CHAPTER lxxviii.

An Act to amend the Newhaven Harbour Improvement Act 1878. A.D. 1882. [3rd July 1882.]

WHEREAS in pursuance of the powers granted by the Newhaven Harbour Improvement Act 1878 (herein-after referred to as the Act of 1878) the Newhaven Harbour Company thereby incorporated have proceeded in the execution of the works at Newhaven in the county of Sussex authorised by the said Act and have down to the 30th day of June last expended thereon a sum exceeding one hundred and ninety-eight thousand pounds (£198,000) and the London Brighton and South Coast Railway Company (herein-after called the Brighton Railway Company) have in pursuance of powers granted to them in the said Act contributed towards the said expenditure down to that day the sum of one hundred and seventeen thousand pounds and have also guaranteed interest or dividends not exceeding 4 per centum per annum on a portion of the share capital of the Harbour Company and they have also guaranteed the payment of interest on the borrowed capital of the Harbour Company and a notification of such guarantee is contained in the several instruments securing the said borrowed capital. 41 & 42 Vict. c. lxxi. Secs. 19 and 64.

And whereas in pursuance of powers contained in the 64th section of the Act of 1878 "Articles of Agreement" dated the 16th day of August 1878 have been made between the Newhaven Harbour Company of the one part and the Brighton Railway Company of the other part and were approved by the Railway Commissioners under their common seal on the 17th day of June 1879 and it is expedient that the operation thereof be extended to the works to be executed and the money to be raised under the powers of this Act. Agreement with Brighton Railway Company.

And whereas by the said Act of 1878 the works thereby authorised are divided into two sections and the Newhaven Harbour Company (who are herein-after meant when the expression "the Company" is used) are required to complete the first section of works before the second section is undertaken And the capital of the Company is in Separation of works secs. 9 and 11. And of capital sec. 15.

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like manner divided for the purpose of outlay into two sections two hundred thousand pounds being devoted to the first and one hundred and twenty thousand pounds to the second section of works.

Repeal thereof.

And whereas in the construction of the first section of works the Company found it essential to execute simultaneously portions of the second section And it is expedient for the sake of safety and economy that the provisions herein-before last recited should be repealed and that the Company should be authorised to exercise their discretion as to the method and order of executing the said works and of applying their capital thereto And that any acts done by them or any capital applied by them before the passing of this Act inconsistently with the said provisions should be sanctioned.

And whereas it is expedient that the Act of 1878 be in other respects amended and especially:

Additional tramway.

That the Company be enabled to make the additional tramway herein-after described.

Diversion of road.

That the Company be enabled to divert a certain road in the parish of Newhaven.

Extension of time for first section.

That the period limited by the Act of 1878 (section 40) for the construction of the first section of works thereby authorised be extended so as to correspond with the period fixed for the second section of works.

Additional lands.

That the Company be authorised to purchase certain additional lands for the purposes of their undertaking.

Additional capital.

And to raise additional capital for the execution of their undertaking.

Brighton Company may contribute.

That the Brighton Railway Company be authorised to contribute additional sums towards the capital of the Company and to guarantee the payment of interest or dividends upon the additional share or borrowed capital of the Company and that any such guarantee already given by them be sanctioned and confirmed.

And that the other provisions herein-after contained be made.

And whereas plans and sections showing the lines and levels of the works authorised by this Act and the lands to be taken for the purposes thereof and plans of the additional lands which the Company are authorised to take under the powers of this Act and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of all such lands were duly deposited with the clerk of the peace for the county of Sussex and the said documents are herein-after respectively referred to as the deposited plans sections and books of reference:

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And whereas the objects of this Act cannot be attained 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 Newhaven Harbour Amendment Act 1882.

Incorporation of general Acts.

2. The following Acts and parts of Acts are excepting where the same are expressly varied by this Act incorporated with and form part of this Act namely:—

The Lands Clauses Consolidation Acts 1845 1860 and 1869; — 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106.

The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof; and — 32 & 33 Vict. c. 18. 8 & 9 Vict. c. 20.

Part 1 of the Railways Clauses Act 1863 relating to the construction of a railway. — 26 & 27 Vict. c. 92.

Extending certain provisions of 8 & 9 Vict. c. 16., and 26 & 27 Vict. c. 118.

3. Subject to the provisions of this Act all the provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (that is to say):—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

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

The forfeiture of shares for nonpayment of calls:

The remedies of creditors of the Company against the shareholders;

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

The conversion of borrowed money into capital;

The consolidation of shares into stock;

The general meetings of the Company and the exercise of the right of voting by the shareholders;

The making of dividends;

The giving of notices;

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

Parts I II and III of the Companies Clauses Act 1863 relating respectively to the cancellation and surrender of shares to additional capital and to debenture stock

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shall be applicable to the capital and moneys hereby authorised to be raised by shares or stock or mortgage and to the proprietors thereof.

Interpretation.

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

In construing in connexion with this Act sections 30 to 44 of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands the words "the railway" and in construing Part I of the Railways Clauses Act 1863 the words "work" and "railway" shall be taken to mean the works authorised by this Act.

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 partly 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.

Power to make tramway &c.

5. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works herein-after described with all proper sidings approaches and conveniences connected therewith respectively and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for those purposes.

The works herein-before referred to and authorised by this Act are:—

(*a*) A tramway 4 furlongs 7·90 chains in length wholly in the parish of Meeching otherwise Newhaven commencing by a junction with the tramway authorised by the Act of 1878 one hundred and forty yards or thereabouts southward of the bonded warehouse belonging to the Brighton Railway Company and terminating by a junction with the said authorised tramway near the north-east corner of the moat of the fort on the Castle Hill.

(*b*) The diversion of a public road in the same parish situate on the south-west side of the mud-land known as Sleeper's Hole commencing at a point opposite the north-west corner of the building known as Noah's Ark and terminating at a point in the said road about two hundred and eighty yards measured in a south-easterly direction along the same from the said point of commencement.

And the said tramway and the works connected therewith shall for all purposes whatsoever be deemed part of the tramway authorised by the said Act of 1878.

Period for completion of works.

6. If the works authorised by this Act are not completed within two years from the passing of this Act then on the expiration of that period the powers by this Act granted for making and completing the said works or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Undertaking need not be executed in separate sections.

7. Notwithstanding anything contained in the 9th 11th 15th and 20th clauses of the Act of 1878 the Company are not required to divide their works or to divide their capital and the money borrowed by them into two sections but they may at their discretion execute all the works authorised by the Act of 1878 simultaneously or in such order as they may find most safe effectual and economical And any acts hitherto done by them or any capital raised and applied by them or raised and contributed by the Brighton Railway Company inconsistently with the provisions contained in the said Act for the division of the works into sections are hereby sanctioned and the Company and the Brighton Railway Company are relieved from all responsibility with respect thereto.

Power to purchase additional lands.

8. Subject to the provisions of this Act the Company in addition to the other lands which they are by this Act authorised to acquire may enter upon and take compulsorily for the improvement and enlargement of their works and for other the purposes of their undertaking the lands herein-after described which are delineated upon the deposited plans and described in the deposited books of reference and they may retain and hold such of the said lands as have already been purchased by them :

(1) Certain lands in the parish of Meeching otherwise Newhaven in Sussex situate between land belonging to the Company and the public highway leading from Newhaven to the Coast Guard Station.

(2) Certain lands in the same parish on the west side of and adjoining to Newhaven Harbour known as "Sleepers Hole."

(3) Certain lands in the parish of Bishopstone in Sussex adjoining the northern side of the Newhaven and Seaford Branch Railway and the western side of Mill Drove and near to Bishopstone Station.

(4) Certain lands in the parish of Bishopstone bounded on the north by the Newhaven and Seaford Branch Railway on the

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west by the boundary line between the parishes of Meeching otherwise Newhaven and Bishopstone and on the south by the sea.

Power to take easements &c. by agreement.

9. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement right or privilege (not being an easement of water) required for the purposes of this Act or any of the purposes of their undertaking in over or affecting any such lands and the provisions of the last-mentioned Acts with respect to lands and rent-charges as far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights or privileges as aforesaid.

Period for compulsory purchase of lands.

10. The powers 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.

Extension of time for construction of firstsection.

11. The period limited by the 40th section of the Act of 1878 for the construction of the first section of works is hereby extended to the 17th day of June 1888.

Company may apply their funds towards purposes of Act and may raise additional capital.

12. The Company may apply to the purposes of this Act any of the moneys which they are already authorised to raise and which may not be required by them for the purposes for which the same were authorised to be raised and the Company may for the purposes of this Act and for the general purposes of their undertaking from time to time subject to the provisions of Part II. of the Companies Clauses Act 1863 raise in addition to the sums of money which they are already authorised to raise any additional sum or sums not exceeding in the whole one hundred thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partly by any one or more of those methods respectively which shares or stocks shall form part of the general capital of the Company.

Shares or stock not to vest until fifth part paid up.

13. The Company shall not issue any share or stock created under the authority of this Act nor shall any such share or stock vest in the person accepting the same unless and until a sum not being less than one fifth of the amount of such share or stock shall have been paid in respect thereof.

As to votes of proprietors of such shares.

14. The proprietors of any shares or stock to be issued under the authority of this Act shall be entitled to such number of votes in respect thereof as the nominal amount represented thereby would

have entitled them to if the same had been original shares or stock of the Company. A.D. 188

Power to borrow on mortgage.

15. The Company may from time to time borrow on mortgage of their undertaking additional sums not exceeding in the whole thirty-three thousand three hundred pounds in respect of the additional capital of one hundred thousand pounds by this Act authorised to be raised. But no part of the before-mentioned sum of thirty-three thousand three hundred pounds shall be borrowed until shares for so much of the additional capital as is to be raised by means of shares are issued and accepted and one half of such capital is paid up and the Company have proved to the justice who is to certify under the 40th section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for the whole of such additional capital 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 in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one half of so much of the said additional capital as is to be raised by means of stock is fully paid up and the Company have proved to such justice as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted and paid up bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also so far as the said capital is raised by shares that such persons or corporations or their executors administrators successors or assigns are legally liable for the same and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

Existing mortgages to have priority.

16. All mortgages granted by the Company in pursuance of any Act of Parliament and which shall be subsisting at the time of the passing of this Act shall during the continuance of such mortgages and subject to the provisions of the Acts under which such mortgages were respectively granted have priority over any mortgages granted by virtue of this Act and nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

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 contained the interest of all debenture stock at any time created and issued by the Company

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18. All moneys raised by the Company under this Act whether by shares stock debenture stock or borrowing shall be applied only to the purposes of this Act and to the general purposes of the Company.

Receipt in ase of persons not sui juris.

19. If any money is payable to a holder of shares or stock in the Company being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to Brighton Railway Company to subscribe.

20. The Brighton Railway Company may with the authority of three fourths of the votes of their shareholders present in person or by proxy at a general meeting of the said company specially convened for the purpose from time to time in addition to any moneys which they are already authorised to subscribe towards the capital of the Company subscribe any sum which they think fit towards the capital of the Company not exceeding in the whole one hundred thousand pounds and the Brighton Railway Company may with the like authority contribute and apply in or towards payment of their said subscription any moneys which they are already authorised to raise and which may not be required by them for the purposes of their undertaking and also any moneys which they are by this Act authorised to raise and the said company shall in respect of the sums to be subscribed and the corresponding shares in the Company to be held by them have all the powers rights and privileges (except in regard to voting at general meetings which shall be regulated by the provisions in that behalf contained in the Act of 1878) and be subject to all the obligations and liabilities of proprietors of shares in the Company Provided always that the Brighton Railway Company shall not sell dispose of or transfer any of the shares in the Company for which they may subscribe.

Brighton Railway Company may guarantee interest.

21. Instead of contributing the said sum of one hundred thousand pounds the Brighton Railway Company may with such consent as aforesaid guarantee the payment of interest or dividend not exceeding four per centum per annum upon the share capital or upon any part of the share capital of the Company to be raised under the powers of this Act and the Brighton Railway Company may also guarantee the payment of interest not exceeding the rate of four and a half per centum per annum upon the money or any part of the money borrowed by the Company whether under the powers of this Act or under the powers of the Act of 1878 and any

such guarantee already given by the Brighton Railway Company of interest or dividends on the share capital of the Company or on the money borrowed by the Company under the said Act of 1878 is hereby sanctioned and confirmed And the certificates of the shares or mortgages issued by the Company to which the said guarantee may apply shall be marked or endorsed with a statement that they are so guaranteed.

Power to Brighton Railway Company to raise money by shares or stock.

22. The Brighton Railway Company may from time to time raise for the purposes of their additional subscription to the undertaking any capital not exceeding in nominal amount one hundred thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partly by any one or more of those modes respectively and the clauses and provisions of the Companies Clauses Consolidation Act 1845 enumerated in the third section of this Act so far as they are applicable to the capital to be raised by the Brighton Railway Company And Part I. (relating to cancellation and surrender of shares) and Part II. (relating to additional capital) of the Companies Clauses Act 1863 shall extend and apply to the Brighton Railway Company and to the additional capital which they are by this Act authorised to raise Provided that the power hereby conferred on the Brighton Railway Company of raising capital shall be exercised only to the extent of the additional capital of the Harbour Company on which the Brighton Railway Company shall not have guaranteed the payment of interest.

Shares of Brighton Railway Company not to be issued until one-fifth part thereof shall have been paid up.

23. The Brighton Railway Company shall not issue any share under the authority of this Act of 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.

Application of moneys raised by the Brighton Railway Company.

24. All moneys which the Brighton Railway Company may raise by shares or stock under the powers of this Act shall be applied for the purposes of the before-mentioned subscription only.

Extending agreement with Brighton Railway Company.

25. The said articles of agreement made the 16th day of August 1878 between the Company and the Brighton Railway Company shall so far as they are applicable apply to the works authorised by this Act to be executed and to the additional capital authorised by this Act to be raised.

Interest not to be paid on calls paid up.

26. Neither the Company nor the Brighton Railway Company shall out of any money by this Act authorised to be raised pay interest or dividend to any shareholder on the amount of the calls

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made in respect of the shares held by him but nothing in this Act shall prevent either company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

Deposits for future Bills.

27. Neither company shall 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.

Provision for 17 & 18 Vict. c. 104. and general Acts.

28. Nothing in this Act contained shall exempt the harbour or the company from the provisions of the Merchant Shipping Act 1854 or any general Acts relating to harbours or docks or dues on shipping or on goods carried in ships now in force or which shall be passed during the present or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the harbour and dock rates or duties by this Act authorised.

Railway &c. not exempt from provisions of present and future general Acts.

29. Nothing in this Act contained shall exempt the Company or the Brighton Railway Company or their 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.

Saving rights of Her Majesty's Principal Secretary of State for the War Department.

30. And whereas it is necessary that the lands hereditaments and works belonging to Her Majesty or vested in Her Majesty's Principal Secretary of State for the War Department for the public service should be preserved intact and free from all intrusion or obstruction Be it therefore enacted that nothing in this Act contained shall authorise the Company to enter upon use or interfere with any land soil or water or any right in respect thereof vested in or exercised by the said Principal Secretary for the time being or to take away lessen prejudice or alter any of the rights privileges or powers vested in or exercised by the said Principal Secretary for the time being without his previous consent signified in writing under his hand and which consent the said Principal Secretary for the time being is hereby authorised to give subject to such special or other conditions as he shall see fit to impose on the said Company.

Saving rights of the Crown in the fore shore.

31. 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.

Saving rights under 29 & 30 Vict. c. 62.

32. 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 20 21 and 22 of the Crown Lands Act 1866.

Expenses of Act.

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

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