



## CHAPTER xxxii.

An Act for conferring further powers on the Lynton Railway Company for the construction of works and for other purposes. A.D. 1886.  
[25th September 1886.]

**W**HEREAS by the Lynton Railway Act 1885 (in this Act called "the Act of 1885") the Lynton Railway Company (in this Act called "the Company") were incorporated for the purpose of making and maintaining the railway by that Act authorised (in this Act called "the authorised railway") and for other the purposes of that Act and empowered to raise a share capital of eighty-three thousand pounds and to borrow not exceeding twenty-seven thousand six hundred pounds;

And whereas it is expedient that the Company be authorised to make and maintain the railway by this Act authorised by way of extension of the authorised railway;

And whereas it is expedient that the Company be empowered to make and work their railways either on the system known as the Lartigue Elevated Single Rail Railway or in the usual manner on the gauge in this Act specified;

And whereas the estimated cost of the authorised railway as authorised to be constructed under the Act of 1885 amounted to eighty-seven thousand pounds five per centum on which is four thousand three hundred and fifty pounds and stock representing that amount was transferred into the name of the Paymaster General for and on behalf of the Supreme Court of Judicature in England in respect of the application to Parliament for the Act of 1885 which stock is referred to in that Act as the deposit fund and in this Act as the deposit fund of 1885;

And whereas the estimated cost of the authorised railway as intended to be constructed under the powers of this Act will not exceed forty-eight thousand pounds five per centum on which is two thousand four hundred pounds;

And whereas by reason of the reduction in the estimated cost of constructing the authorised railway the whole of the share and loan

A.D. 1886. capital authorised by the Act of 1885 will not be required for the authorised railway and it is expedient that such share and loan capital be reduced as by this Act provided and that such provision as is in this Act contained be made with reference to a portion of the deposit fund of 1885 ;

And whereas it is expedient that the Company be authorised to raise further moneys for the purposes of the railway by this Act authorised and for other the objects of this Act ;

And whereas the Company have not exercised any of the powers of the Act of 1885 with respect to the issuing of share capital or borrowing or the creation and issue of debenture stock ;

And whereas by the Act of 1885 (section 50) it is enacted that no interest or dividend shall be paid out of any share or loan capital which the Company are by that Act or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but that nothing in that Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845 ;

And whereas it is expedient that section 50 of the Act of 1885 be repealed and that the Company be authorised subject to the provisions of this Act to pay interest upon the amount paid up from time to time in respect of shares in their capital as by this Act provided ;

And whereas an estimate has been prepared on behalf of the Company of the amount which will be required for the purpose of such payment of interest and such estimate amounts to five thousand pounds ;

And whereas it is expedient that such other provisions be made with respect to the Company and their undertaking as are in this Act contained ;

And whereas plans and sections showing the lines and levels of the railway and works by this Act authorised and also books of reference to the plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the county of Devon and are herein-after respectively referred to as the deposited plans sections and books of reference ;

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 (that is to say) :— A.D. 1886.

1. This Act may be cited for all purposes as the Lynton Railway Act 1886. Short title.

2. The following Acts and parts of Acts are (except where expressly varied by this Act) incorporated with and form part of this Act (that is to say) :— Incorporation of general Acts.

The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883 ;

The Railways Clauses Consolidation Act 1845 ;

Part I (relating to the construction of a railway) of the Railways Clauses Act 1863 ;

The clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (that is to say) :—

The distribution of the capital of the Company into shares ;

The transfer or transmission of shares ;

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

The forfeiture of shares for non-payment of calls ;

The remedies of creditors of the Company against the shareholders ;

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

The conversion of borrowed money into capital ;

The consolidation of shares into stock ;

The giving of notices ;

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

And Part I (relating to cancellation and surrender of shares) and Part II (relating to additional capital) and Part III (relating to debenture stock) of the Companies Clauses Act 1863.

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 : Interpretation.

The expression "the railway" means the railway by this Act authorised ;

The expression "the railways" means the authorised railway and the railway ;

The expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or



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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.

Power to  
make rail-  
way.

4. 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 railway herein-after described with all proper stations sidings junctions roads approaches works and conveniences connected therewith and may enter upon take and use such of the lands delineated upon the deposited plans and described in the deposited books of reference as may be required for the purpose The railway herein-before referred to and authorised by this Act is wholly situate in the county of Devon and is—

A railway 7 miles 5 furlongs 9 chains and 85 links or thereabouts in length commencing in the parish of Kentisbury by a junction with the authorised railway of the Company at or near the termination thereof and terminating in the parish of Lynton in a field numbered 237 on the tithe commutation map of that parish :

Provided always that notwithstanding anything in this Act contained it shall not be lawful for the Company to take of the lands called or known as Martinhoe Common or Broad Moor situate in the parish of Martinhoe more than three acres.

Height and  
span of  
bridges.

5. The Company may make the arches of the bridges for carrying the railway over the roads next herein-after mentioned of any heights and spans not less than the heights and spans herein-after mentioned in connexion therewith respectively (that is to say) :—

No. on deposited Plans.	Parish.	Description of Road.	Height.	Span.
			Feet.	Feet.
2	Martinhoe - -	Public road - -	15	20
1	Lynton - -	Public road - -	16	30
49	Lynton - -	Public road - -	16	20

Provision as  
to labouring  
class houses.

6. The Company shall not under the powers of this Act without the consent of the Local Government Board purchase or acquire in any city borough or other urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

For the purposes of this section the expression "labouring class" includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

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7. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 shall not exceed three acres.

Lands for extraordinary purposes.

8. 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 three years from the passing of this Act.

Period for compulsory purchase of lands.

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 in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Power to take easements by agreement.

10. The Company may make work and maintain the railways or any part thereof on any gauge of not less than three feet or by means of a single rail in accordance with the system known as the Lartigue Elevated Single Rail Railway and if the railways or any part thereof are made on the latter system the Company may at any time change the method of construction and make work and maintain the railways or any part thereof in the usual manner on any gauge of not less than three feet.

Method of construction and working of railways.

11. If and while the authorised railway is made and worked in accordance with the system known as the Lartigue Elevated Single Rail Railway it shall not be lawful for the Company notwithstanding anything contained in the Act of 1885 to carry the authorised railway across the road numbered on the plans referred to in the Act of 1885 as the deposited plans 43 in the parish of Bratton Fleming except by means of a bridge or such other works as the Board of Trade shall approve.

If authorised railway made on the Lartigue system not to cross roads on the level.

12. Notwithstanding anything in the Act of 1885 contained it shall not be obligatory on the Company if and while the railway

If railway worked on Lartigue system Company not to be bound to



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—  
 carry any single  
 article above  
 one ton weight.

Deposit  
 money not  
 to be repaid  
 except so  
 far as rail-  
 way opened.

is worked upon the Lartigue Elevated Single Rail system to carry any single article on the railway of a greater weight than one ton.

**13.** Whereas pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her present Majesty chapter twenty a sum of two thousand and sixty-nine pounds new three pounds per centum annuities being equal in value to five per centum upon the amount of the estimate in respect of the railway has been transferred into the name of the Paymaster General for and on behalf of the Supreme Court of Judicature in England in respect of the application to Parliament for this Act which said sum is in this Act referred to as the deposit fund Be it enacted that notwithstanding anything contained in the said Act the said deposit fund 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 which persons survivors or survivor are or is in this Act referred to as the depositors unless the Company shall previously to the expiration of the period limited by this Act for the completion of the railway open the same for the public conveyance of passengers Provided that if within such period as aforesaid the Company open any portion of the railway for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of the railway opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the railway so opened bears to the entire length of the railway the Chancery Division of the High Court of Justice in England shall on the application of the depositors or the majority of them order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of this Act having passed anything in the above-mentioned Act to the contrary notwithstanding.

Application  
 of deposit.

**14.** If the Company do not previously to the expiration of the period limited for the completion of the railway complete the same and open it for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the London Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or any portion thereof or who 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 has been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Chancery Division of the High Court of Justice in England may seem fit and if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Chancery Division thinks fit to order on the application of the Solicitor to Her Majesty's Treasury and shall be carried to and form part of the Consolidated Fund of the United Kingdom or in the discretion of the Chancery Division if the Company is insolvent and has been ordered to be wound up or a receiver has been appointed shall wholly or in part be paid or transferred to such receiver or to the liquidator or liquidators of the Company or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof Provided that until the deposit fund has been repaid to the depositors or has 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 depositors.

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

Period for completion of works.

16. If the Company shall complete the railways within the respective periods limited by the Act of 1885 and this Act and the whole or any part of the railways so completed shall be constructed in accordance with the Lartigue Elevated Single Rail system nothing herein or in the Act of 1885 contained shall prevent the Company after the expiration of the said respective periods from converting the whole or any part of the railways constructed on the Lartigue system into an ordinary railway of not less than three feet gauge as herein-before provided and subject to the provisions of this Act and the Act of 1885 respectively the Company may upon the lands acquired by them under the powers of this Act and the Act of 1885 respectively make all necessary works for the purpose of such conversion.

Further provisions as to construction of railways.

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Railway to  
form part  
of Company's  
undertaking.

17. The railway shall for the purposes of tolls and charges and for all other purposes whatsoever form part of the railways of the Company and the Company may demand and take in respect of the railway a like amount of tolls fares rates and charges as the Company are authorised to demand and take by the Act of 1885 with respect to the authorised railway.

Share capital  
of Company  
under Act  
of 1885  
reduced.

18. The capital which by the Act of 1885 the Company are authorised to raise by means of shares is by this Act reduced from the sum of eighty-three thousand pounds to the sum of forty-eight thousand pounds in four thousand eight hundred shares of ten pounds each.

Borrowing  
powers of  
Company  
under Act  
of 1885  
reduced.

19. The amount which the Company may borrow on mortgage under the Act of 1885 is by this Act reduced from the sum of twenty-seven thousand six hundred pounds to the sum of sixteen thousand pounds and section 18 (power to borrow) of the Act of 1885 shall henceforth be read and have effect as if the said sum of sixteen thousand pounds had been mentioned therein instead of the said sum of twenty-seven thousand six hundred pounds and as if the said sum of forty-eight thousand pounds had been mentioned therein instead of the sum of eighty-three thousand pounds.

Release of  
portion of  
money  
deposited  
under the  
Act of 1885.

20. On the application of the persons named in the warrant or order issued in pursuance of the Act of the ninth year of Her present Majesty chapter twenty in respect of the application to Parliament for the Act of 1885 or of the survivors or survivor of them or of the majority of such persons or survivors or of the executors or administrators of the last survivor at any time after the passing of this Act the Chancery Division of the High Court of Justice in England may and shall order that the sum of one thousand nine hundred and fifty pounds being part of the said sum of four thousand three hundred and fifty pounds mentioned in the 35th section of the Act of 1885 and the interest and dividends thereof shall be transferred and paid to the persons or person so applying or to any other person or persons whom they or he may appoint in that behalf and the 35th and 36th sections of the Act of 1885 shall operate and have effect with reference only to the balance of the said sum of four thousand three hundred and fifty pounds and the interest and dividends thereof.

Power to  
raise addi-  
tional capital.

21. The Company may subject to the provisions of Part II of the Companies Clauses Act 1863 from time to time raise for the purposes of this Act any additional capital not exceeding in the whole thirty-five thousand pounds (five thousand pounds of which capital is herein-after referred to as the interest capital) by the issue at their option of new ordinary shares or new preference shares or



wholly or partially by any one or more of those modes respectively but the Company shall not issue any share of less nominal amount than ten pounds. A.D. 1886.

**22.** The Company shall not issue any share created under the authority of this Act 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. Shares not to be issued until one fifth paid up.

**23.** Except as is by this Act otherwise provided the capital in new shares created by the Company under this Act and the new shares therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares were shares in that capital The capital in new shares so created shall form part of the capital of the Company. Except as otherwise provided new shares or stock to be subject to same incidents as other shares or stock.

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

**25.** The Company shall not issue any preference share created under the authority of this Act until the railway authorised by the Act of 1885 has been completed and opened for public traffic. Provision as to issue of preference shares.

**26.** The Company may in respect of the additional capital (other than interest capital) of thirty thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage any sums not exceeding in the whole ten thousand pounds but no part thereof shall be borrowed until the whole of the said additional capital is 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 the whole of such capital has been issued and accepted and that one half of such capital 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 that such capital was issued bonâ fide and is held by the persons or corporations to whom the same was issued or their executors administrators successors or assigns and 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

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shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

Repealing provisions of former Acts with respect to appointment of a receiver.

**27.** Every provision in any Act passed before the present session of Parliament whereby the Company is authorised to raise by borrowing money for the purposes of their undertaking with respect to the appointment of a receiver for enforcing payment by the Company of arrears of interest or principal or principal and interest shall be and the same is hereby repealed but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under any such provision.

For appointment of a receiver.

**28.** 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. In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than three thousand pounds in the whole.

Power to create debenture stock.

**29.** 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 and of all mortgages created and issued or granted by the Company under the Act of 1885 or this or any subsequent Act shall subject to the provisions of any subsequent Act rank *pari passu* (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which such stock and mortgages shall have been authorised) and shall have priority over all principal moneys secured by such mortgages.

Application of moneys raised under this Act.

**30.** All moneys raised under this Act whether by shares stock debenture stock or borrowing shall be applied only for the purposes of this Act to which capital is properly applicable and the Company may apply to the purposes of this Act to which capital is properly applicable any of the moneys which they now have in their hands or which they have power to raise under the Act of 1885 and which may not be required for the purposes to which they are by such Act made specially applicable.

Repeal of section 50 of Act of 1885.

**31.** Section 50 of the Act of 1885 is by this Act repealed.

Payment of interest out of capital.

**32.** Notwithstanding anything contained in the Companies Clauses Consolidation Act 1845 the Company may out of the interest capital by this Act authorised to be raised pay interest at such rate not exceeding four pounds per centum per annum as the directors may determine to the shareholders on the amount from



time to time paid up on the shares held by them respectively from the respective times of such payments until the expiration of the time limited by the Act under the authority of which such shares are issued respectively for the completion of the works by that Act authorised or such less period as the directors may determine subject to the following conditions (that is to say):—

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- (a) The aggregate amount so payable for interest shall not exceed five thousand pounds :
- (b) Any such interest shall not begin to accrue until the Company have obtained a certificate of the Board of Trade to the effect that two thirds of the share capital of the Company in respect whereof interest may be paid have been actually issued and accepted and are held by the shareholders who or whose executors administrators successors or assigns are legally liable for the same :
- (c) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear :
- (d) Every prospectus advertisement or other document of the Company inviting subscriptions for shares and every certificate of shares shall contain a notice that the Company has power so to pay interest out of capital :
- (e) The half-yearly accounts of the Company shall show the amount of capital on which and the rate at which such interest has been paid :

And except as aforesaid no interest or dividend shall be paid to any shareholder out of any money by the Act of 1885 or this Act authorised to be raised on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

**33.** 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.

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

**34.** Nothing in this Act contained shall exempt the Company or the railways of the Company 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

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



A.D. 1886. 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 or any other Act relating to the Company.

Expenses  
of Act.

**35.** All the costs charges and expenses of and incident to the  
applying for obtaining and passing of this Act or preparatory or  
incidental thereto shall be paid by the Company.

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