CHAPTER ccxxxvii.

An Act for the construction maintenance and regulation of a Pier and Lift at Folkestone in the county of Kent and for other purposes. [7th August 1884.] A.D. 1884.

WHEREAS the Folkestone Promenade Pier Company Limited (hereinafter referred to as "the limited company") were established for the purpose of making and maintaining a pier with all necessary works and conveniences at Folkestone in the county of Kent and were duly incorporated under the Companies Acts 1862 and 1867:

And whereas it is expedient with a view to the making and to the better regulation and maintenance when made of the said pier and works and the limited company desire that they should be dissolved and re-incorporated:

And whereas the making of the said pier with a lift in connection therewith would be of public and local advantage:

And whereas plans and sections showing the lines and levels of the pier lift and works by this Act authorised to be made and the lands to be taken for the purposes thereof and a book of reference to those plans containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of those lands have been deposited with the clerk of the peace for the county of Kent and those plans sections and book of reference are in this Act referred to as the deposited plans sections and book of reference:

And whereas the purposes aforesaid 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):—

1. This Act may be cited for all purposes as the Folkestone Pier and Lift Act 1884. Short title.

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Incorporation of Acts.

2. The Lands Clauses Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883 the Companies Clauses Consolidation Act 1845 Part I. (relating to the cancellation and surrender of shares) and Part III. (debenture stock) of the Companies Clauses Act 1863 and the Harbours Docks and Piers Clauses Act 1847 are (except where expressly varied by this Act) incorporated with and form part of this Act Provided that the provisions of the Harbours Docks and Piers Clauses Act 1847 "with respect to lifeboats" and "with respect to keeping a tide and weather gauge" shall not come into operation as parts of this Act unless and until and except so far only as the Board of Trade from time to time require.

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 shall have the same respective meanings unless there be something in the subject or context repugnant to such construction the expression "the Company" shall mean the Company incorporated by this Act the expression "the pier" "the lift" "the works" or "the undertaking" shall respectively mean the pier and lift and works and the undertaking by this Act authorised and 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 common simple contract debt and not a debt or demand created by statute.

Dissolution and re-incorporation of Company.

4. From and after the passing of this Act the limited company shall be dissolved and cease to exist and the present members of that company and all other persons who have already subscribed to or shall hereafter become proprietors in the undertaking and their executors administrators successors and assigns respectively shall be and they are hereby united and incorporated into a company for the purpose of making and maintaining the pier and lift and for other the purposes of this Act and for those purposes shall be incorporated by the name of "The Folkestone Pier and Lift Company" and by that name shall be a body corporate with perpetual succession and a common seal and with power to purchase take hold and dispose of lands and other property for the purposes of this Act.

Present property vested in Company incorporated by this Act.

5. Subject to the provisions of this Act all lands works erections buildings rights and easements which immediately before the passing of this Act were vested in the limited company or any person or persons in trust for them or on their behalf or to which the limited company were in anywise entitled at law or in equity or which

immediately before the passing of this Act were the property of or belonging to the same company and all moneys securities credits effects and other property whatsoever belonging to the limited company or to any trustees on their behalf for the purposes of such company shall be and the same are hereby vested in the Company to the same extent and for the same estate and interest as the same were previously to the passing of this Act vested in the limited company or any trustees on their behalf and may according to the provisions of this Act be held and enjoyed sued for and recovered by the Company.

Memorandum of association to be void.

6. Subject to the provisions of this Act the memorandum and articles of association of the limited company shall as to any future or prospective operation thereof from and after the passing of this Act be wholly void and of none effect but nothing in this Act contained shall release or discharge any person from any liability or obligation in respect of any breach of the provisions of the said memorandum or articles incurred before the passing of this Act.

Saving previous rights and liabilities.

7. Except as is by this Act otherwise expressly provided everything before the passing of this Act done or suffered by or with reference to the limited company or the members thereof as such shall be as valid as if the Company had not been incorporated and the said memorandum and articles of association had not been avoided by this Act and such incorporation and avoidance and this Act respectively shall accordingly be subject and without prejudice to everything so done or suffered and to all rights liabilities claims and demands both present and future which if the Company were not incorporated and the said memorandum and articles were not avoided by this Act and this Act were not passed would be incident to or consequent on any and everything so done or suffered and with respect to all such rights liabilities claims and demands the Company shall to all intents and purposes represent the limited company and the members thereof as such Provided always that the generality of this enactment shall not be restricted by any of the other clauses and provisions of this Act.

Contracts prior to the passing of this Act to be binding.

8. Except as by this Act otherwise specially provided all purchases conveyances grants assurances deeds contracts bonds and agreements entered into or made before the passing of this Act by to or with the limited company or any trustees or persons acting on behalf of such company or by to or with any other person to whose rights and liabilities they have succeeded as assignees and now in force shall be as binding and of as full force and effect in every respect against or in favour of the Company and may be enforced as fully and effectually as if instead of the limited company or the trustees or persons acting on behalf of the limited company the Company had been a party thereto.

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Actions &c. not to abate.

9. Nothing in this Act contained shall release discharge or suspend any action suit or other proceeding at law or in equity which was pending by or against the limited company or any member thereof in relation to the affairs of that company or to which that company or any member thereof in relation to such affairs were parties immediately before the passing of this Act but any such action suit or other proceeding may be maintained prosecuted or continued by or in favour of or against the Company (as the case may be) in the same manner and as effectually and advantageously as the same might have been maintained prosecuted or continued by in favour of or against the limited company or any member thereof if this Act had not been passed the Company being in reference to the matters aforesaid in all respects substituted for the limited company.

Directors of limited company to be indemnified.

10. Every director or other person in whom or in whose name any lands works buildings easements rights property or effects belonging to the limited company were vested immediately before the passing of this Act and who (being duly authorised so to do) entered into any bond covenant contract or engagement in respect of the same or otherwise on behalf of the limited company shall be indemnified and saved harmless out of the property of the Company from and against all liability loss costs charges and expenses under or by reason of every such bond covenant contract or engagement.

Company to satisfy liabilities of limited company.

11. From and after the passing of this Act and except as is by this Act otherwise expressly provided the Company shall in all other respects be subject to and shall satisfy or discharge all obligations and liabilities to which the limited company immediately before the passing of this Act were or but for this Act would become subject and shall pay and bear all the expenses of and incident to the winding up of the affairs of the limited company and shall indemnify the shareholders directors officers and servants of that company and their respective representatives from all such obligations liabilities and expenses and all costs in that behalf.

As to payment of debts owing before the passing of this Act.

12. All persons who immediately before the passing of this Act owed any money to the limited company or to any person on their behalf shall pay the same with all interest (if any) due payable or accruing upon the same to the Company and all debts and moneys which immediately before the passing of this Act were due or owing or recoverable from the limited company or for the payment of which that company were or but for this Act would be liable shall be paid with all interest (if any) due or payable or accruing upon the same by or be recoverable from the Company.

Certificates &c. to remain in force.

13. All certificates of shares in the undertaking of the limited company (until cancelled under the powers of this Act) sales

transfers and dispositions heretofore made or executed with respect to any shares in that company shall remain in full force and continue and be available in all respects as if this Act had not passed.

Officers to continue until removed.

14. All officers and servants of the limited company who were in office immediately before the passing of this Act shall hold and enjoy their respective offices and employments together with the salaries and emoluments thereunto annexed until they shall resign the same or be removed therefrom by the Company and shall have the like powers and authorities for the purposes of this Act and for carrying the same into execution and shall be subject and liable to the like conditions obligations pains and penalties and to the like powers of removal and to the like rules restrictions and regulations in all respects whatsoever as if they had been appointed under this Act.

Power to make pier and lift according to deposited plans.

15. Subject to the provisions of this Act the Company may make and maintain on the lines and according to the levels shown on the deposited plans and sections the pier hereinafter described with all proper landing-places toll-gates toll-houses approaches works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the said plans and described in the deposited book of reference as may be required for that purpose and may also erect and maintain a lift or hoist in connection with the pier and for that purpose may purchase or lease by agreement such land or easement as may be necessary and apply to the construction of the said lift or hoist and to the purchase of the said land or easement any of the money which they are authorised to raise by this Act Provided that the Company shall not construct or extend any part of the said pier lift landing-places toll-gates toll-houses approaches works and conveniences towards the east beyond the centre line of the proposed pier as shown upon the deposited plans without the consents of the mayor aldermen and burgesses of Folkestone and the Folkestone Bathing Company Limited.

The works hereinbefore referred to and authorised by this Act are:—

A pier or landing-place for the embarking and landing of passengers and for other purposes commencing at a point on the mainland about 200 feet measured in an easterly direction from the end of Cheriton Place in the parish of Folkestone in the county of Kent and extending seaward for a distance of 800 feet or thereabouts.

Penalty for obstructing works.

16. Every person who wilfully obstructs any person acting under the authority of the Company in setting out the lines of the works

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authorised by this Act or who pulls up or removes any poles or stakes driven into the ground for the purpose of setting out the lines of the works or defaces or destroys the works or any part thereof shall for every such offence be liable to a penalty not exceeding five pounds.

Limits of Act.

17. The limits within which the Company shall have authority and which shall be deemed the limits to which the provisions of this Act extend shall comprise the pier and the rest of the sea area below high water mark within the distance of four hundred feet from any part of the pier in any direction.

Pier &c. to be deemed within the parish of Folkestone.

18. The pier lift and works shall in respect of all matters crimes or offences arising or committed thereon or within the limits of this Act requiring the cognisance of any justice of the peace be deemed and taken to be within or as forming part of the parish of Folkestone in the county of Kent and within the jurisdiction of any justice acting within and for the borough of Folkestone.

Exhibition of lights during the construction of works.

19. Before commencing the works authorised by this Act the Company shall apply to the Board of Trade for directions as to the lights to be exhibited and shall in all respects obey any direction given upon such application or afterwards from time to time given as to lights by the Board of Trade during the construction of the works and compliance with directions so given shall satisfy and be in place of every other statutory requirement as to lights during the construction of the works If the Company refuse or neglect to observe any direction of the Board of Trade as to lights during the construction of the works they shall for each offence be liable to a penalty not exceeding ten pounds.

Exhibition of lights after completion of works.

20. After completion of the works authorised by this Act the Company shall at the outer extremity of the pier exhibit from sunset to sunrise such light or lights as shall from time to time be directed by the Corporation of Trinity House Deptford Strond and shall apply to that corporation for directions as to lighting and the Company shall be liable to a penalty not exceeding twenty pounds for every calendar month during which they omit so to apply.

Abatement of work abandoned or decayed.

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

Survey of works by Board of Trade.

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

Capital.

23. The capital of the Company shall be forty thousand pounds divided into four thousand shares of ten pounds each.

Appropriation of shares.

24. Every holder of one or more than one existing share of ten pounds in the capital of the limited company shall in substitution for each such share be entitled to one share of ten pounds in the capital of the Company and the said share so substituted shall vest in such holder accordingly and every share so vested shall be subject and liable to the same trusts powers provisions declarations agreements charges liens and incumbrances as immediately before the passing of this Act affected the then existing share in the capital of the limited company for which it is substituted and so as to give effect to and not revoke any testamentary disposition of or affecting such then existing share.

Company to call in and cancel existing share certificates and issue new certificates in lieu thereof.

25. The Company shall call in and cancel the existing certificates of shares in the limited company and issue in lieu thereof certificates of the substituted shares in the form and under the conditions prescribed by the Companies Clauses Consolidation Act 1845 but the holders of such existing certificates of shares shall not be entitled to any certificates of proprietorship under this Act until they shall have delivered up to the Company to be cancelled the certificates of proprietorship issued to them before the passing of this Act or shall have proved to the reasonable satisfaction of the Company the loss or destruction thereof.

Shares not to issue until one-fifth paid up.

26. 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.

Calls.

27. One-fifth of the amount of a share shall be the greatest amount of a call and three months at least shall be the interval between successive calls and three-fourths of the amount of a share shall be the utmost aggregate amount of calls in any year upon any share.

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Power to borrow on mortgage.

28. The Company may from time to time borrow on mortgage any sum not exceeding in the whole ten thousand pounds but no part thereof shall be borrowed until the whole capital of forty thousand pounds is issued and accepted and one-half thereof 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 the whole of the capital has been issued and accepted and that one-half thereof 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 that such capital was issued bonâ fide and is held by the persons or corporations to whom the same was issued or their executors administrators successors or assigns and that such persons or corporations 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.

Arrears may be enforced by appointment of a receiver.

29. 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 shall be made shall not be less than one thousand pounds in the whole.

Debenture stock.

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

Priority of mortgages &c. over other debts.

31. All money to be raised by the Company on mortgage or debenture stock under the provisions of this Act shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act Provided always that this priority shall not affect any claim against the Company or their property in respect of any rentcharge granted

or to be granted by them in pursuance of the Lands Clauses Consolidation Act 1845 or the Lands Clauses Consolidation Acts Amendment Act 1860 or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company in pursuance of any Act relating to the Company which is entitled to rank in priority to or pari passu with the interest on their mortgages or debenture stock.

Application of moneys.

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

First ordinary meeting.

33. The first ordinary meeting of the Company shall be held within six months next after the passing of this Act.

Number of directors.

34. The number of directors shall be five but it shall be lawful for the Company from time to time to reduce the number provided that the reduced number be not less than three.

Qualification of directors.

35. The qualification of a director shall be the possession in his own right of not less than twenty-five shares.

Quorum.

36. The quorum of a meeting of directors shall be three but if the number of directors be reduced to three the quorum shall be two.

First directors.

37. William Amos Scarborough Westoby Theodore George Schomburg Arthur Stanley Felton and two other persons to be nominated by them or the majority of them and consenting to such nomination shall be the first directors of the Company and shall continue in office until the first ordinary meeting held after the passing of this Act At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act or nominated as aforesaid or any of them or may elect a new body of directors or directors to supply the place of those not continued in office the directors appointed by this Act or nominated as aforesaid being if qualified eligible for re-election and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power hereinbefore contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office agreeably to the provisions in the Companies Clauses Consolidation Act 1845 contained and the several persons elected at any such meeting being neither removed nor disqualified nor having resigned shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Elections of directors.

Receipt in case of persons not sui juris.

38. If any money be payable to a shareholder being a minor idiot or lunatic the receipt of his or her respective guardian or committee shall be a sufficient discharge to the Company for the same.

Powers for compulsory purchases limited.

39. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Period for completion of works.

40. The pier shall be completed within four 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 works or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed.

No merchandise to be landed at pier.

41. No merchandise or goods (passengers' personal luggage Her Majesty's mails and goods being under seizure by the officials of the Revenue excepted) shall be landed on or at the said pier or any lands acquired by the Company.

Power to take rates.

42. The Company may demand and receive in respect of the vessels passengers' luggage persons and things (except Her Majesty's mails) described in the schedule hereto any sums not exceeding the rates in that schedule specified.

Table of tolls to be put up.

43. The Company may erect at the land entrance to the pier a toll-gate and toll-house and from time to time appoint and remove a toll collector and when any toll-gate is erected by virtue of this Act the Company shall put up and afterwards continue at every such toll-gate a table painted on a board in distinct and legible black letters on a white ground containing a list distinguishing the several tolls to be paid by virtue of this Act and shall renew the boards whenever any of the letters or figures thereon are worn out defaced or obliterated and the Company shall not demand or take at any toll-gate any toll except while the board so painted remains affixed at or near to the toll-gate.

Company may contract with persons for the use of the pier and lift.

44. The Company may grant to passengers and promenaders or others pass tickets for the use of the pier and lift on such terms and for such a period not exceeding one year as may be agreed on but so that no preference be given to any person A pass ticket shall not be transferable and shall not be used by any person except the person to or for whom it was granted or by any person after the period limited for its use If any person acts in any way in contravention of this provision or uses or attempts to use any false or counterfeit or expired ticket he shall for every such offence be liable to a penalty not exceeding twenty shillings to be recovered and applied as penalties are recoverable and applicable under the Harbours Docks and Piers Clauses Act 1847.

Board of Trade officers exempt from rates.

45. Officers of the Board of Trade being in the execution of their duty shall at all times have free ingress passage and egress to on along and from the pier by land and with their vessels and otherwise without payment.

Pier not exempt from provisions of present and future general Acts.

46. Nothing in this Act contained shall be deemed or construed to exempt the pier by this Act authorised or the Company from the provisions of any general Act relating to harbours and piers or dues on shipping or on goods carried in ships now in force or which may hereafter pass during this or any future session of Parliament or from any future revision and alteration under the authority of Parliament of the rates by this Act authorised.

Saving rights of the Crown.

47. Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any land or hereditaments or any rights of whatsoever description belonging to the Queen's most Excellent Majesty in right of Her Crown without the consent in writing of the Board of Trade on behalf of Her Majesty first had and obtained for that purpose (which consent the Board is hereby authorised to 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 Her heirs or successors.

Saving rights of Crown under Crown Lands Act.

48. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved by sections twenty-one and twenty-two of the Crown Lands Act 1866 and belonging to or exerciseable on behalf of Her Majesty Her heirs or successors.

Saving the rights of the Earl of Radnor.

49. Except as otherwise provided in this Act nothing herein contained shall take away lessen prejudice alter or affect any estates rights title powers and privileges of the Earl of Radnor and his successors in estate.

Expenses of Act.

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

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SCHEDULE.

I.—Rates on Passengers and Promenaders using the Pier.

	£	s.	d.
For every passenger or other person who shall land on the pier from or embark from it on board of any ship vessel packet or passage boat for each and every time any sum not exceeding - -	0	0	4
For every person who shall use the said pier for the purpose of walking for exercise pleasure or any other purpose except for embarking or disembarking for each and every time any sum not exceeding - - - - - -	0	0	3
For every bath or sedan chair taken on the pier for each and every time any sum not exceeding - - - - -	0	0	4
For every perambulator - - - - - -	0	0	2
For every master of any vessel boat or wherry using the said pier for the purpose of going to or returning from his own vessel boat or wherry an annual sum not exceeding - - -	1	0	0

II.—Rates on Passengers' Luggage.

For every trunk portmanteau box parcel or other package within the description of luggage exceeding 28 pounds and not exceeding 112 pounds - - - - - - -	0	0	2
For every 112 pounds weight or fractional part thereof in addition -	0	0	3

III.—Rates on Vessels using the Pier.

For every vessel under the burden of 15 tons per ton - -	0	0	4
For every vessel of the burden of 15 tons and under 50 tons per ton	0	0	6
For every vessel of the burden of 50 tons and under 100 tons per ton - - - - - - - - -	0	0	8
For every vessel of the burden of 100 tons and under 150 tons per ton - - - - - - - - -	0	0	10
For every vessel of the burden of 150 tons and upwards per ton -	0	1	0
For every lighter for each trip per ton - - - -	0	0	2

IV.—Rates on Persons using the Lift.

For every person who shall use the lift for each and every time any sum not exceeding - - - - - - -	0	0	2

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