CHAPTER cxcvi.

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An Act to extend the time for the completion of the Freshwater Yarmouth and Newport Railway and for the purchase of land therefor; to authorize the Freshwater Yarmouth and Newport Railway Company to raise additional capital and for other purposes. [20th August 1883.]

WHEREAS by the Freshwater Yarmouth and Newport Railway Act 1880 (in this Act called "the Act of 1880") the Freshwater Yarmouth and Newport Railway Company (in this Act called "the Company") were incorporated for the purpose of making and maintaining the Railway in that Act mentioned from Freshwater to Newport in the Isle of Wight with a share capital of one hundred thousand pounds and power to borrow not exceeding thirty-three thousand three hundred pounds:

And whereas the time limited by the Act of 1880 for the compulsory purchase of lands will expire on the twenty-sixth day of August one thousand eight hundred and eighty-three and the period limited for the completion of the said Railway and works thereby authorized will expire on the twenty-sixth day of August one thousand eight hundred and eighty-five:

And whereas it is expedient that the times so respectively limited for the compulsory purchase of lands and the completion of the said Railway and works should be extended:

And whereas the Totland Bay Pier and Hotel Company Limited (in this Act called "the Totland Bay Company") have constructed under the powers of the Totland Bay Pier Order 1879 (in this Act referred to as "the Order of 1879") a pier jetty and landing place with approaches and other works at Totland Bay in the said Island and own and conduct an hotel near the said pier:

And whereas the Company and the Totland Bay Company have entered into an agreement (a copy of which is set forth in the schedule to this Act) for the transfer to the Company of the

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undertaking of the Totland Bay Company and it is expedient that the said agreement should be confirmed and that provision should be made accordingly as hereinafter provided:

And whereas it is expedient that the Company should be authorized to raise further moneys:

And whereas the Company have not issued any debenture stock:

And whereas it is expedient that the Company and the companies hereinafter in that behalf mentioned should be empowered to enter into working and other agreements as hereinafter provided:

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:—

Short title.

1. This Act may be cited as the Freshwater Yarmouth and Newport Railway Act 1883.

Incorporation of Acts.

2. The clauses and 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 non-payment 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 making of dividends;

The giving of notices; and

The provision to be made for affording access to the special Act by all parties interested and Part I. (relating to cancellation and surrender of shares) and 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 and Part III. (relating to working agree-

ments) of the Railways Clauses Act 1863 as amended by the Regulation of Railways Act 1873;

are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation.

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 Totland Bay Undertaking" shall mean the Totland Bay Undertaking as defined in the scheduled agreement And for the purposes of this Act 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.

Extending the period for compulsory purchase of lands.

4. The period limited by the Act of 1880 for the compulsory purchase of lands shall so far as relates to any lands comprised in the plans and books of reference referred to in the said Act of 1880 which have not been already purchased or contracted to be purchased by the Company be extended and such powers shall continue in force and may be exercised at any time before but shall not be exercised after the twenty-sixth day of August one thousand eight hundred and eighty-six.

Extending period for completion of the works authorized by Act of 1880.

5. The period limited by the Act of 1880 for the completion of the Railways and works authorized by that Act is hereby extended to the twenty-sixth day of August one thousand eight hundred and eighty-eight and if the said Railways and works be not then completed then at the expiration of that period the powers granted to the Company for making and completing the same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed.

Confirming scheduled Agreement and provisions as to transfer of Totland Bay undertaking.

6. The agreement set forth in the schedule to this Act (hereinafter called "the scheduled agreement") is hereby confirmed and made binding upon the Companies parties thereto and shall be carried into full effect accordingly and for the purpose of giving more complete effect to the said agreement the following provisions shall have effect that is to say:—

(A) The Company and their directors officers and servants respectively shall be entitled from the time at which the sale or transfer shall take effect to the management regulation maintenance user working and enjoyment of the premises sold

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or transferred and of the traffic thereon and of the business thereof and to the regulating taking and enjoying of the tolls rates duties charges and other payments and advantages in respect thereof.

(B) All the rights powers and privileges of the Totland Bay Company and their officers and servants respectively which by virtue of the Order of 1879 and this Act respectively might be exercised and enjoyed by them respectively with respect to the premises sold or transferred and which in accordance with the terms and conditions of this Act are to be exercised and enjoyed by the Company and their directors officers and servants respectively with respect to such premises shall be exercised and enjoyed accordingly under and with the same regulations restrictions conditions obligations penalties and immunities in accordance with the Order of 1879 and this Act respectively as by the Totland Bay Company and their officers and servants respectively.

(C) The premises so sold or transferred to the Company and the rights powers privileges and authorities to be in accordance with this Act exercised and enjoyed by the Company with respect to the same shall at the time at which such sale or transfer shall take effect be by this Act and subject to the provisions thereof and subject also to the other provisions (if any) of any deed of conveyance executed in accordance with this Act transferred to and vested in the Company absolutely as part of their undertaking.

(D) Such sale or transfer shall be evidenced by a deed Provided always that the Company shall within three months from the date of such sale or transfer produce the instrument to the Commissioners of Inland Revenue duly stamped with the proper ad valorem duty and in default of its being so produced the ad valorem duty with interest thereon at the rate of five pounds per centum per annum from the time at which such sale or transfer shall take effect shall be recoverable from the Company with full costs of suit and all costs and charges attending the same.

(E) From and after the time at which such sale or transfer shall take effect the Company in accordance with the extent of such sale or transfer respectively but subject to the provisions of this Act shall be subject to and perform conform and be liable to all contracts agreements duties obligations debts charges claims and demands whatsoever with respect to the premises sold or transferred to which the Totland Bay Company if

the sale or transfer had not taken effect would have been subject or liable and shall indemnify the Totland Bay Company and the directors officers and servants of that company from the same and all costs charges and expenses with respect to the same.

(F) From and after the time at which such sale or transfer shall take effect the Order of 1879 shall be read and have effect as if the same had been granted with respect to the Company instead of with respect to the Totland Bay Company.

(G) Notwithstanding the vesting in the Company of the Totland Bay Undertaking and except only as is by this Act otherwise expressly provided everything before the vesting done suffered and confirmed respectively under or by virtue of the Order of 1879 shall be as valid as if the vesting had not happened and the vesting and this Act respectively shall accordingly be subject and without prejudice to everything so done suffered and confirmed respectively and to all rights liabilities claims and demands both present and future which if the vesting had not happened would be incident to and consequent on any and everything so done suffered and confirmed respectively provided that the generality of this provision shall not be restricted by any other of the sections and provisions of this Act.

Power to Company to maintain hotel &c.

7. The Company may if the transfer include the portion of the Totland Bay Undertaking secondly described in the scheduled agreement on and from the date at which such sale or transfer shall take effect hold enjoy and maintain as part of their undertaking the hotel buildings lands and property and effects of the Totland Bay Company and they may furnish stock manage and conduct such hotel and the business thereof and may employ officers managers and servants therein or in connection therewith may demise the same for any term of years and may apply their corporate funds to those purposes or any of them and may appoint a committee or committees for all or any of those purposes and may depute to such committee or committees all or any of the powers by this section conferred upon them.

Power to raise additional capital.

8. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise any additional capital not exceeding in the whole forty-two 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

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less nominal value than ten pounds 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.

Extending certain provisions of Act of 1880.

9. Sections ten to seventeen both inclusive of the Act of 1880 shall extend and apply to any ordinary share or stock in the said additional capital issued under the powers of this Act in as full and complete a manner as if those clauses were incorporated with and formed part of this Act.

Except as otherwise provided new shares or stock to be subject to the same incidents as other shares or stock

10. Except as by this Act otherwise provided the capital in new shares or stock created by the Company under this Act and 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 whatsoever in all respects as if that capital were part of the original 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.

11. Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend 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.

Restrictions as to votes in respect of preferential shares.

12. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned.

Power to borrow.

13. The Company may in respect of the additional capital of forty-two thousand pounds which they are by this Act authorized to raise from time to time borrow on mortgage of their undertaking any sum not exceeding in the whole fourteen thousand pounds and of that sum they may borrow seven thousand pounds in respect of each sum of twenty-one thousand pounds of such additional capital but no part of any such sum of seven thousand pounds shall be borrowed until shares for so much of the portion of additional capital in respect of which it is to be borrowed 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 so much of such portion of capital as is to be raised by shares have 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 therein 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 such portion of 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 respective portion of additional 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.

Existing mortgages to have priority.

14. The principal moneys secured by all mortgages granted by the Company in pursuance of the powers of the Act of 1880 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.

Repealing provisions as to appointment of a receiver.

15. The provisions of the Act of 1880 as to the appointment of a receiver are hereby repealed but without prejudice to any appointment made or proceedings taken before the passing of this Act.

For appointment of a receiver.

16. The mortgagees of the Company's undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver In order to authorize the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one-tenth of the amount for the time being owing by the Company upon mortgages.

Debenture stock.

17. 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 or in the Act of 1880 contained the interest of all debenture stock and of all mortgages at any time after the passing of this Act created and issued or

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granted by the Company under the Act of 1880 or this or any subsequent Act shall subject to the provisions of any subsequent Act rank pari passu (without regard to the dates of the securities or of the Acts of Parliament or resolutions by which the stock or mortgages were authorized) and shall have priority over all principal moneys secured by such mortgages.

Application of money.

18. All moneys by this Act authorized to be raised by shares or stock or debenture stock or by borrowing shall be applied only for the purposes of the Act of 1880 and of this Act to which capital is properly applicable.

Further provision as to capital.

19. In the event of the sale or transfer to the Company of that portion only of the Totland Bay Undertaking which is firstly described in the scheduled agreement the additional share capital of the Company which the Company are by this Act authorized to raise may be increased by six thousand pounds and the borrowing powers of the Company under this Act may be increased by two thousand pounds and

In the event of such sale or transfer including the whole of the Totland Bay Undertaking such additional share capital may be further increased by eight thousand pounds and the Company may borrow on mortgage of that portion of the Totland Bay Undertaking which is secondly described in the scheduled agreement any sum or sums not exceeding in the whole sixteen thousand pounds but any sums of money so borrowed shall be secured only upon the said portion of the Totland Bay Undertaking which is so secondly described in the scheduled agreement or upon such part thereof as shall be mentioned in the mortgage and the mortgages so made and the money thereby secured shall be in addition to and irrespective of any other moneys which by this Act the Company are authorized to borrow and shall be unaffected by the provisions of this Act with respect to those mortgages and the borrowing of those moneys respectively.

As to separate capital for Totland Bay Undertaking.

20. The Company may at any time with the authority of their shareholders at a general meeting to be called with notice of the object declare that the Totland Bay Undertaking or either of the portions of the said undertaking described in the scheduled agreement shall form a separate undertaking and in that event so much of the additional capital by this Act authorized to be raised as may be required for the purpose of the sale or transfer of the said undertaking or any portion thereof as aforesaid shall be raised as separate capital (herein called "the separate capital") and by such resolution or by a resolution passed at any ordinary

general meeting they shall determine what proportion of the general expenses of the Company (if any) or what annual or other sum in lieu thereof (if any) shall be paid by and out of the revenue of such separate undertaking and the same shall thenceforth be paid accordingly and in the event of their so resolving or determining the following provisions shall have effect (that is to say) :—

(A) The Company shall keep separate and distinct accounts of their receipts credits payments and liabilities on account of the separate capital or revenue arising from such separate undertaking ;

(B) All mortgages or debenture stock to be granted or issued in respect of the separate capital under the powers of this Act shall be a charge exclusively upon the said separate undertaking and of the rates and revenues of the said separate undertaking and shall not comprise or affect any other property or undertaking of the Company under this Act and no other mortgages or debenture stock granted or issued by the Company shall be a charge upon the said separate undertaking ;

(C) The mortgages from time to time granted by the Company in respect of the separate capital shall on the face thereof distinctly denote that such mortgage is a mortgage only upon the said separate undertaking ;

(D) The profits from time to time of the Company arising from their separate undertaking and applicable to payment of dividend shall be applied in the payment of dividend only on the Company's separate capital under this Act ;

(E) Shares and stock in the separate capital shall not confer on holders thereof any right of voting or interference at any meeting of the Company on the affairs of the Company not relating to the said separate undertaking except for the election of directors and in any matters affecting the said shareholders or stockholders respectively for both of which matters such shareholders and stockholders shall have the same right of voting as the shareholder and stockholder in the general capital of the Company ;

(F) It shall not be lawful for the holders of shares or stock in the general capital of the Company to interfere with the expenditure of the separate capital or in any other matter affecting that capital or the separate undertaking ;

(G) The shareholders and stockholders in the separate capital may from time to time appoint regulate and remove a committee

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of directors of the Company for the management and regulation of the said separate undertaking and the exercising of all or any of the powers of the directors with respect to the said separate undertaking.

Power to enter into traffic arrangements.

21. The Company on the one hand and the London and South Western and the Didcot Newbury and Southampton Railway Companies or either of them on the other hand may subject to the provisions of Part III. of the Railways Clauses Act 1863 as amended or varied by the Regulation of Railways Act 1873 from time to time enter into carry into effect and rescind contracts agreements and arrangements with respect to the following purposes or any of them (that is to say):—

The working use management and maintenance by the contracting Companies or either of them of the Railways and works of the Company or any part or parts thereof respectively;

The management regulation interchange collection transmission and delivery of traffic upon or coming from or destined for the Railways of the contracting Companies or either of them;

The supply and maintenance under any agreement for the Railways and works of the Company being worked and used by the contracting Companies or either of them as aforesaid of engines stock and plant necessary for the purposes of such agreement and the employment of officers and servants for the conduct of traffic;

The fixing collection payment appropriation apportionment and distribution of the tolls rates income and profits arising from the respective Railways and works of the contracting Companies or either of them or any part thereof;

The payments allowances drawbacks or rebates to be made by either of the contracting Companies to the other or others of them;

The appointment of joint committees for carrying into effect any of the objects aforesaid.

The newspaper in which notice of any agreement shall in accordance with the requirement of the Railways Clauses Act 1863 be published shall be a newspaper published and circulating in the town and county of the town of Southampton.

Tolls on traffic conveyed partly on the Railways and

22. During the continuance of any agreement to be entered into under the provisions of this Act for the working or use of the Railways or any of the Railways of the Company or any part thereof by any other railway company or companies the Railway

of the Company and of such other company or companies shall for the purposes of short distance tolls and charges be considered as one Railway and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the Railway of the Company and partly on the railways of such other company or companies for a less distance than four miles tolls and charges may only be charged as for four miles and in respect of passengers for every mile or fraction of a mile beyond four miles tolls and charges as for one mile only and in respect of animals and goods for every quarter of a mile or fraction of a quarter of a mile beyond four miles tolls and charges as for a quarter of a mile only and no other short distance charge shall be made for the conveyance of passengers animals or goods partly on the Railway of the Company and partly on the railways of such other company or companies.

partly on other Railways.

23. The Company shall not out of any money by the Act of 1880 or this Act authorised to be raised pay interest or dividend to any shareholder on the amount of the 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.

Prohibiting payment of interest out of capital.

24. 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.

Deposits for future Bills not to be paid out of capital.

25. Nothing in this Act contained shall exempt the Company or the Railway from the provisions of any general Act relating to railways or the better and 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 for small parcels authorised to be taken by the Company.

Provisions as to general Railway Acts.

26. 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.

Costs of Act.

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The SCHEDULE referred to in the foregoing Act.

AN AGREEMENT made the Fourth day of July One thousand eight hundred and eighty-three between THE TOTLAND BAY PIER AND HOTEL COMPANY LIMITED (hereinafter called the Vendors) of the one part and THE FRESHWATER YARMOUTH AND NEWPORT RAILWAY COMPANY (hereinafter called the Purchasers) of the other part.

It is hereby agreed as follows:—

1. In case the Purchasers shall desire to purchase any portion of the Totland Bay Undertaking consisting of (1) the pier and jetty and landing place at Totland Bay in the Isle of Wight with the toll house approaches thereto and works connected therewith a portion of the cliff and a piece of freehold land adjoining thereto as the same are delineated on the plan annexed hereto and thereon coloured pink and all property and effects rights powers authorities or privileges of the Vendors connected therewith (2) the hotel known as the Totland Bay Hotel with the lands buildings and conveniences belonging thereto as the same are delineated on the said plan and thereon coloured green and all property and effects rights powers authorities and privileges of the Vendors connected therewith and of such desire shall give notice to the Vendors the Vendors will sell and the Purchasers will purchase either the whole of the said Undertaking at the price of thirty-one thousand five hundred pounds or if the Vendors so desire and of their desire shall at any time before the expiration of the time mentioned in that behalf in such notice give a notice in writing to the Purchasers then so much thereof as are hereinbefore numbered (1) at the price of seven thousand five hundred pounds whichever shall by such notice be expressed to be desired.

2. The title to the premises numbered (1) shall commence with the respective documents of title under which the same were acquired by the Vendors.

3. The Vendors shall at their own expense within twenty-one days from the receipt of such notice as aforesaid send to the Purchasers' Solicitor an abstract of the title to the premises referred to in such notice and the Purchasers shall within twenty-one days after the actual delivery of the abstract send in writing to the Vendors' Solicitors their requisitions and objections if any in respect of the title and of all matters appearing upon this Agreement and the abstract respectively and in default of such objections and requisitions if none and subject only to such objections and requisitions if any as shall be so sent in

within the time aforesaid (time being of the essence of the contract) the Purchasers shall be deemed to have accepted the title. A.D. 1883.

4. Should the Purchasers insist on any objection or requisition as to the title evidence of title conveyance or otherwise which the Vendors may be unable or on the ground of expense or otherwise unwilling to answer comply with or remove the Vendors may at any time and notwithstanding any intermediate or pending negociations proceedings or litigation rescind the sale and in that event the Purchasers shall not be entitled to any costs or compensation.

5. If any error misstatement or omission shall be discovered in the respective descriptions of the several premises before the actual conveyance thereof but not afterwards compensation shall be allowed and given as the case may require and the amount shall be settled by arbitration in the usual manner.

6. The purchase-money shall be paid on the expiration of two calendar months after the receipt of such notice as aforesaid at the offices of the Vendors' Solicitors to the Chairman of the Board of Directors of the Vendors or as he shall direct and thereupon the Vendors and all other necessary parties if any shall execute a proper assurance of the premises to the Purchasers. Such assurance shall be prepared and perfected by and at the expense of the Purchasers and shall be left by them at the office aforesaid for perusal on behalf of the Vendors not less than seven days before the completion of the purchase.

7. The revenue of the undertakings will be received and the outgoings will be discharged and the possession retained by the Vendors down to the day of the completion of the purchase and as from that day the Purchasers shall be entitled to such revenue or possession and shall discharge the outgoings and such revenue and outgoings shall if necessary for the purposes of the stipulation be apportioned between the Vendors and Purchasers.

8. If from any cause whatever the completion of the purchase shall be delayed beyond the day hereinbefore appointed for that purpose the Purchasers shall pay interest at the rate of five per centum per annum on the purchase-money from that day until the purchase shall be completed.

9. If the Purchaser shall neglect or fail to comply with the foregoing stipulations on his part the Vendors shall be at liberty to rescind this contract.

10. This Agreement shall if Parliament so permit and subject to any alteration or modification which Parliament may require and the said Vendors accept be scheduled to the said Bill for which the Purchasers are applying in the present Session of Parliament.

11. All the stipulations hereinbefore contained shall be considered as conditional upon the said Bill receiving the Royal Assent before the first day of October one thousand eight hundred and eighty-three.

In Witness whereof the Totland Bay Pier and Hotel Company Limited and the Freshwater Yarmouth and Newport Railway Company have respectively

A.D. 1883. caused their common seals to be hereunto affixed the day and year first above written.

Sealed by the Totland Bay Pier and Hotel Company Limited in the presence of
RD. JNO. PALMER
Secretary
Totland Bay Pier and Hotel Company Limited.

The Seal of the Totland Bay Pier and Hotel Company Limited Isle of Wight

Sealed by the Freshwater Yarmouth and Newport Railway Company in the presence of
JAS. H. MATTHEWS
Secretary
Freshwater Yarmouth and Newport Railway Company.

Seal of the Freshwater Yarmouth and Newport Railway Company.

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