CHAPTER xxviii.

An Act to enable the Yarmouth and Ventnor Railway, Tramway, and Pier Company to make deviations in their authorised undertakings; and for other purposes. [27th June 1872.] A.D. 1872.

WHEREAS by the Yarmouth and Ventnor Railway, Tramway, and Pier Act, 1871, (herein-after called "the Act of 1871,") the Yarmouth and Ventnor Railway, Tramway, and Pier Company (herein-after called "the Company") were incorporated, and authorised to make and maintain a railway from Yarmouth to Ventnor and a tramway and a pier or jetty at Yarmouth, all in the Isle of Wight and county of Southampton: 34 & 35 Vict. c. lvi.

And whereas it is expedient that the Company be empowered to abandon the construction of portions of the said railway and tramway, and the whole of the said pier or jetty, and to construct the railway and pier or jetty herein-after described:

And whereas it is expedient that the Company be authorised to raise further moneys for the purposes of their undertaking:

And whereas plans and sections showing the lines and levels of the proposed railway and pier or jetty, and the lands which the Company are by this Act empowered to acquire for the purposes thereof, and books of reference to such plans, containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the said lands, have been deposited with the clerk of the peace for the county of Southampton, and those plans, sections, and books of reference are herein-after referred to as the deposited plans, sections, and books of reference:

And whereas the objects 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,

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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 Yarmouth and Ventnor Railway, Tramway, and Pier (Deviations) Act, 1872."

Provisions of general Acts herein named incorporated.

2. The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, the Railways Clauses Consolidation Act, 1845, Part I. (relating to construction of a railway) of the Railway Clauses Act, 1863, Parts I., II., and III. (relating respectively to cancellation and surrender of shares, additional capital, and debenture stock) of the Companies Clauses Act, 1863, and the Harbours, Docks, and Piers Clauses Act, 1847, are (except where expressly varied by this Act) incorporated with and form part of this Act: Provided always, that the provisions of "The Harbours, Docks, and Piers Clauses Act, 1847," with respect to life-boats, and with respect to keeping a tide and weather gauge, shall not be in force under or for the purposes of this Act unless and until, and except only so far as, the Board of Trade, by notice in writing to the Company, require the Company to conform either wholly or in part to those provisions respectively.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction. With reference to this Act the expressions "the undertaking" and "the railway" in "The Railways Clauses Consolidation Act, 1845," mean respectively the railway and tramway by this Act authorised, and the works connected therewith, but not the pier or jetty nor the works connected therewith. In Part I. of "The Railways Clauses Act, 1863," the word "work" includes the pier or jetty by this Act authorised, and the works connected therewith; in "The Harbours, Docks, and Piers Clauses Act, 1847," the expression "the pier," or "the harbour, dock, or pier," means the pier or jetty by this Act authorised; and the expression "superior courts" or "courts of competent jurisdiction" or any other like expression in this Act or any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt, and not a debt or demand created by statute; and in this Act the expression "the undertaking" includes the railway, tramway, and pier or jetty by this Act authorised, and the works connected therewith, unless there be in the subject or context thereof something repugnant to or inconsistent with such construction.

Power to make railway.

4. Subject to the provisions of this Act, the Company may make and maintain, in the line and according to the levels shown on the deposited plans and sections, the railway and pier or jetty hereinafter described, with all proper stations, approaches, works, and conveniences connected therewith, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for that purpose. The railway and pier or jetty herein-before referred to and authorised by this Act are :—

A railway five furlongs and thirty links or thereabouts in length, commencing in the parish of Freshwater, in the Isle of Wight, in the county of Southampton, by a junction with the railway authorised by the Act of 1871, and terminating in the parish of Yarmouth, in the Isle of Wight aforesaid, at or near the southern side of the Eastern Approach Road to the Yar Bridge.

A pier or jetty 154 yards or thereabouts in length, commencing by a junction with the tramway authorised by the Act of 1871, at or near the commencement thereof, and extending in a north-easterly direction across the foreshore, and terminating in the Solent at a point 150 yards or thereabouts from its commencement.

Power to Company to apply authorised capital.

5. The Company may from time to time apply towards the execution of the purposes of this Act any money which they are by the Act of 1871 authorised to raise, and which is not for the time being required for the purposes of that Act.

Power to Company to raise additional share capital.

6. In addition to such capital as the Company are by the Act of 1871 authorised to raise, they may from time to time for the purposes of this Act raise such sums as they think requisite, not exceeding in the whole the sum of forty-five thousand pounds.

Shares not to vest until one fifth part paid up.

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

Calls.

8. One fifth of the amount of a share created under this Act shall be the greatest amount of a call, and two months at least shall be the interval between successive calls, and three fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

New shares to be subject to same provision as

9. Except as by or under the authority of this Act is otherwise provided, the additional capital to be created by the Company under this Act, and the shares therein, and the holders of those shares

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shares existing.

respectively, shall be entitled and subject to the same powers, rights, privileges, and liabilities in all respects as if that new capital were part of the ordinary share capital of the Company existing at the passing of this Act, and those shares were shares in that ordinary capital.

Power to borrow on mortgage.

10. In addition to any sum which the Company are by the Act of 1871 authorised to raise by mortgage, they may from time to time borrow on mortgage any sums not exceeding in the whole the sum of fifteen thousand pounds, but no part thereof shall be borrowed until the whole of the said additional capital which by this Act the Company are authorised to raise shall have been issued and accepted, and one half thereof shall have been paid up, and they have proved to the justice who is to certify under section forty of the Companies Clauses Consolidation Act, 1845, before he so certifies, that the whole of such additional capital has been issued and accepted, and that one half thereof has been paid up, and that not less than one fifth of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide, and is held by the subscribers or their assigns, and that such subscribers or their 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.

Debenture stock.

11. The Company may create and issue debenture stock.

Arrears may be enforced by appointment of a receiver.

12. Mortgagees of the Company may enforce payment of arrears of interest or principal, or of principal and interest, due on their mortgages by the appointment of a receiver, and the amount of arrears of principal to authorise an application for a receiver shall be one thousand five hundred pounds.

Priority of mortgages.

13. All mortgages granted by the Company before the passing of this Act shall, during the continuance of such mortgages, have priority over any mortgage granted by virtue of this Act.

As to interest on debenture stock.

14. Notwithstanding anything in Part III. of "The Companies Clauses Act, 1863," contained, the interest of all debenture stock at any time created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Application of money.

15. All money raised under this Act, either as additional share capital, or by borrowing, or by debenture stock, shall be applied to the purposes of this Act, and not otherwise.

Powers for compulsory purchases limited.

16. The powers of the Company for the compulsory purchase of land for the purposes of this Act shall not be exercised after the expiration of two years from the passing of this Act.

Deposit money not to be repaid until line opened or half the capital paid up and expended.

17. Whereas pursuant to the Standing Orders of both Houses of Parliament, and to an Act of the ninth and tenth years of Her present Majesty, chapter twenty, a sum of eight hundred and twenty-nine pounds ten shillings, being five per centum upon the amount of the estimate in respect of the railway authorised by this Act, has been deposited with the Court of Chancery in England in respect of the application to Parliament for this Act: Be it enacted, that notwithstanding anything contained in the said recited Act, the said sum of eight hundred and twenty-nine pounds ten shillings so deposited as aforesaid in respect of the application for this Act shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them, unless the Company shall, previously to the expiration of the period limited by this Act for the completion of the railway hereby authorised to be made, either open the railway for the public conveyance of passengers, or prove to the satisfaction of the Board of Trade that the Company have paid up one half of the amount of capital by this Act authorised to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital; and if the said period shall expire before the Company shall either have opened the railway for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Board of Trade, the said sum of money deposited as aforesaid shall be applied in the manner hereinafter specified; and the certificate of the Board of Trade that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the said recited Act to the contrary notwithstanding.

Application of deposit.

18. The said sum of money deposited as aforesaid shall be applicable, and after due notice in the London Gazette shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said railway, or any portion thereof, or who may

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have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, and for which injury or loss no compensation or inadequate compensation shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Chancery in England may seem fit; and if no such compensation shall be payable, or if a portion of the said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, or such portion thereof as may not be required as aforesaid, shall be paid to or on the application of the person or persons or the majority of the persons named in such warrant or order as aforesaid, or the survivor or survivors of them: Provided that until the said sum of money shall have been repaid to the depositors, or shall have become otherwise applicable as herein-before mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, be paid to or on the application of the person or persons or the majority of the persons named in such warrant or order as aforesaid, or the survivors or survivor of them.

Period for completion of works.

19. The works by this Act authorised shall be completed within four years from the passing of this Act, and if the same shall not be completed within that period, then on the expiration thereof the powers by this Act 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.

Railway and pier as to tolls and otherwise to form part of Company's undertaking.

20. The Company may demand and receive for and in respect of the railway and pier authorised by this Act the same tolls, rates, and charges as they are now empowered to receive in respect of their existing undertaking, and such railway and pier shall in all respects be deemed part of the undertaking of the Company.

Certain sections of Act of 1871 to apply to pier.

21. Sections 47, 48, 49, 50, and 51 of the Act of 1871 shall be read and have effect as if the pier or jetty therein mentioned or referred to was the pier or jetty by this Act authorised.

Agreements between Company and Secretary of State for War.

22. The Company on the one hand, and Her Majesty's Principal Secretary of State for War for the time being on the other hand, may enter into such contracts and agreements as they may think fit with respect to the renewing, repairing, working, and using of so much of the railway authorised by the Act of 1871 as may pass and run in, through, or over any lands or roads belonging to or

vested in the Principal Secretary of State on behalf of the Crown or otherwise.

Company may abandon portions of authorised works.

23. The Company shall abandon the construction of such portions of the works authorised by the Act of 1871 as are herein-after mentioned; that is to say,

1. So much of the railway authorised by the Act of 1871 as is shown on the plans deposited in respect thereto with the clerk of the peace for the county of Southampton, to be situate between the commencement of such railway and the distance marked on such plans six furlongs.
2. So much of the tramway authorised by the Act of 1871 as is shown on the last-mentioned deposited plans to be situate between the southern side of the eastern approach to the Yar Bridge and the termination of that tramway.
3. The whole of the pier authorised by the Act of 1871.

Compensation for damage to land by entry, &c. for purposes of works abandoned.

24. The abandonment by the Company under the authority of this Act of any portion of any works shall not prejudice or affect the right of the owner or occupier of any land to receive compensation in accordance with the provisions in that behalf of the Lands Clauses Consolidation Act, 1845, for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels, or probing or boring to ascertain the nature of the soil, or setting out of the line of railway or other works, and shall not prejudice or affect the right of the owner or occupier of any land which may have been temporarily occupied by the Company to receive compensation in accordance with the provisions in that behalf of the Railways Clauses Consolidation Act, 1845, for such temporary occupation, or for any loss, damage, or injury which may have been sustained by such owner or occupier by reason thereof, or of the exercise, as regards such land, of any of the powers contained in the last-mentioned Act, or the Act of 1871.

Compensations to be made in respect of portions of railways abandoned.

25. Where before the passing of this Act any contract may have been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to any portions of the works authorised to be abandoned by this Act, and which shall not be required for the purposes of any of the works by this Act authorised, full compensation shall be made by the Company to the owners and occupiers, or other persons interested in such lands, for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice, and the amount and application of the com-

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pensation shall be determined in manner provided by the Lands Clauses Consolidation Act, 1845, for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Interest not to be paid on calls paid up.

26. The Company shall not, out of any money by this Act authorised to be raised by calls, debenture stock, or borrowing, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always, that this Act shall not 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."

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

27. 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.

Saving rights of the Crown in the foreshore.

28. Nothing contained in this Act or in the Act of 1871 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 or enjoyed or exerciseable by the Queen's most Excellent Majesty in right of her Crown, 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 the said Act or Acts 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 of rights as to future accretions.

29. If any land to the seaward of any lands which may be embanked or reclaimed in the execution of the works hereby authorised shall, at any time after the execution of any such works become raised in height so as to be above the line of ordinary high-water mark of the sea or of the River Yar, the Company shall not by virtue of the ownership of the lands so embanked or reclaimed have any estate, right, or interest in or to the lands so raised in height by reason that such raising has been either wholly or partially caused by the works by this Act authorised; but the right and title to the soil and freehold of such land when so raised shall continue vested in the Queen's Majesty, or such other corporation

or person or persons as is or are at the time of the passing of this Act entitled to the same, and as if the same had continued, as the same now is, subject to the flow and reflow of the ordinary tides.

Any land reclaimed by the works not to be taken without the consent of the Board of Trade.

30. If in the course or by means of the execution of any of the works by this Act authorised any part of the shores or bed of the said River Yar, or of the sea beyond the mouth thereof, belonging to Her Majesty, shall be inned, gained, or reclaimed from the water, the Company shall not have or exercise any right upon the same or in respect thereof, and shall not enter upon, take, use, or interfere with the land so inned, gained, or reclaimed, for any purpose whatsoever, without the consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade are hereby authorised to give), but such inning, gaining, or reclamation shall enure absolutely for the benefit of the Queen's Majesty, her heirs and successors.

Saving rights of the Crown.

31. Nothing contained in this Act, or in any of the Acts herein referred to, shall authorise the Company to take, use, or in any manner interfere with any land or hereditaments, or any rights of whatsoever description, belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, without the consent in writing of the same Commissioners, or one of them, on behalf of Her Majesty, first had and obtained for that purpose (which consent such Commissioners are hereby respectively authorised to give), neither shall anything in the said Act or Acts 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 right of the Corporation of Yarmouth, Isle of Wight.

32. Except only as is by this Act expressly provided, nothing in this Act contained shall take away, lessen, prejudice, or alter any estate, right, title, privilege, liberty, power, or authority whatsoever of the corporation of Yarmouth.

Provisions as to general railway Acts.

33. Nothing herein contained shall be deemed or construed to exempt 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 by this Act.

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Provisions as to general Acts relating to piers, &c.

34. Nothing in this Act contained shall be deemed or taken to exempt the pier or jetty of the Company from the provisions of any general Act relating to piers or dues on shipping, or on goods carried in ships, now in force or which may 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 tolls, rates, dues, or duties by this Act authorised upon or in respect of the pier or jetty.

Expenses of Act.

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

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