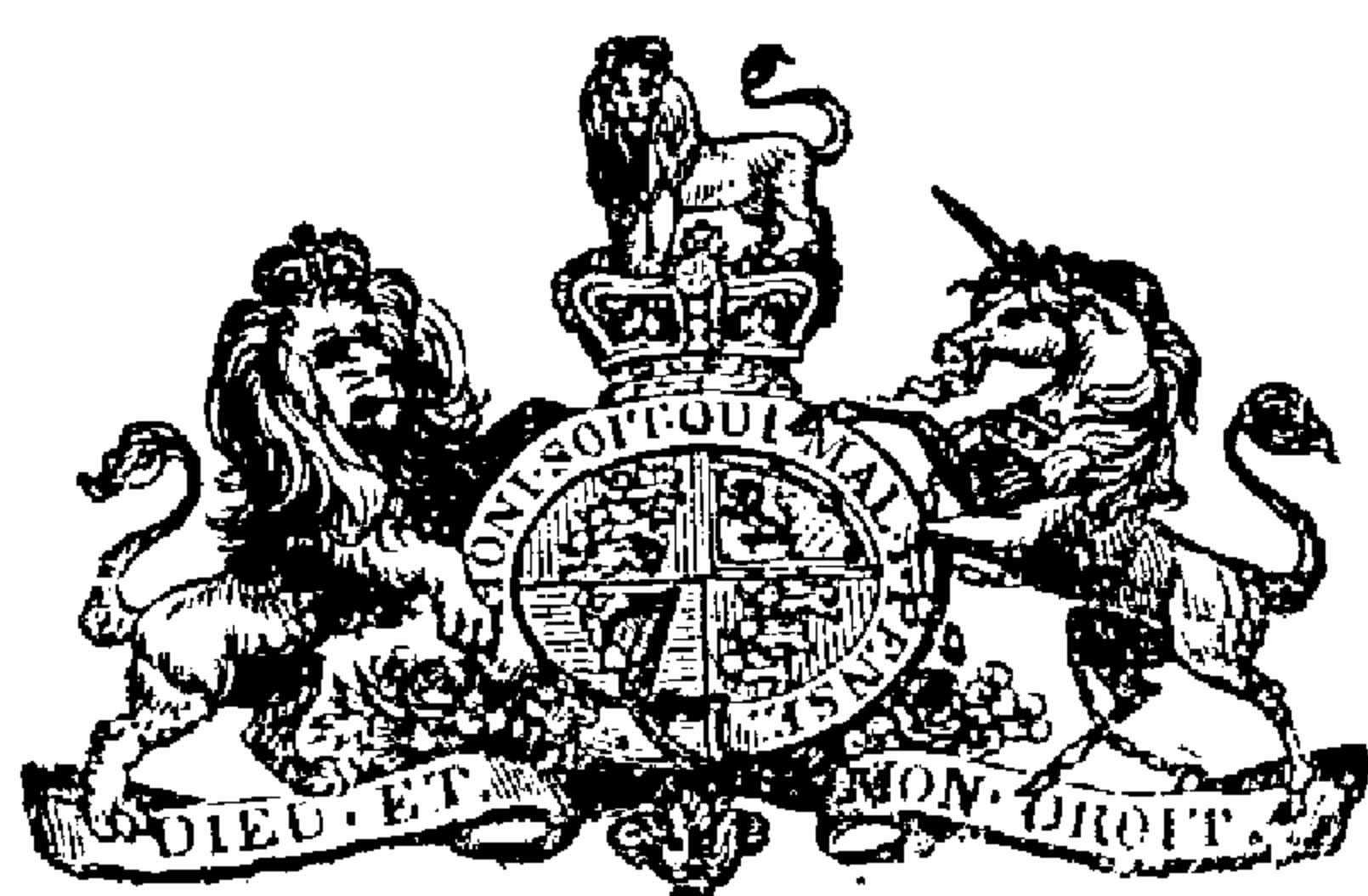




CHAPTER c.

An Act for incorporating the Budleigh Salterton Railway Company and for other purposes. [20th July 1894.] A.D. 1894.

WHEREAS the construction of the railway herein-after described in the county of Devon would be of public and local advantage :

And whereas the several persons herein-after named with others are willing at their own expense to carry the undertaking into execution on being incorporated into a company for the purpose :

And whereas it is expedient that the Company so to be incorporated (herein-after referred to as "the Company") and any company or persons for the time being working or using the railway of the Company be empowered to run over and use the part herein-after mentioned of the railway of the Sidmouth Railway Company (herein-after called "the Sidmouth Company") :

And whereas it is expedient that the Company and the London and South Western Railway Company (herein-after called "the South Western Company") be empowered to enter into and carry into effect agreements as herein-after provided :

And whereas under or by virtue of the will of the Right Honourable John Lord Rolle who died on the third day of April one thousand eight hundred and forty-two and by virtue of subsequent deeds appointing new trustees certain hereditaments situate in the county of Devon (herein-after called "the Rolle Estate") including the greater part of Budleigh Salterton and of the lands required for the purposes of such railway now stand limited unto and to the use of Sir George Stucley Stucley Baronet and the Right Honourable Sir Massey Lopes Baronet and their heirs in trust for the Honourable Mark George Kerr Rolle second son of Charles Rodolph Lord Clinton (now deceased) for his life subject to certain conditions as to residence in the Rolle Estate Act 1865 mentioned and thereby modified with remainder in trust for the first and other sons of the said Mark George Kerr Rolle severally and successively in tail male with remainder in trust for the third and every subsequently

A.D. 1894. — born son of the said Charles Rodolph Lord Clinton who should be born during the said testator's lifetime severally for their lives with remainder in trust for their sons in tail male and in default of such issue in trust for the Honourable Charles Henry Rolle Trefusis now the Right Honourable Charles Henry Rolle Hepburn Stuart Forbes Lord Clinton (in this Act called "Lord Clinton") the eldest son of the said Charles Rodolph Lord Clinton deceased for his life with remainder in trust for the first and every other son of Lord Clinton severally and successively in tail male with remainders over and the Rolle Estate is charged with a jointure in favour of Lady Gertrude Jane Rolle wife of the said Mark George Kerr Rolle and is subject to an equitable term determinable on his death and vested in trustees for securing payment of certain insurance premiums and of pin money to the said Lady Gertrude Jane Rolle :

And whereas the said Charles Rodolph Lord Clinton died on the tenth day of April one thousand eight hundred and sixty-six having had besides the said Lord Clinton and Mark George Kerr Rolle one son only born in the lifetime of the said testator namely his third son the Honourable Walter Rodolph Trefusis who was born on the fifth day of January one thousand eight hundred and thirty-eight and died on the third day of December one thousand eight hundred and eighty-five without having had any son :

And whereas the said Mark George Kerr Rolle has never had a son :

And whereas Lord Clinton has issue six sons of whom the eldest the Honourable Charles John Robert Hepburn Stuart Forbes Trefusis was born on the eighteenth day of January one thousand eight hundred and sixty-three and is now the first tenant in tail in remainder of the Rolle Estate :

And whereas the construction of the railway herein-after described would greatly benefit the Rolle Estate and aid in the development of Budleigh Salterton and it is expedient that the powers herein-after contained be conferred upon the tenant for life and trustees for the time being of that estate :

And whereas the said Mark George Kerr Rolle and Lady Gertrude Jane Rolle his wife and the said Sir George Stucley Stucley and Sir Massey Lopes and Lord Clinton and Charles John Robert Hepburn Stuart Forbes Trefusis have respectively consented to the provisions of this Act so far as the same affect their respective rights and interests :

And whereas plans and sections showing the lines and levels of the railway authorised by this Act and also a book 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 book of reference : A.D. 1894.

And whereas the 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 :—

1. This Act may be cited as the Budleigh Salterton Railway Short title.
Act 1894.

2. The Companies Clauses Consolidation Act 1845 Part I Incorporation of Acts.
(relating to cancellation and surrender of shares) and Part III (relating to debenture stock) of the Companies Clauses Act 1863 the Lands Clauses Acts the Railways Clauses Consolidation Act 1845 and Part I (relating to 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.

3. In this Act the several words and expressions to which Interpretation.
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 the expression "the Company" means the Company incorporated by this Act the expressions "the railway" and "the undertaking" mean respectively the railway and the undertaking by this Act authorised 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 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. The Honourable Mark George Kerr Rolle Robert Walker and Thomas Nadauld Brushfield and all other persons and corporations Company incorporated.
who have already subscribed to or shall hereafter become proprietors in the undertaking and their executors administrators successors and assigns respectively shall be and are hereby united into a company for the purpose of making and maintaining the railway and for other the purposes of this Act and for those purposes shall be and are hereby incorporated by the name of "The Budleigh Salterton Railway Company" and by that name shall be a body

A.D. 1894.

corporate with perpetual succession and a common seal and with power to purchase take hold and dispose of lands and other property for the purposes of this Act.

Power to
make rail-
way.

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 railway herein-after described with all proper stations junctions sidings rails roads 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 book of reference as may be required for that purpose The railway herein-before referred to and authorised by this Act will be wholly situate in the county of Devon and is—

A railway six miles four furlongs and 7·20 chains or thereabouts in length commencing in the parish of Ottery Saint Mary by a junction with the Sidmouth Railway and terminating at Budleigh Salterton in a field called or known as Broad Park and numbered 431 on the Tithe Commutation Map for the parish of East Budleigh at a point about forty-six yards or thereabouts south of the southern fence of Greenway Lane.

Railway may
be a light
railway.

6. The railway may be constructed and worked as a light railway but in that event the traffic on the railway shall not be worked by engines exceeding eight tons in weight on each pair of wheels nor at a higher maximum speed than twenty-five miles an hour unless the Board of Trade by licence authorise engines of greater weight and trains of a higher rate of speed on the railway and then only by engines and trains not exceeding the weight and speed specified in any such licence and if the Company or any company working or using the railway or any person fails to comply with or acts in contravention of this provision or of any such licence or directs anyone so to fail or act every such company or person shall be liable to a penalty for each offence not exceeding twenty pounds and to a like penalty for every day during which the offence continues.

For pro-
tection of
Sidmouth
Company
and South
Western
Company.

7. In constructing the junction by this Act authorised with the railway of the Sidmouth Railway Company the Company shall conform to the following conditions:—

(1.) The junction by this Act authorised with the railway of the Sidmouth Company shall be made at such point within the limits of deviation as William Robert Galbraith or some other engineer nominated by the Sidmouth Company and the engineer of the South Western Company shall designate and according to plans to be submitted to and approved by him and the engineer of the South Western Company and all works

A.D. 1894.

necessary to be executed upon the lands of the Sidmouth Company for the purpose of effecting such junction shall be executed by the Sidmouth Company or the South Western Company at the expense of the Company and to the reasonable satisfaction of the engineer of the Company. Provided that if the engineers of the South Western and Sidmouth Companies shall not agree as to the point at which the said junction shall be made or shall fail for one month after the submission of the plans of such junction to approve the same such junction shall be made at such point and according to such plans as an arbitrator appointed as herein-after provided may prescribe :

- (2.) The Sidmouth Company (or the South Western Company while the Sidmouth Railway is worked and maintained by the South Western Company) may from time to time erect maintain and alter such signal boxes signals telegraph and telephone instruments and other works and conveniences whether in connexion with their nearest station or with the said junction and whether permanent or temporary as may be found requisite in consequence of the construction and working of the said junction and may appoint and remove such watchmen pointsmen switchmen signalmen or other persons as may be reasonably necessary for the prevention of danger or detention to or interference with traffic at or near the said junction and the working of such signals works and conveniences and the control and direction of such watchmen pointsmen switchmen signalmen and other persons shall belong exclusively to the Sidmouth Company (or the South Western Company while the Sidmouth Railway is worked and maintained by the South Western Company) :

The costs and expenses which the Sidmouth Company or the South Western Company as the case may be will reasonably incur in erecting such signal boxes signals telegraph and telephone instruments and other works and conveniences shall be borne by the Company. The Company shall also bear the reasonable cost of maintaining such signal boxes signals telegraph and telephone instruments works and conveniences after construction and of the wages of such watchmen pointsmen switchmen signalmen and other persons as shall be required for working the same which costs of maintenance and working shall at the end of every half-year be repaid by the Company to the Sidmouth Company or the South Western Company as the case may be on demand :

In default of repayment of the amount of such costs expenses and wages as are provided for in this and the preceding

A.D. 1894.

subsection the same may be recovered from the Company by the Sidmouth Company or the South Western Company as the case may be in any court of competent jurisdiction :

(3.) The Company shall bear as part of the expenses incidental to the construction or future maintenance of the said junction the expense of the employment by the Sidmouth Company (or the South Western Company while the Sidmouth Railway is worked and maintained by them) of a sufficient number of inspectors or watchmen to be appointed by them for watching their railway with reference to and during the execution of any works of construction or maintenance and for preventing as far as may be all interference obstruction danger and accident which may arise therefrom :

(4.) The Company shall not without in every case obtaining the previous consent of the Sidmouth Company and the South Western Company under their respective common seals purchase or take any of the lands or property belonging to the Sidmouth Company and forming part of their railway and works within the Sidmouth Company's fences as shown on the deposited plans but they may purchase and take and the Sidmouth Company may and shall sell and grant accordingly an easement or right of using such part or parts only of such lands and property as shall be necessary for the purposes of the junction and works by this Act authorised but not further or otherwise :

(5.) Any question by this section referred to arbitration and any differences which may otherwise arise between the Company and the Sidmouth Company and the South Western Company or any of them as to the reasonableness of any requirements or any amounts payable or in respect of any other matters referred to in this section shall be determined by an arbitrator to be appointed on the application of either party by the president for the time being of the Institution of Civil Engineers and the decision of such arbitrator shall be final and conclusive and the costs of such arbitration shall be in his discretion.

Capital.

8. The capital of the Company shall be sixty thousand pounds in six thousand shares of ten pounds each.

Shares not to be issued until one-fifth paid.

9. The Company shall not issue any share created under the authority of this Act nor shall any such 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 is paid in respect thereof.

10. One-fifth of the amount of a share shall be the greatest amount of a call and three months at least shall be the interval between successive calls and three-fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

A.D. 1894.
Calls.

11. If any money is payable to a shareholder or mortgagee or debenture stockholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Receipt in
case of
persons not
sui juris.

12. Subject to the provisions of this Act the Company with the authority of three-fourths of the votes of the shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose may from time to time divide any share in their capital into half shares of which one shall be called "preferred half share" and the other shall be called "deferred half share" but the Company shall not so divide any share under the authority of this Act unless and until not less than sixty per centum upon such share has been paid up and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share (being the whole of the amount payable thereon) and the residue to the credit of the preferred half share.

Power to
divide
shares.

13. The dividend which would from time to time be payable on any divided share if the same had continued an entire share shall be applied in payment of dividends on the two half shares in manner following (that is to say) First in payment of dividend after such rate not exceeding six per centum per annum as shall be determined once for all at a general meeting of the Company specially convened for the purpose on the amount for the time being paid up on the preferred half share and the remainder (if any) in payment of dividend on the deferred half share and the Company shall not pay any greater amount of dividend on the two half shares than would have from time to time been payable on the entire share if the same had not been divided.

Dividends
on half
shares.

14. Each preferred half share shall be entitled out of the profits of each year to the dividend which may have been attached to it by the Company as aforesaid in priority to the deferred half share bearing the same number but if in any year ending the thirty-first day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half share for that year no part of the deficiency shall be made good out of the profits of any subsequent year or out of any other funds of the Company.

Dividends on
preferred
shares to be
paid out of
the profits of
the year only.

A.D. 1894.

Half shares
to be regis-
tered and
certificates
issued.

15. Forthwith after the creation of any half shares the same shall be registered by the directors and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued and the directors shall issue certificates of the half shares accordingly and shall cause an entry to be made in the register of the entire shares of the conversion thereof but the directors shall not be bound to issue a certificate of any half share until the certificate of the existing entire share shall be delivered to them to be cancelled unless it be shown to their satisfaction that such certificate is destroyed or lost and on any certificate being so delivered up the directors shall cancel it.

Terms of
issue to be
stated on
certificates.

16. The terms and conditions on which any preferred half share or deferred half share created under this Act is issued shall be stated on the certificate of each such half share.

Forfeiture
of preferred
shares.

17. The provisions of the Companies Clauses Consolidation Act 1845 with respect to the forfeiture of shares for non-payment of calls shall apply to all preferred half shares created under the authority of this Act and every such preferred half share shall for that purpose be considered an entire share distinct from the corresponding deferred half share and until any forfeited preferred half share shall be sold by the directors all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards payment of any expenses attending the declaration of forfeiture thereof and of the arrears of calls for the time being due thereon with interest.

Preferred
shares not to
be cancelled
or surren-
dered.

18. No preferred half share created under the authority of this Act shall be cancelled or be surrendered to the Company.

Half shares
to be half
shares in
capital.

19. The several half shares under this Act shall be half shares in the capital of the Company and every two half shares (whether preferred or deferred or one of each) held by the same person shall confer such right of voting at meetings of the Company and (subject to the provisions herein-before contained) shall confer and have all such other rights qualifications privileges liabilities and incidents as attach and are incident to an entire share.

Power to
borrow.

20. The Company may from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole twenty thousand pounds but no part of that sum shall be borrowed until the whole capital of sixty thousand pounds by this Act authorised is issued and accepted 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 such capital has 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 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 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 shall be sufficient evidence thereof.

A.D. 1894.

21. The mortgagees of the undertaking 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 two thousand pounds in the whole.

For appointment of a receiver.

22. 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 at any time created and issued or granted by the Company under this or any subsequent Act shall subject to the provisions of any subsequent Act rank *pari passu* (without regard to the dates of the securities or of the Acts of Parliament or resolutions by which the stock or mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Debenture stock.

23. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only for the purposes of this Act to which capital is properly applicable.

Application of moneys.

24. The first ordinary meeting of the Company shall be held within six months after the passing of this Act.

First ordinary meeting.

25. The number of directors shall be four but the Company may from time to time reduce and increase the number of directors but so that the number shall be never less than three nor more than six.

Number of directors.

A.D. 1894.

Qualification
of directors.

26. The qualification of a director shall be the possession in his own right of not less than twenty-five shares.

Quorum.

27. The quorum of a meeting of directors shall be three.

First
directors.

28. The Honourable Mark George Kerr Rolle Robert Walker and Thomas Nadauld Brushfield and one other duly qualified person to be nominated by them or the majority of them and consenting to such nomination shall be the first directors of the Company and shall continue in office until the first ordinary meeting held after the passing of this Act At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act or nominated as aforesaid or any of them or may elect a new body of directors or directors to supply the place of those not continued in office the directors appointed by this Act or nominated as aforesaid being (if they continue qualified) eligible for re-election and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power hereinbefore contained for altering the number of directors) elect persons to supply the places of the directors then retiring from office agreeably to the provisions of the Companies Clauses Consolidation Act 1845 and the several persons elected at any such meeting being neither removed nor disqualified nor having died or resigned shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Lands for
extra-
ordinary
purposes.

29. 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 five acres but nothing in that Act or in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them upon any land so taken.

Period for
compulsory
purchase of
lands.

30. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Powers to
tenant for
life and
trustees of
Rolle estate.

31.—(1.) It shall be lawful for the Honourable Mark George Kerr Rolle as tenant for life and for other the tenant for life for the time being when in possession of the Rolle Estate to grant and convey to the Company any lands being part of the Rolle Estate which may be required by the Company for the purposes of their railway or any sidings works or conveniences connected therewith either without any payment or in consideration wholly or in part of

the allotment to the said Sir George Stucley Stucley and Sir Massey Lopes as the present trustees or other the trustees and trustee for the time being of the Rolle Estate (herein-after called "the trustees") of shares in the capital of the Company or upon such other terms and conditions and for such other consideration as may be agreed upon and it shall be lawful for the trustees to accept an allotment of any number of shares in the capital of the Company so agreed to be accepted as aforesaid :

A.D. 1894.

(a) All such shares shall be deemed to be fully paid-up shares in the capital of the Company and the names of the trustees shall be registered as such in the register of shareholders and such registration shall for the purposes of sections 75 76 and 77 of the Lands Clauses Consolidation Act 1845 be deemed equivalent to and have the same effect as the deposit in the bank of the purchase money or compensation :

(b.) All shares issued pursuant to this section to the trustees shall be held upon the like uses and trusts and for the same purposes and in the same manner as the lands in consideration for which such shares are issued stood settled and were subject immediately before the conveyance of such lands to the Company and as if such shares were an investment of purchase money or compensation duly authorised by section 70 of the Lands Clauses Consolidation Act 1845.

(2.) It shall be lawful for the trustees with the consent of the Honourable Mark George Kerr Rolle or other the tenant for life in possession of the Rolle estate to guarantee by a charge upon the Rolle estate or any part or parts thereof the payment in each half-year after the completion and opening of the railway by this Act authorised for public conveyance of passengers for any period not exceeding 20 years of such a sum (if any) as with the share of the net earnings of the railway coming to the Company for that half-year and not required for current expenses of the Company shall be required to make up a sum equal to interest at 3½. per cent. per annum for such half-year on so much of the capital of the Company as may for the time being have been called up and from time to time to charge all sums so guaranteed with interest thereon at any rate not exceeding 4½. per cent. per annum on any part or parts of the Rolle Estate and to raise such sums by mortgage in fee or for any term or terms of years of any part or parts of the said estate.

32. In altering for the purposes of this Act the roads next herein-after mentioned the Company may make the same of any Inclination
of roads.

A.D. 1894. inclinations not steeper than the inclinations herein-after mentioned in connexion therewith respectively (that is to say) :—

No. on deposited Plan.	Parish.	Description of Road.	Intended Inclination.
13	Harpford - - -	} Public road - -	1 in 17
2	Aylesbeare - - -		
4	Aylesbeare - - -	Public road - -	1 in 17
13	Ottertton - - -	Public road - -	1 in 12
77	East Budleigh - -	} Public road - -	1 in 17
81	Ditto - - -		

Span of bridge.

33. The Company may make the arch of the bridge for carrying the railway over the road numbered on the deposited plans 50 in the parish of East Budleigh of any span not less than sixteen feet.

Widths of certain roadways.

34. The Company may make the roadway over the bridges by which the following roads will be carried over the railway of such width between the fences thereof as the Company think fit not being less than the respective widths herein-after mentioned in connexion therewith respectively (that is to say) :—

No. on Plan.	Parish.	Description of Roadway.	Width of Roadway.
4	Aylesbeare - - -	Public road - -	18 feet.
13	Ottertton - - -	Public road - -	12 feet.
1	East Budleigh - -	} Public road - -	20 feet.
13	Bicton - - -		
77	} East Budleigh - -	Public road - -	15 feet.
81			

Power to divert roads as shown on deposited plans.

35. The Company may divert the public highways referred to in the next following table in the manner shown upon the deposited plans and sections and when and as in each case the new portion of any road is made to the satisfaction of two justices and is open for public use may stop up and cause to be discontinued as a road so much of the existing road as will be rendered unnecessary by the new portion of road (that is to say) :—

Parish.	No. of Road on Plan.
Harpford - - -	13
Aylesbeare - - -	2
East Budleigh - -	{ 77
	81

And when and so soon as each of the said roads is so stopped up all rights of way over so much of the same as is so stopped up shall cease and the Company may subject to the provisions of the Railways Clauses Consolidation Act 1845 with respect to mines lying under or near to the railway appropriate and use for the purposes of their undertaking the site of the portion of road so stopped up as far as the same is bounded on both sides by lands of the Company :

A.D. 1894.

Provided that notwithstanding anything shown on the deposited sections the Company shall not construct the diversion of road No. 13 in the parish of Harpford of an inclination steeper than one in twenty.

36. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which others than parties to the agreement have an interest) 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 rent-charges 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 &c. by agreement.

37. The Company shall not under the powers of this Act purchase or acquire in any city borough or urban sanitary district or any parish or part of a parish not being within an urban sanitary district ten or more houses which on the fifteenth day of December next before the passing of this Act were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers nor except with the consent of the Local Government Board ten or more houses in any city borough or urban sanitary district or any parish or part of a parish not being within an urban sanitary district which were not so occupied on the said fifteenth day of December but have subsequently been so occupied.

Restriction on taking houses of labouring class.

For the purposes of this section the expression "labouring class" includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handiwork 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 such persons who may be residing with them.

38. Whereas pursuant to the Standing Orders of both Houses of Parliament and to the Parliamentary Deposits Act 1846 a sum of

Deposit money not to be repaid

A.D. 1894.
except so far
as railway is
opened.

two thousand seven hundred and thirty-four pounds five shillings and ninepence being five per centum upon the amount of the estimate in respect of the railway has been deposited with the Paymaster General for and on behalf of the Supreme Court in respect of the application to Parliament for this Act which sum is referred to in this Act 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 railway for the public conveyance of passengers and if the Company shall make default in so opening the railway the deposit fund shall be applicable and shall be applied as provided by the next following section 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 High Court shall on the application of the depositors 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.

39. 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 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 High Court 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 if a receiver has been appointed or the Company is insolvent or the undertaking has been abandoned be paid or transferred to such receiver or be applied in the discretion of the Court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid or retransferred to the depositors. Provided that until the deposit fund has been repaid or retransferred to the depositors or has become otherwise applicable as hereinbefore 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.

A.D. 1894.

40. 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 except as to so much thereof as is then completed.

Period for completion of works.

41. The Company may demand and take for the use of the railway by any other company or person with engines and carriages such reasonable tolls as they think fit.

Tolls.

42. The classification of merchandise traffic (including perishable merchandise exceeding fifty-six pounds in weight by passenger train) and the schedule of maximum rates and charges applicable thereto and the regulations and provisions contained in the schedule to the London and South Western Railway Company (Rates and Charges) Order 1891 (which Order is scheduled to and confirmed by the London and South Western Railway Company (Rates and Charges) Order Confirmation Act 1891) shall be applicable and apply to the Company as if it were one of the railway companies named in the appendix to the schedule to the said Order.

Rates for merchandise.

43. With respect to small parcels not exceeding five hundred pounds in weight conveyed by passenger train other than small parcels exceeding fifty-six pounds in weight of perishable merchandise as enumerated in Part V. of the schedule to the London and South Western Railway Company (Rates and Charges) Order 1891 the Company may demand and take any charges not exceeding the following (that is to say):—

Charges for small parcels.

For the carriage of such small parcels on the railway :

For any parcel not exceeding seven pounds in weight three-pence ;

A.D. 1894.

For any parcel exceeding seven pounds but not exceeding fourteen pounds in weight fivepence ;

For any parcel exceeding fourteen pounds but not exceeding twenty-eight pounds in weight sevenpence ;

For any parcel exceeding twenty-eight pounds but not exceeding fifty-six pounds in weight ninepence ; and

For any parcel exceeding fifty-six pounds but not exceeding five hundred pounds in weight the Company may demand any sum they think fit :

Provided always that articles sent in large aggregate quantities although made up in separate parcels such as bags of sugar coffee meal and the like shall not be deemed small parcels but that term shall apply only to single parcels in separate packages.

Maximum
rates for
conveyance
of passengers.

44. The maximum rate of charge to be made by the Company for the conveyance of passengers upon the railway including every expense incidental to such conveyance shall not exceed the following (that is to say) :—

For every passenger conveyed in a first-class carriage threepence per mile ;

For every passenger conveyed in a second-class carriage twopence per mile ;

For every passenger conveyed in a third-class carriage one penny per mile ;

For every passenger conveyed on the railway for a less distance than three miles the Company may charge as for three miles and every fraction of a mile beyond three miles or any greater number of miles shall be deemed a mile.

Passengers'
luggage.

45. Every passenger travelling upon the railway may take with him his ordinary luggage not exceeding one hundred and twenty pounds in weight for first-class passengers one hundred pounds in weight for second-class passengers and sixty pounds in weight for third-class passengers without any charge being made for the carriage thereof.

Foregoing
charges not
to apply to
special
trains.

46. The restrictions as to the charges to be made for passengers shall not extend to any special train run upon the railway in respect of which the Company may make such charges as they think fit but shall apply only to the ordinary and express trains appointed from time to time by the Company for the conveyance of passengers upon the railway.

Power to use
portion of
Sidmouth
Company's
railway.

47. The Company and any company or persons for the time being working or using the railway or any part thereof either by

agreement or otherwise may run over and use with their engines A.D. 1894.
carriages and wagons officers and servants whether in charge of
engines and trains or for any other purpose whatsoever and for the
purposes of their traffic of every description so much of the railway
of the Sidmouth Company as lies between the junction therewith
of the railway and the Tipton Saint John's Station of that company
together with that station and all roads platforms points signals
water water-engines engine-sheds standing room for engines booking
and other offices warehouses sidings junctions machinery works and
conveniences of or connected with the said portion of the Sidmouth
Railway and station and as regards traffic conveyed by them the
Company may demand and take the same rates and charges upon
and in respect of the said portion of railway and station as are now
authorised to be taken upon and in respect of such portion of
railway and station.

48. The terms conditions and regulations to be observed and Terms of
fulfilled and the tolls charges rent or other consideration to be such user.
paid by the Company or any such other company or persons as
aforesaid for and in respect of the use of such portion of railway
station works and conveniences shall be such as are from time
to time agreed upon between them and the Sidmouth Company or
failing such agreement as may from time to time be determined
by an arbitrator to be appointed by the Board of Trade on the
application of any or either of the companies or persons interested
and the cost of the arbitration shall be in his discretion and the
decisions of such arbitrator shall be final and binding on all
parties.

49. The Company on the one hand and the South Western Power to
Company on the other hand may subject to the provisions of enter into
Part III of the Railways Clauses Act 1863 as amended or varied traffic
by the Railway and Canal Traffic Acts 1873 and 1888 from time arrange-
to time enter into carry into effect and rescind agreements with ments.
respect to the following purposes or any of them (that is to say) :—

The working use management and maintenance by the South
Western Company of the railway and works of the Company
or any part or parts thereof;

The management regulation interchange collection transmission
and delivery of traffic upon or coming from or destined for
the railways of the contracting companies or either of them;

The supply and maintenance under any agreement for the
railway of the Company being worked and used by the South
Western Company of engines stock and plant necessary for
the purposes of any such agreement;

A.D. 1894.

The fixing collection payment appropriation apportionment and distribution of the tolls rates income and profits arising from the respective railways and works of the contracting companies or either of them or any part thereof ;

The employment of officers and servants ; and

The appointment of joint committees for the purposes of any such agreements.

Tolls on traffic conveyed partly on the railway and partly on other railways.

50. During the continuance of any working agreement to be entered into under the provisions of this Act and during the exercise of any running powers by this Act conferred the railways of the Company and of any company with whom such agreement shall have been entered into or over whose railways such running powers are exercised (as the case may be) shall for the purposes of short distance rates and charges be considered as one railway and in estimating the amount of rates and charges in respect of passengers conveyed partly on the railway of the Company and partly on the railways of any other company rates and charges may be charged as for three miles and for every mile or fraction of a mile beyond three miles as for one mile only and in estimating the amount of rates and charges in respect of merchandise traffic (including perishable merchandise exceeding fifty-six pounds in weight by passenger train) conveyed partly on the railway of the Company and partly on the railway of any other company the Company shall be deemed to be a company connected with the Sidmouth Company and specified in the appendix to the schedule to the aforesaid London and South Western Railway Company (Rates and Charges) Order 1891.

Saving for Postmaster-General.

51. Nothing in any agreement made under the authority of this Act shall affect the rights of Her Majesty's Postmaster-General under the Telegraph Act 1878 to place and maintain telegraphic lines in under upon along over or across the railways and works comprised in the undertaking of the Company and from time to time to alter such telegraphic lines and to enter upon the land and works comprised in such undertaking for the purposes in the Telegraph Act 1878 specified and the Postmaster-General shall after the making of any such agreement be at liberty to exercise all the rights aforesaid notwithstanding that the undertaking of the Company is worked by the South Western Company as freely and fully in all respects as he was entitled to do before the making of any such agreement.

Power to pay interest out of capital during construction.

52. Notwithstanding anything in this Act or any Act or Acts incorporated therewith contained it shall be lawful for the Company out of any money by this Act authorised to be raised to pay

interest at such rate not exceeding three pounds per centum per annum as the directors may determine to any shareholder on the amount from time to time paid up on the shares held by him from the respective times of such payments until the expiration of the time limited by this Act for the completion of the railway or such less period as the directors may determine but subject always to the conditions herein-after stated (that is to say) :—

A.D. 1894.

- (A) No such interest shall begin to accrue until the Company shall have obtained a certificate from the Board of Trade that two-thirds at least of the share capital authorised by this Act in respect of which such interest may be paid has been actually issued and accepted and is held by shareholders who or whose executors administrators or assigns are legally liable for the same ;
- (B) 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 ;
- (C) The aggregate amount to be so paid for interest shall not exceed five thousand pounds and the amount so paid shall not be deemed share capital in respect of which the borrowing powers of the Company may be exercised but such borrowing powers shall be reduced to the extent of one-third of the amount paid for interest as aforesaid ;
- (D) Notice that the Company has power so to pay interest out of capital shall be given in every prospectus advertisement or other document of the Company inviting subscriptions for shares and in every certificate of shares ;
- (E) The half-yearly accounts of the Company shall show the amount of capital on which and the rate at which interest has been paid in pursuance of this section :

Save as herein-before set forth no interest or dividend shall be paid out of any share or loan capital which the Company are by this 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 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.

53. 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

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

[Ch. c.] *Budleigh Salterton Railway Act, 1894.* [57 & 58 VICT.]

A.D. 1894. — Company to construct any other railway or to execute any other work or undertaking.

Provision
as to general
Railway
Acts.

54. Nothing in this Act contained shall exempt the Company or any other company named in this Act or the railway of any 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 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.

Costs of Act.

55. 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.

Printed by EYRE and SPOTTISWOODE,
FOR

T. DIGBY PIGOTT, Esq., C.B., the Queen's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
EYRE AND SPOTTISWOODE, EAST HARDING STREET, FLEET STREET, E.C.; or
JOHN MENZIES & Co., 12, HANOVER STREET, EDINBURGH, and
90, WEST NILE STREET, GLASGOW; or
HODGES, FIGGIS, & Co., LIMITED, 104, GRAFTON STREET, DUBLIN.