



ANNO TRICESIMO & TRICESIMO PRIMO

VICTORIÆ REGINÆ.

Cap. clxxxii.

An Act to enable the *Devon and Somerset Railway Company* to extend their Railway at *Barnstaple*; and for other Purposes. [12th August 1867.]

WHEREAS by "The *Devon and Somerset Railway Act*, 27 & 28 Vict. 1864," the *Devon and Somerset Railway Company* (in this Act called "the Company") were incorporated, and authorized to make and maintain a Railway in that Act specified as Railway (No. 1.), commencing by a Junction with the *Bristol and Exeter Railway* at or near to the Point of Junction of the *West Somerset Railway* with the *Bristol and Exeter Railway*, and terminating in the Parish of *Barnstaple*: And whereas it is expedient that the Company should be authorized to extend their Railway at *Barnstaple*, and to acquire additional Lands, and to raise further Capital: And whereas by the Act of 1864 the Company were authorized to raise by Shares Five hundred thousand Pounds, and to borrow on Mortgage One hundred and sixty-six thousand Pounds, and it is expedient that the Company be authorized to raise further Sums of Money for the Purposes of this Act: And whereas Plans and Sections showing the Line and Levels of the proposed Extension Railway and Works, and the Lands which the Company are empowered to acquire for the Purposes thereof, and a Book of Reference to such Plans containing

[*Local.*]

32 U

the

The Devon and Somerset Railway (Extension) Act, 1867.

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 *Devon*, and those Plans, Sections, and Book of Reference are in this Act referred to as "the deposited Plans, Sections, and Book of Reference:" And whereas the Objects and 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 for all Purposes as "*The Devon and Somerset Railway (Extension) Act, 1867.*"

8 & 9 Vict.
cc. 16. 18.
& 20.,
23 & 24 Vict.
c. 106., and
26 & 27 Vict.
cc. 92. & 118.
incorporated.

2. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation Act, 1845," 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 and 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 Consolidation of Shares into Stock;
- The making of Dividends;
- The borrowing of Money on Mortgage or Bond;
- The Conversion of borrowed Money into Capital; and
- The Provision to be made for affording Access to the Special Act;

And Part II. of "The Companies Clauses Act, 1863," and Part I. (relating to the Construction of a Railway) and Part III. (relating to Working Agreements) of "The Railways Clauses Act, 1863," are (except where expressly varied by this Act) incorporated with and form Part of this Act.

Same Meanings to Words in incorporated Acts as in this Act.

Interpretation of Terms.

3. In this Act the several Words and Expressions to which Meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective Meanings, unless there be something in the Subject or Context repugnant to such Construction; the Expression "the Company" shall mean the *Devon and Somerset Railway Company*; the Expression "the Act of 1864" shall mean "*The Devon and Somerset Railway Act, 1864*;" the Expression "the Plans of 1864" shall mean the Plans referred to in the Act of 1864; the Expression "the Railway" and "the Undertaking" respectively

The Devon and Somerset Railway (Extension) Act, 1867.

respectively shall mean the Railway or Undertaking by the Act of 1864 and by this Act, or either of them, authorized; and the Expression "Superior Courts" or "Court of competent Jurisdiction," or any other like Expression in this Act or any Act wholly or partially incorporated herewith, shall be read and have Effect as if the Debt or Demand with respect to which the Expression is used were a Simple Contract Debt, and not a Debt or Demand created by Statute.

4. Subject to the Provisions of this Act and of the Acts wholly or partially incorporated herewith, the Company may make and maintain in the Line and according to the Levels shown on the deposited Plans and Sections the Railway herein-after described, with all proper Stations, Approaches, Works, and Conveniences connected therewith respectively, and may enter upon, take, and use such of the Lands delineated on the said Plans and described in the deposited Book of Reference as may be required for that Purpose. The Railway herein-before referred to and authorized by this Act is,—

Power to make Railway according to deposited Plans.

A Railway, 6 Furlongs 9·22 Chains in Length, commencing in a Field numbered 13 on the deposited Plans of the *Devon and Somerset* Railway of Session 1863-4, in the Parish of *Barnstaple* in the County of *Devon*, by a Junction with the authorized *Devon and Somerset* Railway at a Point 41 Miles 3 Furlongs 2 Chains or thereabouts from the Commencement thereof, and terminating in the said Parish of *Barnstaple* at a Point 2 Chains or thereabouts, measured in a Northerly Direction, from the Clock Tower known as the "*Barnstaple Albert Memorial*."

5. The said Railway shall be made and maintained with Rails of the Broad Gauge.

Gauge of Railway.

6. It shall be lawful for the Company at any Time, and from Time to Time, to raise by the Creation of Shares in their Undertaking, in addition to the Sum of Five hundred thousand Pounds which the Company are by the Act of 1864 authorized to raise by Shares, such further Sums of Money as they shall from Time to Time deem necessary or expedient, not exceeding in the whole the Sum of Thirty thousand Pounds, and all further Sums so raised shall form Part of the general Capital of the Company; and all additional Shares created and issued by the Company for the Purpose of raising the said Sum of Thirty thousand Pounds shall be ordinary Shares, and shall respectively be of the same Amount, and shall confer upon the Holders thereof the same Rights and Privileges only, and shall be subject to the same Provisions in all respects, whether with reference to the Amount and Times of making Calls,

Power to Company to increase their Share Capital.

to

The Devon and Somerset Railway (Extension) Act, 1867.

to the Payment of Calls, or the Forfeiture of Shares on Nonpayment of Calls, or otherwise howsoever, as if they had been created under the Authority of the Act of 1864.

Shares not to issue until One Fifth 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.

Power to borrow on Mortgage.

8. The Company may from Time to Time borrow on Mortgage, in addition to the Sum of One hundred and sixty-six thousand Pounds by the Act of 1864 authorized to be borrowed, any further Sum or Sums not exceeding in the whole Ten thousand Pounds, but no Part thereof shall be borrowed until the whole Capital of Thirty thousand Pounds which the Company are by this Act authorized to raise by Shares is subscribed for, and One Half thereof is paid up, and the Company have proved to the Justice who is to certify under the Fortieth Section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that the whole of the said Capital has been subscribed for, 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 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.

Arrears may be enforced by Appointment of a Receiver.

9. The Mortgagees of the Company may enforce Payment of Arrears of Interest or Principal, or Principal and Interest, due on their Mortgages, by the Appointment of a Receiver, and in order to authorize the Appointment of a Receiver the Amount owing to the Mortgagees by whom the Application for a Receiver shall be made shall not be less than One thousand Pounds in the whole.

Priority of existing Mortgages.

10. All Mortgages granted by the Company in pursuance of the Powers of any Act of Parliament before the passing of this Act, and which shall be subsisting at the Time of the passing hereof, shall, during the Continuance of such Mortgages, have Priority over any Mortgages to be granted by virtue of this Act.

11. All

The Devon and Somerset Railway (Extension) Act, 1867.

11. All Monies to be borrowed on Mortgage under this Act, or under any former Act, authorizing the Company to borrow Money on Mortgage, from the Time when the said Monies shall be advanced, and the Interest for the Time being due thereon, shall have Priority against the Company, and all the Property from Time to Time of the Company, over all other Claims on account of any Debts to be incurred or Engagements to be entered into by them: Provided always, that such Priority shall not prejudice or affect any Claim against the Company or their Property in respect of any Rentcharge granted or to be granted by them in pursuance of the Provisions of "The Lands Clauses Consolidation Act, 1845," or "The Lands Clauses Consolidation Acts Amendment Act, 1860," nor shall anything herein-before contained prejudice or affect the Lien of any Vendor for the unpaid Purchase Money of any Land taken by the Company for the Purposes of the Railway, or injuriously affected by the Construction thereof, or by the Exercise of any of the Powers by this or any former Act conferred on the Company.

Monies borrowed on Mortgage to have Priority.

12. The Company may apply to the Purposes of this Act any of the Monies which they now have in their Hands, or which they have Power to raise by Shares or Mortgage by virtue of any Act or Acts relating to the Company, and which are not required for the Purpose for which the same were authorized to be raised.

Power to apply Corporate Funds to Purposes of this Act.

13. All Monies raised under this Act, whether by Shares or borrowing, shall be applied for the Purposes of this Act only.

Application of Monies.

14. The Quantity of Land to be taken by the Company for the extraordinary Purposes mentioned in "The Railways Clauses Consolidation Act, 1845," shall not exceed Two Acres.

Lands for extraordinary Purposes.

15. The Powers of the Company for the compulsory Purchase of Lands for the Purposes of this Act shall not be exercised after the Expiration of Two Years from the passing of this Act.

Powers for compulsory Purchases limited.

16. The Railway shall be completed within Three Years from the passing of this Act, and on the Expiration of that Period the Powers by this Act granted to the Company for executing the Railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Period for Completion of Railway.

17. Whereas the Roads numbered on the deposited Plans 29 and 42 in the Parish of *Barnstaple* now form the only available Means of Access to *St. Mary's* Roman Catholic Chapel in *Barnstaple*, and are intended to or may be stopped up or diverted for the Purposes of the Railway by this Act authorized, and it is expedient that another Means of Access to the said Chapel should be provided by the Company: Therefore the Company shall make within their Limits

For Protection of *St. Mary's* Roman Catholic Chapel.

The Devon and Somerset Railway (Extension) Act, 1867.

of Deviation a Road of not less than Twenty Feet in Width, and parallel with the centre Line of the said Railway, from the Entrance to the said Chapel in *Church Street*, at or near the Point marked B on the said Plans, to the Square in *Barnstaple*, in lieu of such Approaches as at present exist, and the Company shall for ever thereafter maintain the same Road in complete Repair, Order, and Condition, unless and until the said Road shall be taken up and held by the Commissioners of Improvement or the Surveyors of the Highway as the other public Roads in the Parish are now held and maintained; and until the said Road shall be made and completed and opened for Use the Company shall not interfere with the before-mentioned Roads numbered 29 and 42 respectively, except so far as may be necessary for the Construction of the said Road; and until such opening for Use of the substituted Road the Company shall not prevent Carriage Access to the Roman Catholic Chapel as aforesaid.

Deposit
Money not
to be repaid
until Line
opened, or
Half the
Capital paid
up and
expended,
except on
Execution of
Bond, &c.

18. 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 Two thousand four hundred Pounds, being Eight *per Centum* on Thirty thousand Pounds, the Amount of the Estimate of the Expense of the Railway by this Act authorized, has been deposited with the Court of Chancery in *England* in respect of the Application to Parliament for this Act: Therefore, notwithstanding anything contained in the said Act of the Ninth and Tenth Years of Her present Majesty, the said Sum of Two thousand four hundred Pounds so deposited as aforesaid in respect of the Application for this Act, or the Interest or Dividends of such Sum of Money, shall not, except upon the Execution and Deposit of such Bond as herein-after mentioned, 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 authorized to be made, either open the said Railway for the public Conveyance of Passengers, or prove to the Satisfaction of the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations that the Company have paid up One Half of the Amount of the Capital by this Act authorized 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 said Railway for the public Conveyance of Passengers, or have given such Proof as aforesaid to the Satisfaction of the Lords of the said Committee, the said Sum of Money so deposited as aforesaid, and the Interest and Dividends thereof, shall immediately from and after the Expiration of the said Period be forfeited to Her Majesty, and be
paid

The Devon and Somerset Railway (Extension) Act, 1867.

paid and transferred by the Officer or Person in whose Name they shall then be deposited or invested to the Account of Her Majesty's Exchequer, and when so paid and transferred shall be carried to and form Part of the Consolidated Fund of the United Kingdom of *Great Britain and Ireland*: Provided that at any Time after the passing of this Act if a Bond in twice the Amount of the said Sum of Two thousand four hundred Pounds shall have been executed by the Company, with One or more Surety or Sureties, (such Bond to be prepared to the Satisfaction of, and such Surety or Sureties to be approved by, the Solicitor or Assistant Solicitor to the Lords Commissioners of Her Majesty's Treasury,) conditioned for Payment to Her Majesty, Her Heirs or Successors, of the said Sum of Two thousand four hundred Pounds if the Company shall not within the Time limited for the Completion of the said Railway either open the said Railway for the public Conveyance of Passengers, or prove to the Satisfaction of the Lords of the said Committee that the Company have paid up One Half of the Amount of the Capital by this Act authorized 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 such Bond shall have been deposited with the said Solicitor or Assistant Solicitor to the said Lords Commissioners, then such Sum of Money, and the Interest or Dividends thereof, 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 Survivors or Survivor of them, 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; and the Monies to be recovered upon such Bond shall be dealt with in like Manner as the said Sum of Money, and the Interest or Dividends thereof, would have been dealt with under this Act if such Bond had not been executed and deposited as aforesaid; and the Certificate of the said Solicitor or Assistant Solicitor to the said Lords Commissioners that such Bond has been executed and deposited as aforesaid, and the Certificate of the Lords of the said Committee that such Proof has been given to their Satisfaction as aforesaid, shall respectively be sufficient Evidence of the Facts so certified.

19. The Company shall, not less than Eight Weeks before they take in any Parish Fifteen Houses or more occupied either wholly or partially by Persons belonging to the Labouring Classes as Tenants or Lodgers, make known their Intention to take the same by Placards, Handbills, or other general Notice placed in public View upon or within a reasonable Distance from such Houses, and the Company shall not take any such Houses until they have obtained the Certificate of a Justice that it has been proved to his Satisfaction that

Notice to
be given of
taking
Houses of
Labouring
Classes.

the

The Devon and Somerset Railway (Extension) Act, 1867.

the Company have made known their Intention to take the same in manner herein-before required.

New Lines of Railway to be Part of Company's Undertaking.

20. The Lines of Railway and Works by this Act authorized shall for all Purposes of Tolls, Rates, and Charges, and for all other Purposes whatsoever, except as to the Time limited for the compulsory Purchase of Lands and for constructing the Works, be Part of the Undertaking of the Company as if authorized by "The *Devon and Somerset Railway Act, 1864.*"

Interest not to be paid on Calls paid up.

21. The Company shall not, out of any Money by this Act or any other Act relating to the Company authorized to be raised by Calls in respect of Shares, or by the Exercise of any Power of borrowing, pay to any Shareholder Interest or Dividend on the Amount of Calls made in respect of the Shares held by him: Provided always, that the Company may pay to any Shareholder such Interest on Money advanced by him beyond the Amount of 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.

22. The Company shall not, out of any Money by this Act or by any other Act relating to the Company authorized to be raised, pay or deposit any Sum of Money which, by any Standing Order of either House of Parliament now or hereafter in force, may require to be deposited in respect of any Application to Parliament for the Purpose of obtaining an Act authorizing the Company to construct any other Railway, or execute any other Work or Undertaking.

Railways not exempt from Provisions of present and future General Acts.

23. Nothing herein contained shall be deemed or construed to exempt the Railways by this Act authorized to be made from the Provisions of any General Act relating to Railways, or to the better or more impartial Audit of the Accounts of Railway Companies, now in force, or which may hereafter pass during the present 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, authorized by the Acts relating to the Company.

Expenses of Act.

24. All the 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.

LONDON :

Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1867.