CHAPTER cliv.

An Act to confer further powers upon and to amend the Acts relating to the Hull Barnsley and West Riding Junction Railway and Dock Company with respect to the Raising of Money; and for other purposes. A.D. 1889.

[12th August 1889.]

WHEREAS by the Hull Barnsley and West Riding Junction Railway and Dock Act 1880 (in this Act called "the Act of 1880") the Hull Barnsley and West Riding Junction Railway and Dock Company (in this Act called "the Company") were incorporated for the purpose of making and maintaining certain railways and a dock and other works in the East and West Ridings of the county of York and in the town and county of the town of Kingston-upon-Hull with a share capital of £3,000,000 and power to borrow on mortgage £1,000,000 and the Company have raised and expended the whole of such capital and have borrowed on mortgage aforesaid the sum of £960,000 the power to borrow £40,000 the balance of the said sum of £1,000,000 having been extinguished by reason of the creation by the Company of a rentcharge upon the purchase of certain lands:

And whereas all the mortgages granted by the Company under the Act of 1880 carried interest at the rate of four and a half per centum per annum and provided for the repayment of the principal sums thereby secured at stated periods and all those periods have elapsed and the Company are entitled to pay off the principal sums and interest secured by and due on such mortgages:

And whereas by the Hull Barnsley and West Riding Junction Railway and Dock (New Works) Act 1882 (in this Act called "the Act of 1882") the Company were authorised to construct certain railways in the West Riding of the county of York a new dock at Hull and other works and to raise further capital not

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exceeding £2,400,000 by ordinary or preference shares or stock and to borrow on mortgage further sums not exceeding £800,000:

And whereas by the Hull Barnsley and West Riding Junction Railway and Dock (Various Powers) Act 1883 (in this Act called "the Act of 1883") the Company were authorised to execute further works and to raise further capital not exceeding £600,000 by ordinary or preference shares or stock and to borrow on mortgage further sums not exceeding £200,000 which powers of raising further capital and of borrowing on mortgage were however extinguished by the Act of 1886 hereinafter mentioned:

And whereas by the Hull Barnsley and West Riding Junction Railway and Dock (Money) Act 1884 (in this Act called "the Act of 1884") after reciting that for various reasons the estimates for the works authorised by the Act of 1880 had been considerably exceeded the Company were authorised to borrow on mortgage further sums not exceeding £1,500,000 and to create debenture stock and by section 6 of the reciting Act it was provided that the principal moneys and interest secured by all mortgages granted by the Company in pursuance of the powers of the Act of 1880 before and subsisting at the passing of the reciting Act should during the subsistence of such mortgages and until the repayment thereof with all accumulations of interest have priority over the principal moneys and interest secured by any mortgages to be thereafter granted by virtue of the Act of 1880 the Act of 1882 the Act of 1883 the Act of 1884 or any subsequent Act relating to the Company:

And whereas the Company have raised the whole of the sum of £1,500,000 authorised by the Act of 1884 partly by mortgages convertible into debenture stock at the holders' option and partly by debenture stock:

And whereas by the Hull Barnsley and West Riding Junction Railway and Dock Act 1886 (in this Act called "the Act of 1886") after reciting that the traffic of the Company had been only partially developed and their net revenue although likely to increase had hitherto been insufficient and might probably be for some further period insufficient to enable them to pay in full the interest on their debentures and debenture stock and that the Company also required further money to meet their outstanding liabilities in respect of the purchase of their then rolling stock and for purchasing additional rolling stock required for the efficient working of their railways and for other outstanding liabilities and for the construction of warehouses and appliances in connection with their docks at Hull the Company were authorised to create and issue preference shares or preference stock to such nominal amount as should be sufficient to

produce the sum of £500,000 bearing a preferential dividend not exceeding £6 per centum per annum cumulative during seven years from the issue of the shares or stock but the Company were prohibited from issuing any such shares or stock at a lower price than £90 cash for every £100 of the nominal value thereof:

And whereas by the Hull and North Western Junction Railway Act 1887 the powers of the Company for making certain of the works authorised by the Act of 1882 were transferred to the Company incorporated by the reciting Act and by the Hull Barnsley and West Riding Junction Railway and Dock Act 1887 (in this Act referred to as "the Act of 1887") the capital and borrowing powers of the Company under the Act of 1882 were reduced from £2,400,000 and £800,000 to £1,500,000 and £500,000 respectively and the Company have raised by ordinary shares £300,000 of the said capital of £1,500,000 and no more and have not borrowed any part of the said sum of £500,000:

And whereas other Acts have been passed relating to the Company but not affecting their capital or borrowing powers:

And whereas the Company have been wholly unable to issue any of the preference shares or stock authorised by the Act of 1886:

And whereas the Company have been unable to pay in full out of their revenue the interest from time to time accruing upon the mortgages and debenture stock granted and created by them as aforesaid and the unpaid interest thereon will it is estimated amount on the 31st December next in respect to mortgages under the Act of 1880 to £170,000 or thereabouts and in respect to mortgages and debenture stock under the Act of 1884 to £294,000 or thereabouts:

And whereas upon the application of holders of mortgages of the Company the interest upon which is in arrear and of creditors of the Company receivers and managers of the undertaking of the Company have been appointed by the Chancery Division of the High Court of Justice in England to the great expense of the Company and the diminution of their credit:

And whereas the share and loan capital of the Company and their indebtedness now stand as follows viz.:—

(A) Shares issued under the Act of 1880 -	£3,000,000
(B) Mortgages bearing interest at 4½ per centum per annum granted under the Act of 1880 and now overdue - - - -	960,000
(C) Arrears of interest on those mortgages (including amount estimated to accrue to 31st December 1889) about - - -	170,000

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(D) Mortgages and debenture stock bearing interest respectively at 5 per centum per annum granted under the Act of 1884 - £1,500,000

(E) Arrears of interest on last-mentioned mortgages and debenture stock about - - 294,000

(F) Unpaid purchase-money for lands acquired and interest thereon and costs about - - 78,000

(G) Balance of purchase-money of rolling stock payable by half-yearly instalments - - 86,000

(H) Lloyd's bonds and other liabilities about - 340,000

and

(I) Shares issued under the Act of 1882 as amended by the Act of 1887 - - 300,000

And whereas it is expedient that provision be made by the creation and (subject to the provisions of this Act) the issue of debenture stock of two classes of such amounts and with such incidents as by this Act provided for the extinguishment of the existing mortgages and debenture stock of the Company and the discharge of all their liabilities whereby the Company would be enabled to procure the discharge of the receivers and managers appointed as aforesaid and the financial position and credit of the Company would be greatly improved:

And whereas it is expedient that the powers of the Company of raising capital under the Act of 1886 be extinguished:

And whereas the holders of more than three-fourths in value of the mortgages and debenture stock granted and created by the Company under the Act of 1884 and the only holder of Lloyd's bonds granted by the Company have assented in writing to the provisions of this Act affecting them respectively:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:

Short title.

1. This Act may be cited as the Hull Barnsley and West Riding Junction Railway and Dock Act 1889.

Incorporation of parts and provisions of other Acts.

2. The clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to—

The conversion of the borrowed money into capital;

The giving of notices; and

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

are (except where expressly varied by this Act) incorporated with and form part of this Act and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 except section 22 of that Act shall apply to the debenture stock created by this Act as if such stock were created under the powers and provisions of the said Companies Clauses Act 1863.

Creation of debenture stock.

3. There is by this Act created debenture stock of the Company of two classes hereinafter referred to as "First Debenture Stock" and "Second Debenture Stock" respectively of the following nominal amounts (that is to say):—

(A) First debenture stock of such nominal amount as shall be sufficient at the price at which the same shall be issued to raise in cash the sum of one million five hundred thousand pounds;

(B) Second debenture stock in nominal amount two million pounds;

and with such incidents as hereinafter provided and the directors of the Company may from time to time in accordance with the provisions in that behalf of this Act but not otherwise issue the first debenture stock and so much of the second debenture stock as is not by this Act vested in holders of mortgages debenture stock and Lloyd's bonds of the Company.

Rate of interest on first debenture stock.

4. First debenture stock created by this Act shall bear interest at the rate of three per centum per annum and shall be issued (subject to the provisions of this Act) at such price not being less than after the rate of ninety-five pounds for every one hundred pounds of nominal amount of such stock as the directors from time to time determine.

First debenture stock to be issued within six months and paid to Bank of England to be applied for purposes mentioned.

5. Within six months after the passing of this Act and subject to the provisions thereof the whole of the first debenture stock shall be issued and the whole of the proceeds thereof paid to the Bank of England who shall apply so much of such proceeds as may be required in that behalf in or towards paying off all principal moneys and interest or arrears of interest due or to become due upon any mortgages of the Company granted under the powers of the Act of 1880 including judgments in respect of such arrears with interest upon such arrears if and to the extent to which the Company may be legally liable to pay such last-mentioned interest:

Provided that where the Bank of England are unable after diligent inquiry to ascertain the person to whom any such principal

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money or interest ought to be paid they may pay the same into court under any Act from time to time in force for the relief of trustees and every such payment into court shall be deemed for the purposes of this Act to be payment of such principal money or interest and any person afterwards showing to the satisfaction of the court that he is entitled thereto may obtain payment thereof out of court accordingly:

And after paying all moneys payable as aforesaid and their reasonable expenses of carrying into effect the provisions of this section the Bank of England shall pay over to the Company the balance in their hands of the proceeds of the first debenture stock.

Application of balance of proceeds of first debenture stock.

6. The balance paid over by the Bank of England to the Company under the last preceding section shall be applied only for the following purposes (that is to say):—

(A) In or towards satisfaction of debts or liabilities of the Company in respect of unpaid purchase-money for lands acquired by the Company with interest thereon and costs in respect thereof;

(B) In or towards payment of instalments accrued or to accrue payable in respect of the purchase by the Company of rolling stock;

(C) In or towards the purchase of such new or further rolling stock and in or towards the providing of such warehouses buildings and appliances as may be necessary for the efficient working or development of the undertaking of the Company: Provided that the amount of money to be applied for purposes mentioned in this sub-section (C) shall not exceed in the whole one hundred thousand pounds;

(D) In or towards payment of the costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto;

(E) And the balance of the said sum of one million five hundred thousand pounds after paying or providing for payment of the moneys interest debts liabilities and purposes aforesaid may be applied and shall be applied only in or towards payment or satisfaction of arrears of interest due upon or in respect of mortgages or debenture stock granted or created under the Act of 1884.

Ranking of first debenture stock.

7. The interest on first debenture stock created by this Act shall (but subject and without prejudice to the provisions of section 6 of the Act of 1884) be the first charge upon the revenue of the

Company after payment of the expenses of working maintaining repairing and managing the undertaking of the Company and after setting aside such sum or sums as the directors from time to time think fit for contingencies or purposes mentioned in section 122 of the Companies Clauses Consolidation Act 1845 and after payment of any rentcharges granted or to be granted upon or in respect of the purchase of lands by the Company and for the time being subsisting the revenue of the Company in any year after such payments and the setting aside of such sum or sums as aforesaid constituting for that year the "net revenue of the Company" hereinafter referred to.

Rate of interest on second debenture stock.

8. Second debenture stock created by this Act shall bear interest as follows (that is to say) :—

First. Interest at the rate of three pounds per centum per annum in perpetuity;

Secondly. From and after the vesting by this Act or the issue from time to time of any portion of the said stock the portion of stock so vested or issued as the case may be shall bear and be entitled to the further interest following that is to say (A) from and after the expiration of five years from the vesting or issue as the case may be of such portion of stock further interest at the additional rate of one-half per centum per annum if and so far but so far only as the net revenue of the Company will extend to and be sufficient for the payment of such additional rate of interest and (B) from and after the expiration of ten years from the vesting or issue as the case may be of such portion of stock further interest at the additional rate of one-half per centum per annum (making in all an additional rate of one per centum per annum) if and so far but so far only as the net revenue of the Company will extend to and be sufficient for the payment of such additional rate of interest:

Provided that—

(A) On the thirty-first day of December next after the expiration of five years from the vesting or issuing of any portion of such debenture stock a proportionate part of such further interest on the portion of debenture stock so vested or issued calculated up to that thirty-first day of December shall accrue due on such thirty-first day of December;

(B) In the four next following years further interest as for a whole year shall accrue due on the thirty-first day of December in each year;

(C) In the year next following the four years mentioned in paragraph (B) the balance of the further interest at the addi-

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tional rate of half per centum per annum up to the end of the tenth year from the vesting or issue of the stock shall accrue due at the end of that tenth year and a proportionate part of the further interest at the additional rate in the whole of one per centum per annum aforesaid calculated up to the thirty-first day of December in that year shall accrue due on such thirty-first day of December; and

(D) In all subsequent years such further interest shall accrue due on the thirty-first day of December in each year:

Provided further that if the net revenue of the Company earned in the portion of a year in respect of which a proportionate part of further interest shall accrue due as aforesaid shall not be sufficient for payment of the full amount of such proportionate part of such further interest (of which a certificate under the hand of the chairman for the time being of the board of directors of the Company shall be conclusive evidence) or if in any year in which further interest for the whole of a year accrues due as aforesaid on the thirty-first day of December the net revenue of the Company available for the payment of such further interest for that year on the said debenture stock shall not be sufficient for payment of the full amount of such further interest no part of the deficiency shall be made good out of the net revenue of the Company of any subsequent year or out of any other funds of the Company.

On payment to Bank of England of proceeds of first debenture stock mortgages, &c. under Act of 1884 and Lloyd's bonds to be extinguished and second debenture stock vested in holders.

9. Upon payment to the Bank of England of the proceeds of the first debenture stock as aforesaid (of which payment and of the date of payment a receipt under the hand of the chief cashier of the said Bank shall be conclusive evidence) the mortgages and debenture stock granted and created respectively under the Act of 1884 and all Lloyd's bonds heretofore granted by the Company and outstanding and unsatisfied with all arrears of interest then due upon or in respect of such Lloyd's bonds are by this Act extinguished and cancelled and second debenture stock by this Act created equal in nominal amount in each case to the amount of principal money due upon such mortgages or (as the case may be) to the nominal amount of such debenture stock or (as the case may be) to the amount of principal money and arrears of interest as aforesaid due upon such Lloyd's bonds shall by this Act vest in the holders of such mortgages debenture stock and Lloyd's bonds respectively.

Moneys paid to Bank to be applied

10. Any moneys paid to the Bank of England under the provisions of this Act shall be applicable only for purposes for which the

proceeds of first debenture stock are by this Act made applicable and shall not except and so far as may be necessary for those purposes be liable to be attached or taken in execution or be subject to foreign attachment.

&c. and not liable to be attached &c.

11. So much of the second debenture stock created by this Act as is not by this Act vested in holders of mortgages debenture stock and Lloyd's bonds of the Company shall be issued at or above par and that portion of the said stock or the proceeds thereof shall be applied only for the following purposes (that is to say) :—

Application of second debenture stock or proceeds thereof.

(A) In or towards payment of interest or arrears of interest due or to become due upon mortgages or debenture stock of the Company granted or created under the Act of 1884 up to the date at which second debenture stock created by this Act is by this Act vested in the holders of such mortgages or debenture stock with interest upon such arrears respectively if and to the extent to which the Company may be legally liable to pay such last mentioned interest ;

(B) In or towards payment of debts or liabilities of the Company other than Lloyd's bonds with interest thereon.

12. As soon as reasonably may be after the vesting of second debenture stock by this Act created in the holders of mortgages debenture stock and Lloyd's bonds of the Company as aforesaid each of such holders shall deliver up to the Company to be cancelled his mortgage or certificate of debenture stock or his Lloyd's bond as the case may be and the Company shall if required issue to him a certificate of the second debenture stock by this Act created to which he is entitled.

Certificates of mortgages and debenture stock &c. to be cancelled and new certificates issued.

13. The interest on second debenture stock created by this Act shall (subject to the provisions of this Act as to the additional or contingent rates of interest thereon) be a charge upon the net revenue of the Company next after the interest on first debenture stock created by this Act.

Ranking of second debenture stock.

14. Where any creditor of the Company mentioned in the preceding sections of this Act is one of the persons described in Section 7 of the Lands Clauses Consolidation Act 1845 and by that Act enabled to sell land thereunder that person may consent to the paying off by the issue to him of debenture stock created by this Act of his debt or claim against the Company.

Persons under disability may accept stock &c. in discharge of their mortgages or debentures or debts.

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Debenture stock liable to same trusts &c. as affected security for which it is substituted.

15. Any debenture stock which shall vest under the provisions of this Act in the holder of any mortgage debenture stock or Lloyd's bond of the Company shall be subject and liable to the same trusts powers provisions declarations agreements charges liens and incumbrances as immediately before the vesting affected the mortgage stock or Lloyd's bond for which the same is substituted and so as to give effect to and not revoke any deed or other instrument or any testamentary disposition of or affecting the same.

Certificates to state ranking of interest &c.

16. The certificate issued by the Company for any debenture stock created by this Act shall upon the face of it bear or have endorsed upon it a memorandum stating distinctly the ranking in accordance with the provisions of this Act of the interest upon the stock to which the certificate relates and in the case of second debenture stock also stating distinctly in accordance with the provisions of this Act the additional or contingent rates of interest to which the stock may be entitled.

Extinguishing money powers under Act of 1886.

17. The powers by the Act of 1886 granted to the Company of creating and issuing shares or stock are hereby extinguished.

Interest not to be paid on calls paid up.

18. 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.

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

19. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum which by any standing order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any railway or to execute any work or undertaking.

Provision as to general Railway Acts.

20. Nothing in this Act contained shall exempt the Company or their railway 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 authorised by any Act relating to the Company.

Costs of Act.

21. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto including the costs charges and expenses of certain shareholders and debenture holders of the Company who deposited a petition in the House of Commons for amendments and against other alterations in the Bill for this Act shall be paid by the Company.

Printed by Eyre and Spottiswoode,
FOR
T. Digby Pigott, Esq., the Queen's Printer of Acts of Parliament.

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