ANNO VICESIMO QUINTO & VICESIMO SEXTO

VICTORIÆ REGINÆ.

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Cap. cxxxii.

An Act for extending the Period limited for the Completion of a Portion of the Railway of the *Dartmouth and Torbay* Railway Company, and for authorizing them to raise a further Sum of Money; and for other Purposes.

[7th *July* 1862.]

WHEREAS by "The *Dartmouth and Torbay* Railway Act, 1857," the *Dartmouth and Torbay* Railway Company (in this Act called "the Company") were incorporated, and were authorized to make and maintain a Railway commencing by a Junction with the *Torquay* Branch of the *South Devon* Railway, and terminating in the Parish of *Brixham* at the Side of the River *Dart* near the Town of *Dartmouth*, and were authorized to raise a Capital of Ninety thousand Pounds by Shares, and to borrow on Mortgage not exceeding Thirty thousand Pounds: And whereas by "The *Dartmouth and Torbay* Railway Act, 1861," the Company were authorized to raise by the Creation and Issue of new Shares a further Sum not exceeding Thirty-two thousand five hundred Pounds, and in addition to the Capital of Ninety thousand Pounds authorized to be raised by the first-recited Act, making together an aggregate Sum of One hundred and twenty-two thousand five hundred Pounds, and to borrow on Mortgage a further Sum not exceeding Ten thousand eight hundred Pounds, making, together with the Sum autho-

20 & 21 Vict. c. ciii.

24 & 25 Vict. c. xlvi.

rized to be raised by Mortgage under the first-recited Act, an aggregate Sum of Forty thousand eight hundred Pounds: And whereas the Company have completed and opened a great Portion of the said Railway for public Traffic: And whereas it is expedient that the Period limited by the first-recited Act for the Completion of a Portion of the Company's authorized Line of Railway hereinafter particularly described, be extended: And whereas it is expedient that the Company be authorized to raise further Monies for the Purpose of completing the said Railway and for the general Purposes of their Undertaking: And whereas it is expedient that the Company should be authorized to lease their Undertaking to the *South Devon* Railway Company, and that the Two Companies should be authorized to enter into Agreements or Arrangements for that Purpose, and that the recited Acts should be in other respects altered and amended; but the Purposes 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; (that is to say,)

Short Title.

1. This Act may for all Purposes be cited as "The *Dartmouth and Torbay* Railway Act, 1862."

Extension of Period for Completion of Part of Company's Railway.

2. The Period within which the Company shall complete and open for public Traffic the following Portion of their Railway and Works, as authorized by the first-recited Act, (that is to say,)

That Portion thereof which lies between a Point in a Field in the Parish of *Churston Ferrers* in the County of *Devon* about One hundred Yards Northward of the public Highway leading from the Village of *Galmpton* to *Dartmouth* and *Kingswear* in the said County, and on the Plans deposited for the Purposes of the first-recited Act numbered 45 in the said Parish of *Churston Ferrers*, to and including the authorized Termination of the Company's authorized Line of Railway in a Field adjoining the River *Dart* in the Parish of *Brixham* in the same County,

shall be, not the Period in that Behalf limited by the recited Act, but the Period of Three Years after the passing of this Act, and the Company shall within that Period complete and open for public Traffic that Portion of the Railway and Works; and if they do not do so, then the Powers of the Company for making that Portion of the Railway and Works, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Dividends suspended until Rail-

3. If that Portion of the Railway be not completed and opened for public Traffic at the Expiration of the Period by this Act limited for the Completion

Completion thereof, no Dividend shall be paid on the ordinary Capital of the Company after the Expiration of that Period until that Portion of the Railway is completed and opened for public Traffic. Railway completed.

4. The following Provisions of "The Companies Clauses Consolidation Act, 1845," are incorporated with this Act; (that is to say,) Part of 8 & 9 Vict. c. 16. incorporated.

With respect to the Distribution of the Capital of the Company into Shares:

With respect to the Transfer or Transmission of Shares:

With respect to the Payment of Subscriptions, and the Means of enforcing the Payment of Calls:

With respect to the Forfeiture of Shares upon Nonpayment of Calls:

With respect to the Remedies of Creditors of the Company against the Shareholders:

With respect to the borrowing of Money by the Company on Mortgage or Bond:

With respect to the Conversion of the borrowed Money into Capital:

With respect to the Consolidation of Shares into Stock:

With respect to the affording Access to the Special Act.

5. The several Words and Expressions to which by the Act of which a Part is incorporated with this Act Meanings are assigned have in this Act the same respective Meanings, unless excluded by the Subject or Context. Same Meanings to Words in incorporated Acts and this Act.

6. The Company, from Time to Time, with the Sanction of at least Three Fifths 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 raise by the Creation and Issue of new Shares any Sum not exceeding Fifty-two thousand five hundred Pounds, and in addition to and as Part of the Capital of the Company which they are now authorized to raise by Shares. Power for Company to raise additional Capital by new Shares.

7. The following Sections of "The *Dartmouth and Torbay* Railway Act, 1861," and the Provisions and Conditions therein contained respectively, shall extend and apply to any new or further Capital to be raised under this Act, and to the Shares to be created or issued for that Purpose, as fully and completely in all respects as if those Sections had been respectively repeated and re-enacted in this Act with respect to such new Capital or Shares; that is to say, the Sections numbered respectively from 5 to 10, both inclusive, and from 13 to 20, both inclusive. Certain Sections of 24 & 25 Vict. c. xlvi. to apply to new Capital.

8. The new Shares which the Company by this Act are authorized to create may, with the Sanction of at least Three Fifths of the Votes of the Shareholders present in Person or by Proxy at a General Meeting of New Shares of different Classes.

of the Company specially convened for the Purpose, be created either of one Class and with like Privileges, or of several Classes and with different Privileges, and of the same or different Amounts, and respectively with any fixed, fluctuating, contingent, preferential, perpetual, terminable, and other Dividend; and the Company, as they from Time to Time think fit, may fix the Amounts and Times of Payment of the Calls on the new Shares.

Saving for existing preferential Shares.

9. Provided, That any Preference or Priority in the Payment of Interest or Dividend granted in pursuance of this Act in respect of any new Share so issued by the Company shall not prejudice or affect any Preference or Priority in the Payment of Interest or Dividend on any other Shares of the Capital of the Company which shall have been granted by the Company in pursuance of or which shall have been confirmed by any previous Act of Parliament, or which shall then otherwise be lawfully subsisting, unless with the Consent in Writing of the several Holders thereof.

Power to raise Capital under any other Act and this Act by new Shares of One Class.

10. It shall be lawful for the Company, if they think fit, to raise by the Creation and Issue of new Shares in their general Undertaking, of one and the same Class, all or any Part of the aggregate Capital which they are by the secondly recited Act and this Act respectively authorized to raise by the Creation and Issue of new Shares in their general Undertaking.

Defining Profits applicable to preferential Dividends.

11. All Shares created under the Powers of this Act and of "The *Dartmouth and Torbay* Railway Act, 1861," shall be entitled to the preferential Dividend (if any) which may have been attached to them by the Company out of the Profits of the Company in each Year in priority to the ordinary Shares of the Company, but if in any Year ending on the Thirty-first Day of *December* there shall not be Profits available for the Payment of the full Amount of such preferential Dividend 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, except that if any such Deficiency arise during the Period of Three Years from the passing of this Act the same may, notwithstanding anything in the said last-mentioned Act or this Act contained, be made good out of the Profits of the Company in any succeeding Year.

Restrictions as to new Shares.

12. Provided, That no new Share issued under this Act shall bear any fixed or preferential Dividend beyond the Rate of Six Pounds *per Centum per Annum* on the Amount from Time to Time actually paid thereon: Provided also, that all the Shares of the same Class shall be of the same Amount, and all the Shares of the same Class shall bear like Dividend and confer like Privileges.

13. The

Incidents of new Capital under Act.

13. The new Capital from Time to Time raised by the Company under this Act by new Shares shall be Part of the general Capital of the Company, and (except as is by this Act otherwise provided) all such Rights, Privileges, Liabilities, and Incidents shall attach to and be conferred by the Capital so raised and Shares thereof as to and by the Company's present Capital and Shares of like Amount.

Power to borrow on Mortgage.

14. The Company from Time to Time may borrow on Mortgage any further Sums not exceeding Seventeen thousand five hundred Pounds; provided that until the whole of the additional Capital of Fifty-two thousand five hundred Pounds by this Act authorized to be raised by Shares is subscribed for or taken, and One Half of the Capital of the Company for the Time being is actually paid up, and the Company shall 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 said Sum of Fifty-two thousand five hundred Pounds by this Act authorized to be raised by Shares is subscribed for or taken, and is held by the Subscribers or their Assigns, and that such Subscribers or their Assigns are legally liable, the Company shall not borrow any Money under this Act.

Arrears may be enforced by Appointment of a Receiver.

15. The Mortgagees of the Company may enforce the Payment of the Arrears of Interest or of Principal and Interest due on their Mortgages by the Appointment of a Receiver, and the Amount to authorize a Requisition for a Receiver is Three thousand Pounds.

Priority of existing Mortgages.

16. Provided, That all Mortgages granted by the Company before the passing of this Act, and in force at the passing of this Act, shall while in force have Priority over all Mortgages granted by the Company under this Act.

Application of Monies.

17. All and every Part of the Monies by this Act authorized to be raised by the Company shall be applied only to the Purposes of the Undertaking of the Company.

Power to lease Undertaking to South Devon Railway Company.

18. The Company from Time to Time may demise or lease their Undertaking, Railway, Ferry, Works, Lands, and Property, present and future, or any Part or Parts thereof, to the *South Devon* Railway Company, for such Term, and in consideration of such Rents or Reservations, or other Payment or Compensation, whether fixed, varying, terminable, contingent, or otherwise, and whether immediate or future, and whether dependent on or independent of the gross or net Earnings of the Companies or either of them, with such Powers and Privileges, and under and subject to such Covenants, Conditions, Provisions, Regulations, and Restrictions, as the Parties to any such Lease think proper and may agree upon, and the *South Devon* Railway Company may

Sanction of Shareholders to Lease.

enter into and accept such Demise of Lease accordingly: Provided always, that no such Lease shall be of any Effect until the same shall have been approved by the Board of Trade, nor unless previously to the making thereof the Terms thereof shall have been sanctioned by Three Fifths at least of the Votes of the Shareholders of each Company being a Party thereto, voting personally or by Proxy at an Extraordinary Meeting of such Company specially convened with Notice of the Object of the Meeting.

Effect of Leases.

19. Every such Lease shall entitle the Lessees to the free Use and Enjoyment of the Undertaking, Railway, Ferry, Works, Lands, and Property thereby demised, and during any such Lease all the Powers, Privileges, Rights, and Authorities granted to or which at the Time of the making of such Lease were or might be held, used, exercised, or enjoyed by the Company, their Directors, Officers, Agents, or Servants, (except such of the same Powers, Privileges, Rights, and Authorities, if any, as are by such Lease expressly reserved to the Company,) shall in like Manner, and to the same Extent in all respects, apply to, and be held, exercised, used, and enjoyed by the Lessees, and their Directors, Officers, Agents, and Servants, under the same Restrictions and Regulations as those to which the Company, their Directors, Officers, Agents, and Servants respectively, would be liable in the Exercise of such Powers, Privileges, and Authorities if such Lease were not made; and the *South Devon* Railway Company shall, with respect to the Railway, Ferry, or Undertaking comprised in such Lease, be subject to all the Obligations imposed upon the Company by the Acts relating thereto.

Power to enter into Contracts.

20. The *Dartmouth and Torbay* Railway Company and the *South Devon* Railway Company may enter into and execute any Contracts or Agreements for effecting all or any of the Purposes of this Act with reference to such Lease or any Objects incidental thereto; and every such Contract or Agreement may contain such Covenants, Clauses, Powers, Provisions, and Conditions as are mutually agreed upon between the Parties thereto.

Lease may supersede Working Contracts.

21. Any such Lease may be made, notwithstanding that the *South Devon* Railway Company may, under the Powers of any other Act, have previously entered into any Contract or Agreement with the Company for the Working or User of the Railway comprised in such Lease or any Part thereof; and any such Lease may (if so agreed) provide for the Determination of any such Contract or Agreement.

Interest not to be paid on Calls paid up.

22. The Company shall not, out of any Money by this Act or the recited Act authorized to be raised by Shares or Stock 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 that the Company may

may pay to any Shareholder such Interest on Money advanced by him beyond the Amount of the Calls actually made as is in conformity with the Provisions in that Behalf of "The Companies Clauses Consolidation Act, 1845."

Deposits for future Bills not to be made out of Company's Capital.

23. The Company shall not, out of any Money by this Act or the recited Act authorized to be raised by Shares or Stock or by borrowing, pay or deposit any Sum of Money 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 execute any other Work or Undertaking.

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

24. Nothing in this Act contained shall exempt the Railway 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 this or any future Session of Parliament, or from any future Revision and Alteration, under the Authority of Parliament, of the maximum Rates of Fares and Charges, or the Rates for small Parcels, by the recited Act and this Act respectively authorized.

Expenses of Act.

25. All the Costs, Charges, and Expenses of and incident to the preparing for, obtaining, and passing of this Act shall be borne and paid by the Company.

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