CHAP. lxxv.

An Act for conferring further powers on the Buckfastleigh, Totnes, and South Devon Railway Company with reference to their authorized capital. [12th July 1869.] A.D. 1869.

WHEREAS by the Buckfastleigh, Totnes, and South Devon Railway Act, 1864, (herein-after referred to as "the Act of 1864,") the Buckfastleigh, Totnes, and South Devon Railway Company (herein-after referred to as "the company") were incorporated and were empowered to construct the railways therein described, being railways between the South Devon Railway at Little Hempstone, and Totnes and Buckfastleigh respectively, all in the county of Devon: 27 & 28 Vict. c. cclviii.

And whereas by the Buckfastleigh, Totnes, and South Devon Railway Act, 1865, (herein-after referred to as "the Act of 1865,") the company were empowered to extend their railway from Buckfastleigh to Ashburton in the said county of Devon: 28 & 29 Vict. c. xli.

And whereas by the Buckfastleigh, Totnes, and South Devon Railway Act, 1868, the time for the completion of the said railways was extended to the 29th day of May 1871:

And whereas by the Act of 1864 the company were authorized to raise for the purposes thereof the sum of forty-eight thousand pounds by shares and the sum of sixteen thousand pounds by borrowing, and by the Act of 1865 they were authorized to raise for the purposes thereof the further sums of forty-eight thousand pounds by shares and sixteen thousand pounds by borrowing, making the total capital which the company are authorized to raise by shares ninety-six thousand pounds, and by borrowing thirty-two thousand pounds:

And whereas the company have acquired the land for and are proceeding with the construction of about one half in length of their authorized railways, and have raised and expended thereon upwards of thirty thousand pounds, part of the first-mentioned sum of forty-eight thousand pounds, of their authorized share capital:

And whereas, in order to enable the company to proceed with the construction of the remaining half of their railway and to obtain possession of the land required for that purpose (nearly the whole

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of which is the property of the Ecclesiastical Commissioners for England and Wales), it is necessary that they should immediately raise a considerable sum of money as the purchase money for the said land, and for that purpose it is expedient that they should be authorized to borrow at once the sum of ten thousand pounds in respect of the said sum of thirty thousand pounds of share capital raised and expended as aforesaid:

And whereas the company are not authorized to create any preference shares, and it would facilitate the raising of their capital if they were empowered to create and issue preference shares to the amount by this Act authorized, in lieu of shares already created which have been forfeited and cancelled:

And whereas the objects aforesaid 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 Buckfastleigh, Totnes, and South Devon Railway Act, 1869."

8 & 9 Vict. c. 16. and 26 & 27 Vict. c. 118. incorporated.

2. The provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the following matters; (that is to say,)

The distribution of the capital of the company into shares;

The transfer or transmission of shares;

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

The forfeiture of shares for nonpayment of calls;

The remedies of creditors of the company against the shareholders;

The consolidation of shares into stock;

And the provision to be made for affording access to the special Act;

and Part I. (relating to cancellation and surrender of shares) and Part II. (relating to additional capital) of the Companies Clauses Act, 1863, are (except where expressly varied by this Act) incorporated with and form part of this Act; and Part II. of "The Companies Clauses Act, 1863," shall apply to the new shares to be created by the company under the authority of this Act in lieu of cancelled, surrendered, or forfeited shares, as if such new shares had been created for the purpose of raising additional capital.

Interpretation of terms.

3. In this Act the several words and expressions to which by the Acts partially incorporated herewith meanings are assigned shall have the same respective meanings; and the expression "superior courts," or "court of competent jurisdiction," or any

other like expression in this Act or the Acts partially incorporated herewith, shall be read and have effect as if the debt or demand in respect of which the expression is used were a common simple contract debt, and not a debt or demand created by statute.

Power to assign preferential dividend.

4. The company, with the consent of three fourths of the votes of the shareholders present in person or by proxy at a meeting of the company convened with special notice of such object, may assign to any shares to be created by them in lieu of cancelled shares, not exceeding in the aggregate thirty thousand pounds, such amount of preferential dividend as they think fit, not exceeding six pounds per centum per annum, on the amount for the time being paid up on any such shares.

Shares not to issue until one fifth paid up.

5. The company shall not issue any share created under the authority of this Act, nor shall any share vest in the person 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.

New shares to be part of general capital.

6. Except as by or under the powers of this Act otherwise provided, all the shares created and issued by the company under this Act shall be part of the general capital of the company, and shall entitle the holders thereof respectively to the like proportionate rights, qualifications, and privileges, and shall have and be subject to the like liabilities, restrictions, and incidents, in all respects, as the other shares in the original capital of the company: Provided that (unless otherwise specified in any resolution of the company) no person shall be entitled to vote in respect of any share created and issued under this Act to which a preferential dividend shall be assigned.

Power to borrow on mortgage.

7. Notwithstanding anything in the Acts of 1864 and 1865 respectively contained, the company may from time to time and at any time after the passing of this Act borrow on mortgage any sums not exceeding in the whole the sum of ten thousand pounds, part of the sum of sixteen thousand pounds which by the Act of 1864 they are authorized to raise by borrowing.

Arrears may be enforced by appointment of a receiver.

8. 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 in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver shall be made shall not be less than three thousand pounds in the whole.

Provision with respect to the South Devon Rail-

9. And whereas by certain heads of agreement between the company and the South Devon Railway Company (herein-after called "the South Devon Company"), scheduled to the Act of 1864, and

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way Company's guarantee.

thereby confirmed and made binding on the parties thereto, and which by the Act of 1865 are made to apply to and include the undertaking, railways, and works by that Act authorized, and the monies by that Act authorized to be borrowed; and, by a formal agreement made between the said companies for giving effect to those heads, the South Devon Company are to guarantee the payment of the interest on the company's debenture debt to the amount and in the manner mentioned in the said Acts and agreement respectively: Therefore nothing in this Act contained shall enlarge, extend, vary, or in any manner affect the liability of the South Devon Company in respect of any guarantee to be given by them for the payment of interest under the said Acts and agreement respectively, or either of them, whether with respect to the period at which or the conditions upon which such guarantee shall be given or take effect or otherwise, but such liability shall be and remain in all respects as if this Act had not passed.

Interest not to be paid on calls paid up.

10. The company shall not, out of any money by this Act authorized to be raised by calls or by borrowing, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always, that this Act shall not prevent the company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act, 1845.

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

11. The company shall not, out of any money by this Act authorized 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 authorizing the company to construct any other railway or to execute any other work or undertaking.

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

12. Nothing herein contained shall be deemed or construed to exempt 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 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 of 1864 and 1865, or either of them.

Expenses of Act.

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

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