CHAPTER clv.

An Act for enabling the Devon and Somerset Railway Company to take lands, to raise additional capital; and for other purposes. [30th July 1874.]

A.D. 1874.

WHEREAS by "The Devon and Somerset Railway Act, 1864," herein-after called "the Act of 1864," the Devon and Somerset Railway Company, in this Act called "the Company," were incorporated and authorised to make a railway from the Bristol and Exeter Railway to Barnstaple in the county of Devon, and were empowered to raise a capital of five hundred thousand pounds in twenty thousand shares of twenty-five pounds each, and to borrow on mortgage a further sum of one hundred and sixty-six thousand pounds:

27 & 28 Vict. c. cccvii.

And whereas of that share capital the Company (before the filing of the scheme herein-after referred to) issued ten thousand nine hundred and eight shares, representing two hundred and seventy-two thousand seven hundred pounds, of which shares representing two hundred and fifty-six thousand six hundred pounds were fully paid up, and the Company borrowed on mortgage ninety-four thousand pounds:

And whereas an agreement was entered into on the sixth day of March one thousand eight hundred and sixty-five between the Bristol and Exeter Railway Company and the Company for the working of the line of the Company by the Bristol and Exeter Railway Company, and by "The Bristol and Exeter and Devon and Somerset Railways Act, 1865," that agreement, which is set forth in the schedule to that Act, was confirmed:

28 & 29 Vict. c. xlii.

And whereas by "The Devon and Somerset Railway (Capital) Act, 1866," herein-after called "the Act of 1866," the Company were authorised in manner therein mentioned to cancel unissued shares of the Company to any amount not to exceed two hundred thousand pounds, and to issue new shares in lieu of the shares so cancelled, and to attach to any such new shares a preferential

29 & 30 Vict. c. xvii.

A.D. 1874.

dividend not exceeding five pounds per centum per annum, but the powers conferred by that Act of issuing preference shares have not in fact been exercised by the Company:

30 & 31 Vict. cxlvii.

And whereas by "The Devon and Somerset Railway (Deviation) Act, 1867," herein-after called "the Deviation Act of 1867," the Company were empowered to construct a deviation railway from their authorised railway and to make a junction railway, commencing from and out of their proposed deviation railway, and terminating in the parish of Morebath by a junction with the line

28 & 29 Vict. c. cxxxii.

of railway authorised by "The Tiverton and North Devon Railway Act, 1865," and it was by the said Deviation Act of 1867 provided that the railways thereby authorised should be completed within three years from the passing thereof (the fifteenth day of July one thousand eight hundred and sixty-seven):

And whereas the Board of Trade, by their warrant dated the sixth day of September one thousand eight hundred and seventy, made in pursuance of "The Railways (Extension of Time) Act, 1868," extended the period for the completion of the railways authorised by the Act of 1864 to the twenty-ninth day of June one thousand eight hundred and seventy-one, and by the Deviation Act of 1867 to the fifteenth day of July one thousand eight hundred and seventy-two:

30 & 31 Vict. c. clxxxii.

And whereas by "The Devon and Somerset Railway (Extension) Act, 1867," herein-after called "the Extension Act of 1867," the Company were empowered to extend their railway at Barnstaple, and to acquire additional lands, and to raise by the creation of shares in their undertaking, in addition to the five hundred thousand pounds which they were by the Act of 1864 authorised to raise by shares, further sums of money not exceeding thirty thousand pounds, to form part of the general capital of the Company, and to borrow on mortgage, in addition to the one hundred and sixty-six thousand pounds by the Act of 1864 authorised to be borrowed, any sums not exceeding ten thousand pounds:

And whereas the affairs of the Company becoming greatly embarrassed, and the Company being unable to complete their railway and works, the Company on the fifth day of March one thousand eight hundred and sixty-eight, filed in the High Court of Chancery a scheme of arrangement between the Company and their creditors, under the provisions of "The Railway Companies Act, 1867;" and the said court confirmed the said scheme on the twenty-ninth day of July one thousand eight hundred and sixty-eight, and the scheme was afterwards duly enrolled in the Court of Chancery under the provisions of the said Act:

A.D. 1874.

And whereas by the said scheme, (Article 1), the Company were authorised to create and issue debenture stock to an amount not exceeding two hundred and seventy thousand pounds, to be called "A Debenture Stock," and to bear interest at any rate not exceeding six pounds per centum per annum, and to be irredeemable; (Article 2), the Company were authorised in lieu of any part of the "A Debenture Stock" to grant irredeemable rentcharges; (Article 3), the moneys raised by the issue of "A Debenture Stock" were to be applied in the first instance to the payment of the costs of preparing and carrying that scheme into effect, and then in such order and proportion as the directors of the Company in their discretion should think fit to any of the purposes of the Company therein defined, including the completion of the Company's railway and works, and the payment of all costs and expenses incidental thereto; (Article 4), "A Debenture Stock," and the interest thereon, and any rentcharge which should be granted as aforesaid were to be the first charge on the entire undertaking of the Company; (Article 5), the existing debentures of the Company were to be converted into debenture stock to be called "B Debenture Stock," the interest whereof was to rank and be payable next after "A Debenture Stock," and the Company were to be at liberty to exercise the powers conferred upon them by the Act of 1864, and the Extension Act of 1867, for raising money by mortgage to the extent of the money which remained unraised under the said Acts respectively, and such mortgages were issued as "B Debenture Stock," and the holders of such new mortgages were to have all the same rights, privileges, and advantages with respect to interest and otherwise as appertained to the holders of existing debentures of the Company; (Article 6), neither "A Debenture Stock" nor "B Debenture Stock" was to operate as a charge upon superfluous lands conveyed by the Company, or to prejudicially affect any specific lien or charge or incumbrance upon any such lands; (Article 7), the "A Debenture Stock" and "B Debenture Stock" respectively were to confer on the holders thereof the same qualifications with respect to the right of attending and voting at meetings of the Company as if they held shares of the Company to the like nominal amount; (Article 8), the Company were authorised to create preferential shares to the amount of twelve thousand pounds to be exchanged for ordinary shares then standing as fully paid up in the books of the Company as in the said article mentioned, and on such preferential shares being registered in the books of the Company, the ordinary shares in lieu of which the said preferential shares were registered were to be cancelled, and all further powers of the Company with respect to

A.D. 1874.

the issue of preferential shares were to be deemed to be annulled; the said preferential shares were to bear interest at the rate of five pounds per centum per annum; (Article 9), after reciting that by such cancellation of shares as provided by Article 8, the ordinary share capital of the Company, for which shares had been issued under the provisions of the Act of 1864, would be two hundred and sixty thousand seven hundred pounds, it was provided that from and after the confirmation of the scheme and such cancellation as aforesaid, the ordinary share capital under such Act should be two hundred and sixty thousand seven hundred pounds, and the Company were not to issue any further shares in respect of the provisions of that Act, but the Company were to be at liberty to exercise their powers of issuing shares to the extent of thirty thousand pounds, under the provisions of the Extension Act of 1867, and for the purposes of that Act only, and also to borrow ten thousand pounds by the issue of "B Debenture Stock," or otherwise, under the provisions of the last-mentioned Act; but in each case for the purposes of such last-mentioned Act only; (Article 10), the capital of the Company was to be seven hundred and forty-eight thousand pounds, divided as follows:

A Debenture Stock - - -	£270,000
B Debenture Stock - - -	176,000
Preference shares - - - -	12,000
Ordinary share capital - - -	290,700
	£748,700

(Article 11), the provisions of the Acts of 1864, 1866, and the Extension Act of 1867 were thereby repealed, so far as they were inconsistent with that scheme, but not further or otherwise; and (Article 12), except as therein otherwise expressly provided to the contrary, nothing therein contained was to be taken to interfere with, disturb, or prejudice the priorities of the several shareholders of the Company as among themselves; but such priorities were to remain as if that scheme had not been prepared or confirmed by the court:

And whereas the Company has not granted any rentcharge:

And whereas all the "A Debenture Stock" (two hundred and seventy thousand pounds) mentioned in Article 10 of the said scheme, bearing interest at the rate of six pounds per centum per annum, has been issued by the Company, and has been fully paid up; and of the "B Debenture Stock" (one hundred and seventy-six thousand pounds) mentioned in the same article, one hundred and sixty-five thousand five hundred and ninety-eight pounds has been issued and fully paid up, bearing interest at the rate of five pounds

A.D. 1874.

per centum per annum; the preference shares (to the amount of twelve thousand pounds) mentioned in that article have also been issued; and of the ordinary share capital (two hundred and ninety thousand seven hundred pounds) therein mentioned, two hundred and sixty thousand seven hundred pounds has been issued, and except as to one thousand one hundred and seventeen pounds ten shillings has been fully paid up:

And whereas by resolution of a special meeting of the Company duly convened the ordinary share capital of the Company, consisting of two hundred and sixty thousand seven hundred pounds in shares of twenty-five pounds each, was converted into a general capital stock to be called ordinary stock of two hundred and sixty thousand seven hundred pounds:

And whereas the Company have not raised any capital or borrowed any money under the provisions of the Extension Act of 1867:

And whereas by "The Devon and Somerst Railway Act, 1872," after reciting that a portion of the railway had then been open for traffic, and great progress had been made with the remainder of the railway and works of the Company, but that the said railway and works could not be completed without further funds, and also reciting that no shareholder, debenture stockholder, or ordinary stockholder of the Company had expressed his dissent to the provisions of that Act, the Company were authorised, with the sanction of three fifths of the votes of the debenture stockholders, ordinary stockholders, and preference shareholders who should be present (personally or by proxy) at a meeting specially convened for the purpose, to create and issue debenture stock to an amount not exceeding one hundred thousand pounds, to be called "A Debenture Stock," and to bear interest at any rate not exceeding six pounds per centum per annum, and to be irredeemable, and to rank pari passu with the then existing "A Debenture Stock" of the Company: 35 & 36 Vict. c. xl.

And whereas such sanction as aforesaid was given at meetings specially convened for the purpose, and such "A Debenture Stock" to the extent of one hundred thousand pounds was created, issued, and taken up:

And whereas the Company's railway was on the first day of November one thousand eight hundred and seventy-three opened for public traffic, and is now worked by the Bristol and Exeter Railway Company, under the provisions of "The Bristol and Exeter and Devon and Somerset Railway Act, 1865," but the stations at Barnstaple and elsewhere are still uncompleted: 28 & 29 Vict. c. xvii.

A.D. 1874.

And whereas there are outstanding liabilities to landowners and others, and it is expedient that for the satisfying such liabilities and the completion of the stations as aforesaid, and for the general purposes of the undertaking, that the Company be empowered, by the creation and issue of debenture stock, to raise further capital to the amount of sixty thousand pounds, and to acquire additional lands for the purpose of enlarging stations, and otherwise improving the accommodation of their line:

And whereas the preference shares of the Company amount to twelve thousand pounds, and under the special circumstances of this case, it is not considered necessary to require the consent of the holders of such preference shares to the creation and issue of debenture stock under this Act:

And whereas plans showing the lands intended to be taken compulsorily under the powers of this Act, and a book of reference to such plans containing the names of the owners or reputed owners, lessees or reputed lessees, and of the occupiers of the said lands, have been deposited with the clerk of the peace for the county of Devon, and with the parish clerks of each parish in which any such lands are situate; and those plans and book of reference are in this Act referred to as the deposited plans and book of reference:

And whereas the objects and purposes 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:

Short title.

1. This Act may be cited for all purposes as "The Devon and Somerset Railway Act, 1874."

Provisions of certain general Acts incorporated.

2. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," "The Railways Clauses Consolidation Act, 1845," Part I. (relating to construction of a railway) of "The Railways Clauses Act, 1863," Part III. (relating to debenture stock) of "The Companies Clauses Act, 1863," and section 24 (also relating to debenture stock) of "The Railway Companies Act, 1867," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; and the word "railway" shall include the railway and works

authorised by the Act of 1864, as altered by the Deviation Act of 1867; the word "scheme" shall mean the recited scheme of arrangement between the Company and their creditors; 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.

Power to issue "A Debenture Stock."

4. The Company, with the consent in writing of three fourths in value of each class of the debenture stockholders of the Company, may create and issue debenture stock to an amount not exceeding sixty thousand pounds, to be called "A Debenture Stock," and to bear interest at any rate not exceeding six pounds per centum per annum, and to be irredeemable, and which shall rank pari passu with the present "A Debenture Stock" of the Company and the interest thereon: Provided always, that before any part of such last-mentioned A stock shall be created and issued as aforesaid the Company shall prove to the satisfaction of the Court of Chancery that such consents as aforesaid have been given. Such proof may be given either on motion or petition to the said court, who shall, upon being satisfied that such consents have been given, make an order or give a certificate to enable such stock to be issued as aforesaid.

General power to dispose of "A Debenture Stock."

5. The Company may from time to time dispose of the "A Debenture Stock" authorised by this Act to such persons, on such terms and conditions, and in such manner as the directors think advantageous to the Company, provided that no such disposal shall be made under par value.

"A Debenture Stock" not to operate as a charge on surplus lands.

6. The "A Debenture Stock" issued under the authority of this Act shall not operate as a charge upon superfluous lands of the Company, or prejudicially affect any specific lien or charge or incumbrance upon any such lands.

Rights of voting, &c.

7. The possession of debenture stock to be created under this Act shall entitle the holders thereof to be present in person or by proxy at any meeting of the Company, and to vote thereat on the scale of voting prescribed by "The Devon and Somerset Railway Act, 1872."

General rights of holders of debenture stocks.

8. Notwithstanding anything in this Act, the "A" and "B" debenture stocks already created, and the "A Debenture Stock" to be created under this Act, shall entitle the holders thereof to the rights and powers of mortgagees of the undertaking other than the

A.D. 1874.

right to require repayment of the principal money paid up, or deemed to be paid up, in respect of the debenture stock other than in respect of superfluous lands.

Power to take lands.

9. The Company may from time to time enter on, take, and use all or any of the lands shown on the deposited plans, and described in the deposited book of reference.

Powers for compulsory purchases limited.

10. 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.

Saving rights of creditors and others.

11. Nothing in this Act contained shall take away, lessen, prejudice, or affect any estate, charge, priority, interest, right, or power which any creditor of the Company, or other person who did not assent to the said scheme or is not bound thereby, now has against the Company, or in, upon, or against the lands, property, and effects of the Company.

Application of revenue.

12. The rates, tolls, profits, and revenues arising from the railway and works, in respect of each year, beginning and reckoned from the first day of January after the passing of this Act, shall, subject to the said saving clause, be applied,—

1st. In payment of all working and incidental expenses of the undertaking of the Company, other than those which are to be borne by the Bristol and Exeter Railway Company for working the railway of the Company, under "The Bristol and Exeter and Devon and Somerset Railways Act, 1865:"

2nd. In payment of the interest and arrears of interest on the "A Debenture Stock" of the Company already created or to be created under this Act:

3rd. In payment of the interest and arrears of interest on the "B Debenture Stock" of the Company:

4th. Subject thereto, for the Company.

Saving rights of the Bristol and Exeter Railway Company.

13. Nothing in this Act contained shall in anywise alter, prejudice, or affect any of the rights, powers, or claims of the Bristol and Exeter Railway Company.

Interest not to be paid on calls paid up.

14. The Company shall not, out of any money by this Act authorised 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.

15. 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 any Act authorising 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.

16. Nothing in this Act shall exempt the Company from the provisions of any general Act relating to railways, or 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 or alteration, under the authority of Parliament, of the maximum rates of fares and charges, or of the rates for small parcels.

Expenses of Act.

17. The costs, charges, and expenses preliminary to and of and incidental to the preparing, applying for, obtaining, and passing of this Act shall be paid by the Company.

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1874.