section 40 of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that Shares for the whole of the additional Share Capital are 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 has been paid up on account thereof before or at the Time of the Issue or Acceptance thereof, and that all such Shares are taken in good Faith and are held by the Subscribers or their Assigns, those Subscribers or their Assigns being legally liable for the same (of the Satisfaction of the Justice on which Matters his Certificate shall be Evidence).

8 & 9 Vict. c. 16., as to borrowing, incorporated.

11. The Provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the borrowing of Money by the Company on Mortgage, and with respect to the Conversion of the borrowed Money into Capital (so far as those Provisions are applicable to the Purposes, and are not inconsistent with the Provisions, of this Act), are hereby incorporated with this Act with reference to Mortgages granted and Money borrowed under this Act.

Priority of Mortgages.

12. All Mortgages granted by the Company before the passing of this Act shall have Priority over Mortgages granted under this Act.

Arrears may be enforced by Appointment of a Receiver.

13. The Mortgagees of the Company under this Act may enforce the Payment of the Arrears of Interest, or of Principal and Interest, due on their respective Mortgages by the Appointment of a Receiver, and the Amount to authorize a Requisition for a Receiver shall be Seven thousand Pounds.

14. All

Money to be applied to Purposes of Undertaking.

14. All Money raised under this Act, either by the Creation and Issue of Shares or by borrowing, shall be applied to the Purposes of the Company's Undertaking under the Harbour Act of 1860 and this Act, and not otherwise.

Power to take Lands.

15. Subject to the Provisions of this Act and of the Acts incorporated herewith, the Company may purchase, take, hold, and use the Lands described in the deposited Plans and Book of Reference, or such of them as they think requisite for the Purposes of their Undertaking, under the Harbour Act of 1860 and this Act.

Powers for compulsory Purchases limited.

16. The Powers of the Company for the compulsory Purchase of Lands under this Act shall not be exercised after the Expiration of Three Years from the passing of this Act.

Additional Lands.

17. The Company may from Time to Time under this Act take by Agreement any Lands in addition to the Lands which they are by this Act authorized to take by Compulsion, and may hold the same, so that the Lands held by them under the present Section do not exceed in the whole at One Time Five Acres.

Power to execute Works.

18. Subject to the Provisions of this Act and of the Acts incorporated herewith, the Company may make and maintain the Works shown on the deposited Plans in the Lands shown on those Plans and specified in the deposited Book of Reference, and in the Lines and according to the Levels shown on the deposited Plans and Sections, and may use for the Purposes of those Works such of those Lands as they think expedient.

Description of Works.

19. The Works which the Company are by this Act authorized to execute comprise the following; that is to say,

(1.) To make and maintain a Dock or Docks at or near the *Highbridge* Harbour in the Parish of *Burnham* in the County of *Somerset*:

(2.) To alter and divert the Course of the Channel of the River *Brue* in the Parish of *Huntspill* in the said County, between a Point on the South Bank of that River Fifty-seven Chains or thereabouts from the *Highbridge Clyse* and a Point nearly opposite to the Northern Termination of the masonry Sea Wall facing the River *Parrett*: Provided, nevertheless, that from and after such Alteration and Diversion the Company shall at their own Cost make and maintain a Wall or Embankment against the Sea and against the said River *Brue* along the Southern Side of that River and along the whole Course of such Alteration and Diversion upon the Southern Side of "the Top of the Slope," com-

mencing on the West at the Termination of a certain Portion of a Sea Wall lately erected *ratione tenuræ* by *John Northcott*, since deceased, in respect of a Close of Land formerly Part of *Alston Maris* Farm in the Parish of *Huntspill* in the County of *Somerset*, and which Close of Ground has since been purchased by *Benjamin Parsons Symons* D.D., the Owner of the said Farm, and re-annexed to the said Farm, and for the same Distance shall at their own Cost maintain the existing Embankment which is now under the Jurisdiction of the Commissioners of Sewers of the County of *Somerset*, marked Number 1A, in the Parish of *Huntspill*, on the deposited Plan of the said Works, and the Cost of the Maintenance thereof shall be a primary Charge on the Company, and on their Lands, Property, and Works, and the Owner and Occupier of *Alston Maris* Farm shall be thenceforth discharged from all Liability *ratione tenuræ* or otherwise in respect of such Farm, or of any Part thereof, to make, repair, or maintain any Wall, Embankment, or Defence against the Sea or the said River *Brue* along the Course of such Alteration and Diversion or the Frontage of the said Farm against the Course of such Alteration and Diversion: Provided always, that the Cost to the said *Benjamin Parsons Symons* of maintaining the said existing Embankment, upon the annual Average of the Cost for the previous Seven Years capitalized at Thirty Years Purchase, if it do not exceed the Price to be paid by the Company for such Lands as they purchase from him for the Purposes of the Undertaking, shall be deducted from or set off against the same, but if it exceed that Price then so much thereof as is equal to that Price shall be set off against the same, and the Amount of the Excess shall be paid by the Owner of those Lands to the Company:

(3.) To make and maintain an Embankment in the Parishes of *Burnham* and *Huntspill* from the North or *Burnham* Side of the River *Brue* to a Point in the present River Wall facing the River *Parrett*, and to reclaim such Lands as will be inclosed by that Embankment:

(4.) To divert Water from the Rivers *Brue* and *Parrett* into the intended Docks and into the intended altered and diverted Channel and Works to such Extent as the Company from Time to Time think fit, provided the same be done without Detriment to the Drainage and Water Supply of the Lands drained by the said Rivers, and subject to the Orders and Jurisdiction of the Commissioners of Sewers of the County of *Somerset*:

(5.) To

(5.) To dredge, scour, and deepen from Time to Time the Bed and Shore of the River *Brue*, and such Part of the Bed and Shore of the River *Parrett* as is situate near the Confluence of that River with the River *Brue*, and also to dredge, scour, and deepen all Channels from Time to Time forming a Means of Access to the intended Docks and Works.

Company to provide tidal Water in lieu of that cut off.

20. The Company shall provide and maintain, by dredging or otherwise, a Quantity of tidal Water in lieu of that which they may cut off, in such Way and to such Extent as the Board of Trade may require.

Incidental Works.

21. The Company are also by this Act authorized to execute and do the following Works and Things; that is to say,

(1.) To make, provide, lay down, and maintain Dolphins, Buoys, Beacons, Light Ships, Lighthouses, Tug Boats, Dredge Boats, Moorings, and other like Works and Conveniences in connexion with or for the Purposes of the Company's Undertaking, and on any Part of the Beds and Shores of the Rivers *Brue* and *Parrett*, or either of them, and Lands adjoining thereto in the before-mentioned Parishes:

(2.) To make and maintain all such Basins, Locks, Entrances, Gates, Approaches, Roads, Quays, Jetties, Shipping Places, Staithes, Landing Slips, Wharfs, Walls, Warehouses, Tramways, Sidings, Cranes, Drops, and other Works and Conveniences connected with the intended Dock or Docks.

Period for Completion of Works.

22. The Works shown on the deposited Plans shall be completed within Five Years from the passing of this Act, and on the Expiration of that Period the Powers by this Act granted to the Company for executing the same, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed; nevertheless (subject to the Provisions of this Act), the Company may, after the Expiration of that Period, do all such Acts as they think necessary for maintaining a proper and sufficient Depth of Water in the Harbour.

Extension of Time under former Act.

23. Except as is by this Act otherwise provided, the Time limited by the Harbour Act of 1860 for the Completion of the Works thereby authorized is by this Act extended for a Period of Five Years from the passing of this Act.

24. If

Any Land reclaimed by the Works not to be taken without Consent of Commissioners of Woods, &c.

24. If in the Course or by means of the Execution of any of the Works by this Act authorized any Part of the Shores or Bed of the Sea, or of any navigable River belonging to Her Majesty, shall be inned, gained, or reclaimed from the Water, the said Company shall not have or exercise any Right upon the same or in any respect thereof, and shall not enter upon, take, use, or interfere with the Lands so inned, gained, or reclaimed for any Purpose whatsoever, without the Consent in Writing of the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or One of them, but such inning, gaining, or Reclamation shall enure absolutely for the Benefit of the Queen's Majesty, Her Heirs and Successors.

Vesting of reclaimed Lands in Company.

25. Subject to the Provisions of this Act, all Lands acquired and reclaimed under this Act by the Company shall belong to and be vested in and may be held by them for their own absolute Use and Benefit, and the Company may from Time to Time let, demise, exchange, sell, convey, and otherwise deal with or dispose of the same, or any Part or Parts thereof, for their own absolute Use and Benefit as they from Time to Time think advantageous.

Abandonment of Sidings.

26. The Company shall abandon the Construction of the Sidings by the Harbour Act of 1860 authorized to be constructed.

Release from Liability as to Sidings.

27. Subject to the Provisions of this Act the Company are by this Act released from all Liability to make, maintain, or work the Sidings aforesaid, or to purchase any Lands for the making thereof.

Compensation to be made where Contracts have been entered into or Notices given.

28. In any Case where before the passing of this Act any Contract has been entered into or Notice given by the Company for purchasing any Lands which the Company were empowered to purchase for the Purpose of constructing the Sidings so authorized to be abandoned as aforesaid, the Company shall make to the Owners or Occupiers of or other Parties interested in such Lands full Compensation for all Injury or Damages sustained by such Owners, Occupiers, or other Parties by reason of such Purchase not being completed pursuant to such Contract or Notice; and the Amount and Application of such Compensation shall be determined in the Manner provided by "The Lands Clauses Consolidation Act, 1845," for determining the Amount and Application of the Compensation to be paid for Lands taken under the Provisions thereof: Provided always, that the Authority hereby given for abandoning the Formation of those Sidings shall not prejudice or affect the Right of the Owner or Occupier of any Lands which the Company were so empowered to purchase as aforesaid to receive from the Company Compensation for any Damage that may have

have been occasioned by the Entry of the Company upon such Lands for the Purpose of surveying and taking Levels, and of probing or boring to ascertain the Nature of the Soil, or of setting out the Line of the Railway, pursuant to the Provisions for that Purpose in "The Lands Clauses Consolidation Act, 1845," contained.

Release of Deposit.

29. At any Time after the passing of this Act the Court of Chancery shall, on the Application of the Company, or on their Behalf by Petition in a summary Way, order to be paid or delivered out to the Company, or as they direct, the Sum of Money deposited in the Court of Chancery as a Security for the Completion of the said Sidings, or the Securities in which the same Sum is then invested, with all Interest or Dividends then accrued due in respect thereof.

Lifeboats, &c.

30. Notwithstanding anything in this Act, it shall not be necessary for the Company to provide or maintain any Lifeboat, Mortar, Rocket, or Tide or Weather Gauge, except when and as long as they are required by the Board of Trade to do so.

Working Arrangements between Company and Somerset and Dorset Company.

31. The Company on the one hand and the *Somerset and Dorset* Railway Company on the other hand from Time to Time may make and carry into effect Contracts and Arrangements with respect to all or any of the following Purposes; (to wit,)

The Maintenance, Working, and Use by the contracting Companies, or either of them, of the Works or any Part thereof:

The Payments to be made and the Conditions to be performed with respect to the same Maintenance, Working, and User:

The Interchange, Accommodation, and Conveyance of the Traffic coming from or destined for the Undertakings of the contracting Companies:

The fixing and collecting and the Division and Appropriation of the Tolls, Rates, Charges, Receipts, and Revenues arising from that Traffic.

Parts of 23 & 24 Vict. c. cxci. to apply to this Act.

32. The following Provisions of the Harbour Act of 1860 shall extend and apply to the Works by this Act authorized, and shall have effect in relation thereto as if those Provisions were in this Act set forth at length and re-enacted with such Alterations only as might be necessary to adapt them to the Subject Matter of this Act (for which Purpose the Term "this Act" used in those Provisions shall mean the present Act); that is to say,

The Proviso to Section 18, Sections 25, 42, and 115 (which Enactments relate to the Rights and Interests of the *Somerset and Dorset* Company):

Sections 35, 37, 38, and 39 (which Sections relate to the Rights and Interests of the Commissioners of Sewers for the County of *Somerset*):

Sections 33, 81, and 114 (which Sections relate to the Rights and Interests of the *Bridgwater* Corporation):

Section 113 (saving the Rights of the Admiralty and the *Trinity House*, which Section is hereby extended so as to include the Board of Trade):

Section 116 (saving the Rights of certain Railway Companies):

Section 117 (being a Provision for the Application of General Acts):

Sections 31, 32, and 51 to 63 (both inclusive), 65 to 69 (both inclusive), 71, 72, 74 to 80 (both inclusive), which relate to the Powers, Rights, and Interests of the Company.

Saving Rights of the Crown.

33. Nothing contained in this Act, or in any of the Acts herein referred to, shall authorize the Company to take, use, or in any Manner interfere with any Land, Soil, Tenements, or Hereditaments, or any Rights, of whatsoever Nature, belonging to or enjoyed or exerciseable by the Queen's most Excellent Majesty in right of Her Crown, without the previous Consent in Writing of the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or One of them, on behalf of Her Majesty, first had and obtained for that Purpose (which Consent such Commissioners are hereby respectively authorized to give); and as incidental to any such Consent as aforesaid the Company may enter into any Agreement with the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, who respectively may, with the Approval of the Commissioners of Her Majesty's Treasury, join in every such Agreement; and the said Commissioners of Her Majesty's Woods, Forests, and Land Revenues, with the like Approval, and the Company may respectively execute all necessary Conveyances, Leases, Licences, or other Deeds of or relating to any Land, Hereditaments, or Rights belonging to Her Majesty in right of Her Crown, and every Agreement so entered into as aforesaid shall be performed by the same Commissioners and the Company respectively; and nothing in the said Act or Acts contained shall divest, take away, prejudice, diminish, or alter any Estate, Right, Privilege, Power, or Authority now or from Time to Time vested in or enjoyed or exerciseable by the Queen's Majesty, Her Heirs and Successors.

Saving for Rights under first-recited Act.

34. Except as by this Act expressly provided, nothing in this Act shall affect any Right or Power vested in the Company by virtue of the Harbour Act of 1860 in relation to the Works authorized by that Act.

35. The

35. The Costs, Charges, and Expenses preliminary to and of and incidental to the preparing, applying for, obtaining, and passing of this Act shall be paid by the Company. Expenses of Act.

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