CHAPTER ccxlv.

An Act for conferring further powers on the Lynton Railway Company and for other purposes. A.D. 1890.

[18th August 1890.]

WHEREAS by the Lynton Railway Act 1885 (in this Act called the Act of 1885) the Lynton Railway Company (in this Act called the Company) were incorporated for the purpose of making and maintaining the railway by that Act authorised and for other the purposes of that Act and empowered to raise a share capital of eighty-three thousand pounds and to borrow not exceeding twenty-seven thousand six hundred pounds and the period limited by the Act of 1885 for the completion of the railway thereby authorised was five years from the passing thereof:

And whereas by the Lynton Railway Act 1886 (in this Act called the Act of 1886) the share capital authorised by the Act of 1885 was reduced to forty-eight thousand pounds and the loan capital authorised by that Act was reduced to sixteen thousand pounds and further powers were conferred upon the Company and they were authorised to make and maintain the railway therein described and thereby authorised by way of extension of their railway authorised by the Act of 1885 and empowered to raise for the purposes of the Act of 1886 additional share capital not exceeding thirty-five thousand pounds and to borrow not exceeding ten thousand pounds and the period limited by the Act of 1886 for the completion of the railway thereby authorised was five years from the passing thereof:

And whereas by the Lynton Railway Act 1887 (in this Act called the Act of 1887) the Company were authorised to make and maintain a railway by way of extension of their railway to Combemartin and a junction railway and two deviations or alterations in their railway authorised by the Act of 1885 and a quay wall or embankment at Combemartin and to raise for the purposes of the

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Act of 1887 additional share capital not exceeding fifty thousand pounds and to borrow not exceeding fifteen thousand pounds:

And whereas by the Act of 1886 and the Act of 1887 respectively the Company are empowered to make and work the railways by those Acts and the Act of 1885 respectively authorised either on the system known as the Lartigue Elevated Single Rail Railway or in the usual manner on any gauge of not less than three feet:

And whereas the Company have proceeded to exercise the powers of the Act of 1886:

And whereas it is expedient that the period limited by the Act of 1886 for the completion of the railway by that Act authorised be extended as by this Act provided:

And whereas by the Act of 1887 (section 54) it is enacted as follows:—

If the Company do not complete the railway authorised by the Act of 1885 within the period limited for the completion thereof or within such extended period (if any) as Parliament may hereafter sanction then notwithstanding anything in this Act contained on the expiration of such period or periods the following consequences shall ensue:—

(1) The powers by this Act granted to the Company for making and completing the railway and quay or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed:

(2) On the application of the depositors or the majority of them the High Court of Justice may and shall order that the railway deposit fund shall be transferred and paid to the persons or person so applying or to any other person or persons whom they or he may appoint in that behalf:

And whereas no part of the capital authorised by the Act of 1885 as amended by the Act of 1886 for the purposes of the railway authorised by the Act of 1885 has been raised and the Company have been unable to exercise any of the powers of the Act of 1887 and it is expedient that the railway authorised by the Act of 1885 and the railway and junction railway deviations or alterations and quay wall or embankment authorised by the Act of 1887 be abandoned as by this Act provided:

And whereas by the Act of 1885 (sections 35 and 36) provision is made with reference to a sum of four thousand three hundred and fifty pounds new three per centum annuities portion of a sum of four thousand seven hundred and thirty-five pounds like annuities deposited with the Paymaster General for and on behalf of the Supreme Court of Judicature in England in respect of the application

to Parliament for that Act and which sum of four thousand three hundred and fifty pounds new three per centum annuities was equal in value to five per centum upon the amount of the estimate in respect of the railway authorised by the Act of 1885 and is referred to in that Act as the deposit fund:

And whereas by the Act of 1886 (section 20) provision was made for the transfer and payment of one thousand nine hundred and fifty pounds part of the said sum of four thousand three hundred and fifty pounds and the interest and dividends thereof and such sum of one thousand nine hundred and fifty pounds and the interest and dividends thereof have been paid and transferred accordingly:

And whereas the balance of the said sum of four thousand three hundred and fifty pounds new three per centum annuities viz. two thousand four hundred pounds like annuities has in pursuance of the provisions of the National Debt (Conversion) Act 1888 been exchanged for the sum of two thousand four hundred pounds two and three-quarters per centum consolidated stock which sum is referred to in this Act as the deposit fund of 1885 and it is expedient that such provisions as are herein-after contained be made with reference to the payment and transfer to the persons referred to in the Act of 1885 as the depositors or to such person or persons as they may appoint in that behalf of the deposit fund of 1885:

And whereas by the Act of 1887 (sections 22 and 23) provision is made with reference to a sum of two thousand three hundred pounds new three pounds per centum bank annuities portion of a sum of two thousand four hundred and ninety-nine pounds like annuities deposited with the Paymaster General for and on behalf of the Supreme Court of Judicature in England in respect of the application to Parliament for that Act and which sum of two thousand three hundred pounds new three pounds per centum bank annuities was equal in value to five per centum upon the amount of the estimate in respect of the railway and junction railway authorised by the Act of 1887 and is referred to in that Act as the railway deposit fund:

And whereas the said sum of two thousand three hundred pounds new three pounds per centum bank annuities has in pursuance of the provisions of the National Debt (Conversion) Act 1888 been exchanged for the sum of two thousand three hundred pounds two and three-quarters per centum consolidated stock which sum is referred to in this Act as the railway deposit fund of 1887 and it is expedient that such provisions as are herein-after contained be made with reference to the payment and transfer to the persons referred to in the Act of 1887 as the depositors or to such person or

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persons as they may appoint in that behalf of the railway deposit fund of 1887:

And whereas it is intended that the railway authorised by the Act of 1886 shall not be constructed on the system known as the Lartigue Elevated Single Rail Railway but in the usual manner and by reason thereof the cost of construction will be increased and it is expedient that the Company be authorised to raise further moneys for the purposes of the Act of 1886:

And whereas it is expedient that such other provisions be made with respect to the Company and their undertaking as are in this Act contained:

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:—

Short title.

1. This Act may be cited for all purposes as the Lynton Railway Act 1890.

Incorporation of parts of general Acts.

2. The following parts of Acts are (except where expressly varied by this Act) incorporated with and form part of this Act (that is to say):—

Part II (relating to extension of time) of the Railways Clauses Act 1863:

The clauses and 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 non-payment of calls;
The remedies of creditors of the Company against the shareholders;
The borrowing of money by the Company on mortgage or bond;
The conversion of borrowed money into capital;
The consolidation of shares into stock;
The giving of notices;
The provision to be made for affording access to the special Act by all parties interested:

And Part I. (relating to cancellation and surrender of shares) and Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction:

The expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act partially incorporated herewith shall for the purposes of this Act 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.

Extending period for completion of railway authorised by Act of 1886.

4. The period limited by the Act of 1886 for the completion of the railway by that Act authorised is by this Act extended and that railway may and shall be completed within three years from the twenty-fifth day of September one thousand eight hundred and ninety-one And on the expiration of that period the powers by the Act of 1886 and this Act granted to the Company for executing that railway or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed and sections 13 14 and 32 of the Act of 1886 shall be read and have effect as if the period by this Act limited for the completion of the railway had been the period limited by the Act of 1886 Provided that any interest paid to any shareholder on the amount from time to time paid on the shares held by him in the capital authorised by the Act of 1886 after the expiration of the period limited by that Act for the completion of the railway thereby authorised until the expiration of the time limited by this Act for the completion of that railway shall not exceed the rate of three pounds per centum per annum.

Company to abandon certain authorised works.

5. The Company shall abandon the construction of the railway authorised by the Act of 1885 and the railway junction railway deviations or alterations and quay wall or embankment authorised by the Act of 1887.

Compensation for damage to land by entry &c. for purposes of works abandoned.

6. The abandonment by the Company under the authority of this Act of any portion of any railway or works shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels or probing or boring to ascertain the nature of the soil or setting out of the line of railway and shall not prejudice or affect the right of the owner or occupier of any land which has been temporarily occupied by the Company to receive compensation for such temporary occupation or

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for any loss damage or injury which has been sustained by such owner or occupier by reason thereof or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation Act 1845 or the Act of 1885 or the Act of 1887.

Compensation to be made in respect of contracts or notices for purchase of lands for works abandoned.

7. Where before the passing of this Act any contract has been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to any portions of the railways or works authorised to be abandoned by this Act the Company shall be released from all liability to purchase or to complete the purchase of any such lands but notwithstanding full compensation shall be made by the Company to the owners and occupiers or other persons interested in such lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice and the amount and application of the compensation shall be determined in manner provided by the Lands Clauses Consolidation Act 1845 as amended by any subsequent Act for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Repayment of deposit fund of 1885.

8. Subject to the provisions of section 36 of the Act of 1885 with respect to compensation to landowners and other persons injured and for the protection of creditors the High Court may and shall at any time after the passing of this Act on the application of the depositors referred to in section 35 of the Act of 1885 order that the said sum of two thousand four hundred pounds two and three-quarters per centum consolidated stock being the deposit fund of 1885 with any interest or dividends thereon may be paid or transferred to the said depositors or to such person or persons as they appoint in that behalf and upon such order being made the deposit fund of 1885 and the interest or dividends thereon shall be paid or transferred to the said depositors or to such person or persons accordingly.

Repayment of railway deposit fund of 1887.

9. Subject to the provisions of section 23 of the Act of 1887 with respect to compensation to landowners and other persons injured and for the protection of creditors the High Court may and shall at any time after the passing of this Act on the application of the depositors referred to in section 22 of the Act of 1887 order that the said sum of two thousand three hundred pounds two and three quarters per centum consolidated stock being the railway deposit fund of 1887 with any interest or dividends thereon may be paid or transferred to the said depositors or to such person or persons as they appoint in that behalf and upon such order being made the railway deposit fund of 1887 and the interest or dividends thereon shall be

paid or transferred to the said depositors or to such person or persons accordingly.

Repeal of Act of 1887 and portions of Act of 1885.

10. Subject to the provisions of this Act the Act of 1887 and sections 5 to 21 and 27 to 38 inclusive of the Act of 1885 and sections 18 and 19 of the Act of 1886 are by this Act repealed.

Power to raise additional capital.

11. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 from time to time raise for the purposes of the Act of 1886 any additional capital not exceeding in the whole fifty thousand pounds by the issue at their option of new ordinary shares or of preference shares Provided that not more than thirty thousand pounds of such additional capital shall be issued as preference capital and that no preference capital shall be issued until the whole of the original capital of thirty-five thousand pounds authorised by the Act of 1886 has been issued and accepted and not lest than one-fifth part of the amount of each separate share in such capital has been paid on account thereof.

Shares not to be issued until one-fifth paid up.

12. The Company shall not issue any share created under the authority of this Act nor shall any 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 shall have been paid in respect thereof.

Except as otherwise provided new shares to be subject to same incidents as other shares.

13. Except as is by this Act otherwise provided the capital in new shares created by the Company under this Act and the new shares therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares were shares in that capital The capital in new shares so created shall form part of the capital of the Company.

Restrictions as to votes in respect of preferential shares.

14. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares to which a preferential dividend shall be assigned.

Power to borrow on mortgage.

15. The Company may in respect of the additional capital of fifty thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of the undertaking or by debenture stock subject to the provisions of section 29 of the Act of 1886 any sums not exceeding in the whole sixteen thousand six hundred and sixty-six pounds but no part thereof shall be borrowed until the whole of the said additional capital is issued and accepted and one-half of such capital is paid up and the Company

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have proved to the justice who is to certify under the 40th 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 of such capital 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 or 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 certificate shall be sufficient evidence thereof.

Repealing provisions of former Acts with respect to appointment of a receiver.

16. Every provision in any Act passed before the present session of Parliament whereby the Company is authorised to raise by borrowing money for the purposes of their undertaking with respect to the appointment of a receiver for enforcing payment by the Company of arrears of interest or principal or principal and interest shall be and the same is hereby repealed but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under any such provision.

For appointment of a receiver.

17. 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 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 six thousand pounds in the whole.

Application of moneys raised under this Act.

18. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only for the purposes of the Act of 1886 and this Act to which capital is properly applicable.

Power to pay interest out of capital during construction.

19. Notwithstanding anything in this Act or in 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 in the capital by this Act authorised 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 authorised by the Act of 1886 or such less period as the directors may determine but subject always to the conditions herein-after stated (that is to say):— A.D. 1890.

(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 three 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 and except as otherwise provided by section thirty-two of the Act of 1886 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.

20. 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 other railway or to execute any other work or undertaking.

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

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

Expenses of Act.

22. All costs charges and expenses preliminary to and of and incident to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

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