CHAPTER lviii.

An Act to enable the Milford Haven Dock and Railway Company to lease their Railway and Pier undertaking and for other purposes. [3rd June 1881.]

A.D. 1881.

WHEREAS the Milford Haven Dock and Railway Company (in this Act called "the Company") were incorporated by the Milford Haven Dock and Railway Act 1860 (herein-after called "the Act of 1860" with power to make a railway to Newton Noyes on the north side of Milford Haven and to form a pier and to embank deepen and alter part of Castle Pill and to convert the same into a dock and to dredge and deepen portions of Milford Haven and by the said Act it was provided that the railway thereby authorised should be completed within three years from the passing of the said Act and that after the expiration of ten years from the passing of the said Act all the powers thereby granted to the Company for executing the other works thereby authorised should cease to be exercised, except as therein stated:

23 & 24 Vict. c. clvi.

And whereas by the Milford Haven Dock and Railway Act 1863 (herein-after called "the Act of 1863") the time limited for the compulsory purchase of lands was extended for one year and the time limited for the completion of the railway authorised by the Act of 1860 was extended for three years from the passing of the Act of 1863:

26 & 27 Vict. c. clxiii.

And whereas by the Milford Haven Dock and Railway Amendment Act 1867 the powers for the completion of the said railway were revived and the time for the completion thereof extended for three years from the passing of that Act;

30 & 31 Vict. c. vi.

And whereas the Company have since constructed the said railway and pier respectively authorised by the Act of 1860:

And whereas the Company have not executed the works for embanking deepening or altering part of Castle Pill and converting

A.D. 1881.

the same into a dock as authorised by the Act of 1860 and their powers in relation thereto have ceased and determined;

33 & 34 Vict. c. xlix.

And whereas by the Milford Haven Dock and Railway Act 1870 the Company was authorised from time to time to demise and lease their undertaking to certain persons in the said Act mentioned subject to the conditions and in the manner by the said Act provided;

And whereas in pursuance of the powers conferred upon them by the said lastly-recited Act the Company did by an indenture of lease bearing date the 1st day of November 1871 demise their undertaking to the persons in the said Act mentioned but the said undertaking was by a further indenture bearing date the 15th day of February 1876 assigned and surrendered unto the Company so that the term created by the said firstly-recited indenture might be merged in the freehold and inheritance of the premises and that the said undertaking might become the absolute property of the Company

And whereas the Company and certain persons acting as trustees of the National Provident Institution and Samuel Lake and Thomas Walmsley Taylor have entered into the agreement a copy of which is set forth in the schedule to this Act annexed (in this Act referred to as "the scheduled agreement") for a lease by the Company to the said Samuel Lake and Thomas Walmsley Taylor of the railway pier and works of the Company and the lands and premises therein mentioned.

And whereas it is expedient that the said agreement be confirmed and that for giving effect to the same provisions as are in this Act contained should be made.

And whereas the objects 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:

Short title.

1. This Act may be cited for all purposes as the Milford Haven Dock and Railway Act 1881.

Scheduled agreement confirmed.

2. The scheduled agreement is hereby confirmed and made binding upon the respective parties thereto and the Company and other parties thereto are hereby respectively authorised and empowered to carry the same into execution Provided always that nothing in this Act or in the said agreement contained shall be

held to recognise or confirm any right title or claim of the said trustees to any foreshore of Castle Pill but the right and title to such foreshore shall remain in the same state as if this Act had not been passed.

Incorporation of certain provisions of 8 & 9 Vict. c. 20.

3. The provisions of the Railways Clauses Consolidation Act 1845 with respect to leasing the railways are incorporated with and form part of this Act and shall extend and apply with respect to any lease to be granted under the authority of this Act and for the purposes of such incorporation the term the "special Act" in the said provisions shall be construed to mean this Act.

Repeal of sections 6, 7, and 8 of 33 & 34 Vict. c. xlix.

4. From and after the passing of this Act sections six seven and eight of the Milford Haven Dock and Railway Act 1870 shall be and the same are hereby repealed.

Saving rights of the Crown in the foreshore.

5. Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may 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.

Provision as to general Railway Acts.

6. Nothing in this Act contained shall exempt the Company or their railways or any person owning or working the said railways from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of the 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.

Expenses of Act.

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

A.D. 1881.

SCHEDULE.

An Agreement made the twenty-seventh day of October 1880 between the Milford Haven Dock and Railway Company (herein-after called "the Dock and Railway Company") of the first part Sir Charles Whetham Knight and alderman of the City of London Sir Charles Reed Knight M.P. Joseph Fell Christy Esq. and Sir Thomas Chambers Q.C. M.P. Recorder of the City of London the Trustees of the National Provident Institution (herein-after called "the Trustees") of the second part and Samuel Lake and Thomas Walmsley Taylor of No. 27 Queen Street Cannon Street in the City of London contractors (herein-after called "Lake and Co.") of the third part.

Whereas by the Milford Haven Dock and Railway Company's Act 1860 the Dock and Railway Company was incorporated and authorised to make and maintain the railway pier and works therein mentioned and to carry on the undertaking thereby authorised and by the Milford Haven Dock and Railway Act 1863 the Milford Haven Dock and Railway Amendment Act 1867 and the Milford Haven Dock and Railway Act 1870 the time for completion of the said railway pier and works was extended and the Dock and Railway Company and their lessees were authorised to grant and accept the lease herein-after mentioned to have been granted and to be now surrendered and at the date of the execution of the said lease the railway pier and works or the substantial part thereof had been constructed but certain works and things were requisite for the effectual completion and opening thereof for public traffic And whereas by an indenture of lease dated the 1st day of November 1871 and made between the Dock and Railway Company of the one part and George Bower Alfred Beeston John Morton Toler and James Allan Eaton of the other part the Dock and Railway Company in pursuance of the powers of the last-mentioned Act demised unto the said George Bower Alfred Beeston and John Morton Toler and James Allan Eaton the said railway pier and works and the property and powers belonging or incident to the said undertaking as therein mentioned to hold the same unto the said George Bower Alfred Beeston John Morton Toler and James Allan Eaton for the term of 14 years at the rent thereby reserved and subject to covenants therein contained including a covenant for the construction and supply by the lessees of certain works appliances and

things therein mentioned And whereas by an indenture dated the 15th day of February 1876 endorsed upon the said indenture of lease and made between the said George Bower Alfred Beeston John Morton Toler and James Allan Eaton of the one part and the Dock and Railway Company of the other part for the considerations therein mentioned the said George Bower Alfred Beeston John Morton Toler and James Allan Eaton assigned and surrendered unto the Dock and Railway Company the premises demised by the said indenture of lease and the plant machinery appliances and things on or about the site thereof (including fixtures tenants fixtures and chattels as therein mentioned) to the intent that the term thereby created might be merged in the freehold and inheritance of the premises and that all and singular the signals sidings and other works buildings plant machinery appliances and things of the nature of fixtures or tenants fixtures might form part of the said freehold and inheritance and that all other materials appliances and effects upon the said railway and pier or contiguous thereto might become the absolute property of the Dock and Railway Company And whereas the said fixtures tenants fixtures and chattels or the greater portion thereof still remain on or about the site of the said undertaking And whereas since the date of the said surrender and assignment the Dock and Railway Company have been unable to carry on the said undertaking and the said railway pier and works fixtures tenants fixtures and chattels have fallen into disrepair and are not now fit for use and public traffic And whereas the site of the said railway pier and works and of all the land and hereditaments claimed to be held by the Dock and Railway Company for the purposes of the said undertaking is delineated on a plan sealed by the Company and signed by Lake and Company and therein coloured red but some portion of the said land coloured red (of which the trustees claimed to be owners) has not been assured to the Dock and Railway Company but has been occupied by the Dock and Railway Company with the consent of the trustees on the terms that the purchase money should ultimately be ascertained and paid according to the Acts relating to the said undertaking And whereas the trustees claim to be also the owners of certain lands and foreshore rights lying between the said land of the Dock and Railway Company and Milford Haven also delineated in the said plan and therein coloured blue and yellow (and herein-after called "the trustees land and foreshore") and have certain rights in the creek or tidal water shown in the said plan with the words "Castle Pill" and herein-after so referred to And whereas it is essential to the repair and use of the railway of the Dock and Railway Company that a proper bridge over Castle Pill should be provided to replace the bridge which has fallen into disrepair and been removed And whereas by the Milford Haven Dock Act 1874 the Milford Docks Company (herein-after called "the New Docks Company") was incorporated and authorised to make and maintain works therein mentioned and for that purpose to take and purchase lands including portions of the said lands of the Dock and Railway Company and of the trustees land and foreshore and the land comprised in the limits of deviation shown on the plans deposited for the purposes of the said Act is shown on the said sealed and signed plan by a broken red line corresponding with the limits of deviation And whereas by an agreement bearing even date with these presents and made between the trustees of the one part and Lake and Company of the other part it is agreed that the trustees shall grant and that Lake and Company shall

A.D. 1881.

accept a lease of the trustees land and foreshore (except as therein mentioned) for a term substantially similar to the term hereby agreed to be granted and at a rent therein mentioned and it is thereby agreed that in certain events therein mentioned the term thereby agreed to be created shall be determined And whereas arrangements have been made to the effect herein-after appearing and for the purposes of this agreement "Lake and Company" have paid to the Dock and Railway Company the sum of 1,000*l.* on the execution of this agreement And whereas the expression "the undertaking" of the Dock and Railway Pier Company herein-after used refers to and includes the said railway and pier and all matters connected therewith and the enjoyment thereof but does not refer to or include any works or powers relating to the conversion of Castle Pill or any part thereof into a dock the time for which works as limited by the said Acts has now expired Now it is hereby agreed (conditionally on such parliamentary authority being obtained as herein-after mentioned) by and between the Dock and Railway Company with the consent and approbation of the trustees on the one hand and Lake and Company and each one of them on the other hand as follows that is to say :—

1. The Dock and Railway Company will grant and Lake and Company will accept a lease of the railway pier and works of the Dock and Railway Company and in addition to the actual site of the said railway pier and works all the lands and hereditaments shown on the said sealed and signed plan and coloured red (whether actually conveyed to or agreed to be taken or paid for by the Dock and Railway Company or otherwise) of the Dock and Railway Company as are not authorised to be taken and purchased by the New Docks Company by being included within the limits of deviation shown on the plans deposited for the purpose of any Act of Parliament passed before the Act sanctioning this agreement and so that such part of the said lands as shall not have been or be taken and purchased or agreed to be taken or purchased by the New Docks Company within any time limited for such purchase shall be considered as to be included in the said lease together with all plant machinery appliances materials and things on or about the said railway pier works land and premises of the nature of fixtures or tenants fixtures a list whereof has been prepared and sealed by the Company and signed by Lake and Company and the right to the reasonable use and enjoyment for purposes of the undertaking of all plant machinery appliances materials and things not of the nature of fixtures or tenants fixtures a list whereof has been prepared and sealed by the Company and signed by Lake and Company and all the undertaking of the Dock and Railway Company and all other powers with respect thereto including the receipt and recovery of tolls rates and charges and the right to enforce byelaws and recover damages and generally all the powers authorities and privileges exerciseable or enjoyable by the Dock and Railway Company under any Act of Parliament or otherwise for carrying on or in relation to their said undertaking under the same conditions or restrictions as are imposed by the same Acts on the Dock and Railway Company their directors officers and servants.

2. To hold all and singular the demised premises subject to the rights and powers of the New Docks Company unto Lake and Company from and after the 1st day of January 1881 for the term of 21 years.

3. Yielding and paying by quarterly payments on the 1st day of January the 1st day of April the 1st day of July and the 1st day of October in each year the rents following that is to say:

1st. A yearly rent (herein-after called "the fixed rent") which shall be 250*l.* per annum during the first 7 years of the said term of 21 years 500*l.* per annum during the second 7 years of the said term and 1,000*l.* per annum during the last 7 years of the said term;

2nd. A yearly rent (herein-after called "the royalty rent") which shall be a sum in each of the first 5 years of the said term of 21 years equal to 5 per cent. of the gross receipts of the lessees arising from or in respect of the premises hereby demised or the undertaking and business and transactions at any time carried on by the lessees or in anywise attributable to such premises undertaking and business and a sum in each of the remaining years of the said term equal to 10 per cent. of such gross receipts as aforesaid,

And it is hereby agreed and declared conditionally as aforesaid as follows:

4. The expression "the lessees" herein used shall mean the persons or corporations who shall from time to time consistently with the stipulations of these presents be entitled to the interest of Lake and Company in the demised premises.

5. The said gross receipts shall be ascertained as soon as possible after the expiration of each quarter of a year from the commencement of the term and shall in cases of dispute be determined by some person to be agreed upon between the Dock and Railway Company and the lessees or in default of such agreement by some accountant to be appointed at the request of the lessees or of the Dock and Railway Company (whichever shall first apply) by the Board of Trade and the gross receipts shall be deemed to have been ascertained for the purposes of these presents as soon as an account showing the same shall have been agreed upon by the Dock and Railway Company and the lessees or certified by such accountant as the case may be Provided also that the four quarterly payments in each year shall not be necessarily equal but shall be equalised so far as reasonably and conveniently possible Provided also that in estimating the gross receipts all receipts from any and every source whatever obtained from carrying on any business or doing or permitting any act for payment involving the use of any part of the demised premises shall be included and that in arriving at such gross receipts the lessees shall not be entitled to deduct any payment or allowance whatever.

The lessees shall charge themselves with and add to the gross receipts proper rates tolls and charges in respect of all goods carried over any part of the undertaking or works or in respect of the use thereof for or on account of the New Docks Company.

And the following stipulations shall take effect by way of covenants by the lessees with the Dock and Railway Company incident to the said lease that is to say:—

6. The lessees will from time to time during the term well and truly pay the rents aforesaid as and when the same become payable clear of all deductions and abatements whatsoever.

A.D. 1881.

7. The lessees shall during the term keep all such accounts with all such details of items as shall be proper and sufficient for ascertaining and determining the amount from time to time of the royalty rent and for showing and proving in full detail how such amount is arrived at and for all other purposes of these presents.

8. The lessees shall in keeping such accounts credit the gross receipts to the account of the demised premises without any deduction and shall use and employ at their own expense such servants and agents as they shall deem necessary for the purposes aforesaid having regard to the covenants herein contained.

9. The lessees shall within 21 days after the first quarter of a year of the term and also within 21 days after the determination of each succeeding quarter of a year during the term deliver to the Dock and Railway Company or leave at any office to be from time to time indicated by the Dock and Railway Company or on their behalf a statement of gross receipts within the meaning of these presents for the then last quarter of a year and the Dock and Railway Company and the directors or authorised agents thereof shall at all times both before and after such delivery have free and full access to the books accounts and other documents to which the statement relates and from which the items therein are derived with all proper and sufficient facilities for examining and transcribing the same respectively and testing the accuracy thereof and every such statement shall as and when required by the Dock and Railway Company be verified by statutory declaration by the person or persons connected with the business and the lessees will permit the Dock and Railway Company and the directors or authorised agents thereof at all reasonable times to enter upon the demised premises or any buildings or erections to be erected thereon to view the condition thereof.

10. The lessees shall from time to time during the term pay the land tax rents and all present and future taxes rates assessments and impositions whatsoever in respect of the demised premises or charged upon the Dock and Railway Company or the lessees in respect of the demised premises.

11. The lessees shall at all times during the term and in the exercise of the powers conferred by the said demise of fixing the rates tolls charges and otherwise and of their discretion in respect to such powers work use and manage the demised premises in a proper safe and efficient manner and so as to preserve and get the full benefit therefrom and to produce the largest possible income therefrom Provided that any working by the Great Western Railway Company or any other company or person under any duly authorised agreement with the consent of the Dock and Railway Company shall not be deemed inconsistent with this clause.

12. The lessees shall at their own expense forthwith replace the bridge over Castle Pill by a proper bridge and do such other works as are required to enable the undertaking of the Dock and Railway Company to be resumed and carried on as efficiently as originally contemplated by the Milford Haven Dock and Railway Act 1860 and to the satisfaction of the Board of Trade and shall repair and keep in thorough repair all the works of the Dock and Railway Company whether originally constructed or constructed for restoration repair or addition

and all works connected with the undertaking made for the protection of public or private property or for the accommodation of owners or occupiers of land adjoining the demised premises and also all approaches bridges and other works which the Dock and Railway Company may be liable by statute to maintain including all renewals of way and works so that the undertaking may be and remain in the complete and efficient state originally contemplated as aforesaid and to the satisfaction of the Board of Trade. All the works contemplated by this clause shall be duly completed by the 1st day of January 1881.

13. The lessees shall at all times during the term provide and employ proper assistants and all such managers superintendents clerks workmen servants and all such locomotive and other engines rolling stock cranes gearing implements stock plant stores materials and labour as shall be proper and efficient for the due management and user (in pursuance of the covenants herein-before contained) of the demised undertaking.

14. The lessees shall at all times during the term in exercise of their powers authorities rights and privileges under the said demise in all respects duly perform and observe the several provisions with respect to the management working user and maintenance of the demised premises and the rights thereby conferred contained in any Acts of Parliament from time to time in force with respect to the demised premises or contained in any agreements relating thereto existing at the date of these presents and will at all times indemnify and save harmless the Dock and Railway Company from and against all penalties forfeiture losses damages costs charges expenses claims and demands whatsoever in any way occasioned or incurred by reason of any act or default of the lessees or their servants in relation to the management working user and maintenance of the demised premises or in any business carried on in respect thereto.

15. The lessees will throughout the term maintain the value of the fixtures tenants fixtures and chattels on the demised premises at the full present value and will not change the nature of any fixtures tenants fixtures and chattels without the consent of the Dock and Railway Company.

16. The lessees shall at the expiration or sooner determination of the term peaceably and quietly deliver up to the Dock and Railway Company the possession of the demised premises with all fixtures and tenants fixtures thereon in good repair and condition and in complete working order together with fixtures and chattels of a proper nature for the working of the undertaking and of the full value aforesaid and will at the same time give to the Dock and Railway Company the option of taking to any stores and chattels belonging to the lessees and adapted for working the said undertaking then on the demised premises belonging to the lessees paying to the lessees the value thereof and the lessees shall after the expiration or sooner determination of the term do all acts and things necessary for enabling the Dock and Railway Company to have the full benefit of the demised premises and the business carried on therewith.

17. The lessees shall not assign or part with the possession of any of the demised premises or any rights in respect thereof or delegate any of their powers under the said lease without the consent in writing of the Dock and Railway Company.

A.D. 1881.

And the following further provisions shall take effect as incident to the said lease that is to say :—

18. If and whenever the lessees shall make default in payment of [redacted] hereby reserved for 30 days after the same shall have become due or have been ascertained as herein provided or if and whenever the lessees shall assign or part with possession of any of the demised premises or any rights in respect thereof or delegate any of their powers under the said lease except as aforesaid without such consent as aforesaid or shall commit any breach of any covenant hereby agreed to be inserted in such lease which shall be certified by a person appointed for that purpose by the Board of Trade to be sufficient ground for the exercise of this power then and in every such case notwithstanding any waiver of any prior right of re-entry under this provision the Dock and Railway Company into and upon the demised premises or any part thereof in the name of the whole may re-enter and on any such re-entry being made the said term and the privileges granted by the said lease shall absolutely cease to be exerciseable by the lessees who shall nevertheless continue liable for the appointed rent up to the day of such re-entry and the performance of and observance of the said covenants up to the same date and the demised undertaking and all future benefit therefor shall belong absolutely to the Dock and Railway Company.

19. If there shall be during the term any transmission of the interest of the lessees otherwise than by reason of death then in default of approbation by the Dock and Railway Company within 30 days from such transmission of the person or persons entitled to such transmitted interest as a proper person or proper persons to fulfil the obligations of the lessees under the lease or of valid assignment of the demised premises within 30 days after such transmission to a person persons or company approved by the Dock and Railway Company to fulfil the obligations of the lessees the Dock and Railway Company may re-enter and determine the said term with all the rights and consequences in the last preceding clause mentioned.

20. If the lease agreed to be created by the said agreement of even date herewith shall be determined either by the lessees thereunder or by the reversioners entitled subject thereto it shall be lawful for the Dock and Railway Company by notice in writing (given at any time before the day for determination but subject as herein-after mentioned) to determine the term hereby agreed to be created at the same period and every such notice may on the expiration thereof be followed by re-entry in the same manner as a re-entry under the preceding clause in that behalf Provided that the Dock and Railway Company shall not be entitled to determine and re-enter under this clause if they shall neglect to give notice of the intention so to do for more than one calendar month after being informed in writing by the lessees of the determination of the said term created under the said recited agreement.

21. If after the first three years of the said term the fixed rent and the royalty rent do not amount together to 800*l.* or upwards in each year the Dock and Railway Company shall be at liberty to re-enter on the demised premises and determine the said term with all the same rights and consequences as if they had become entitled to re-enter on breach of covenant as in the preceding clauses mentioned.

22. Notice in writing in a letter addressed to the lessees at the demised premises and posted shall be deemed to have been duly given to them within the meaning of this agreement on the day when the letter would be delivered in ordinary course of post.

23. The said lease shall contain an ordinary covenant by the Dock and Railway Company for quiet enjoyment of the demised undertaking by the lessees they paying the rents and performing the covenants.

And it is hereby (unconditionally) agreed as follows:

24 The Dock and Railway Company shall in due course upon Lake and Company paying to them the sum of 500*l.* on account of the costs charges and expenses of the application apply to Parliament for the necessary authority to enter into the lease and arrangements herein-before expressed and Lake and Company shall concur in such application so far as shall be necessary and shall pay all expenses properly incurred of the Dock and Railway Company of and incident to such application and of and incident to these presents and the execution of a lease in pursuance thereof The Bill to be applied for shall in addition to the clauses for authorising the lease and arrangements aforesaid contain such further clauses for conferring such other powers upon Lake and Company not inconsistent with carrying into effect this agreement as Lake and Company shall require.

25. If such application be unsuccessful Lake and Company shall not be entitled to repayment of the aforesaid sums of 1,000*l.* and 500*l.* or either of them or to any payment whatever in respect of any outlay they may have made or damages they may have sustained or may sustain.

And it is hereby agreed and declared by and between the Dock and Railway Company and the trustees that the trustees will give effect to the terms aforesaid and the covenant for quiet enjoyment on the terms that the acquiescence of the trustees in the said lease and this agreement and the previous Acts of the Dock and Railway Company shall not prejudice or affect the right of the trustees to payment for the land and hereditaments taken and occupied by the Dock and Railway Company as aforesaid and that in case upon the purchase of the demised premises by the lessees or upon any other occasion hereafter the trustees for the time being of the National Provident Institution shall assert the right to any purchase money or compensation in respect thereof the amount payable shall be determined by agreement or by arbitration according to the provisions of the Lands Clauses Consolidation Act 1845.

In witness whereof the Dock and Railway Company have caused their common seal to be hereunto affixed and the said parties have hereunto set their hands and seals.

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1881.