ANNO TRICESIMO PRIMO

VICTORIÆ REGINÆ.

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Cap. vi.

An Act for authorizing a Deviation of the *Newquay and Cornwall Junction* Railway, and for extending the Time for the Completion of that Railway; and for conferring further Powers on the *Newquay and Cornwall Junction* Railway Company, and on *Treffry's* Trustees, with reference to the *Newquay* Railway; and for other Purposes.

[29th *May* 1868.]

WHEREAS by the *Newquay and Cornwall Junction* Railway Act, 1864, (herein-after called the Act of 1864,) the *Newquay and Cornwall Junction* Railway Company (herein-after called the Company) were incorporated, with Power to make a Railway from the *Cornwall* Railway to the *Saint Dennis* Branch of the *Newquay* Railway: And whereas the said Railway is now in course of Construction, and it is expedient that the Company should be empowered to make a Deviation in the authorized Line thereof in the Parish of *Saint Stephen* in *Branwell*, and to abandon so much of the said authorized Line as will be rendered unnecessary by reason of such Deviation: And whereas it is also expedient that the Period limited by the Act of 1864 for the Completion of the Railway thereby authorized should be extended, except as to so much thereof as the Company are by this Act authorized 27 & 28 Vict. c. clxiii.

authorized to abandon: And whereas by the Act of 1864 the Company and the Owners for the Time being of a certain Railway or certain Tramroads constructed under the Authority of an Act passed in the 7th and 8th Years of the Reign of Her present Majesty, intituled *An Act to amend an Act for maintaining the Pier and Harbour of* Newquay *in the County of* Cornwall, *and to make certain Tramroads in connexion therewith*, and of "*Treffry's* Estate (*Newquay* Railway) Act, 1857," or of either of those Acts, were empowered to make Working and Traffic Arrangements, and to enter into and carry into effect Agreements with reference to the Alteration of the Gauge of the Railway and Tramroads constructed under the Authority of the last-mentioned Acts or either of them, and the laying down of One or more additional Line of Rails thereon, and otherwise in relation thereto: And whereas it is expedient that for the Purpose of enabling the Company and the said Owners more effectually to carry into effect the before-mentioned Provisions of the Act of 1864 the Company and the said Owners jointly, or either of them separately, should be empowered to acquire additional Lands in connexion with the said last-mentioned Railway or Tramroads, and should also be empowered to enter into and carry into effect Agreements with reference thereto as in this Act provided: And whereas it is expedient that the Tolls which by the Act of 1864 the Company are authorized to demand should be altered so far as relates to China Clay and China Stone: And whereas by the Act of 1864 the Company were authorized to raise by Shares the Sum of Twenty-seven thousand Pounds, but the Company have not issued all the Shares so authorized to be raised, and they are not authorized to create any Preference Shares, and it is expedient that further Powers should be conferred upon the Company with reference to the raising of Capital, and that they should be empowered to create and issue new Shares, preferential or otherwise, in lieu of Shares unissued or forfeited, and to raise additional Capital: And whereas by the Act of 1864 the Company were authorized to borrow any Sums not exceeding Nine thousand Pounds, but by Section 10 of that Act it was provided that no Part of such Sum should be borrowed until the whole of the said Capital of Twenty-seven thousand Pounds should have been subscribed for, and One Half thereof should have been actually paid up, and the Company should have given such Proof of the Matters aforesaid as in that Section mentioned: And whereas the whole of the said Capital of Twenty-seven thousand Pounds has not yet been subscribed for, but Half thereof has been paid up, and it is expedient that the Restriction imposed upon the Company by the said Section 10 should be modified, and that the Company should be empowered immediately to exercise their borrowing Powers to the Extent authorized by this Act, and should also be empowered to create and issue Debenture Stock: And whereas Plans and Sections showing the Line and Levels of the Deviation Railway by this Act authorized, and Plans showing the Lands by this Act authorized to be acquired in connexion with the *Newquay* Railway, and a Book of Reference

7 & 8 Vict. c. xxiii.

Reference to those Plans, have been deposited with the Clerk of the Peace for the County of *Cornwall*, which Plans, Sections, and Book of Reference are in this Act referred to as the deposited Plans, Sections, and Book of Reference: And whereas the Objects 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 *Newquay and Cornwall Junction* Railway Act, 1868."

8 & 9 Vict. cc. 16., 18., & 20., 23 & 24 Vict. c. 106., and 26 & 27 Vict. cc. 92. & 118. incorporated.

2. The Lands Clauses Consolidation Act, 1845, the Lands Clauses Consolidation Acts Amendment Act, 1860, the Railways Clauses Consolidation Act, 1845, Part I. (relating to the Construction of a Railway) and 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 Nonpayment of Calls;
The Remedies of Creditors of the Company against the Shareholders;
The Consolidation of Shares into Stock;
The General Meetings of the Company, and the Exercise of the Right of voting by the Shareholders;
The making of Dividends; and
The giving of Notices;

And Part I. (relating to Cancellation and Surrender of Shares), Part II. (relating to additional Capital), and Part III. (relating to Debenture Stock) of the Companies Clauses Act, 1863, 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; the Expression "the Company" shall mean the *Newquay and Cornwall Junction* Railway Company; the Expression "the Deviation" shall mean the Deviation of the *Newquay and Cornwall Junction* Railway by this Act authorized; the Expression "the original Railway" shall mean the Railway authorized by the Act of 1864; the Expression "the Railway" shall mean the original Railway and the Deviation as the same will be constructed under the Powers

Powers of the Act of 1864 and this Act; the Expression "the Act of 1864" shall mean the *Newquay and Cornwall Junction* Railway Act, 1864; the Expression "*Treffry's* Trustees" shall mean the Owners for the Time being of the Railway or Tramroads constructed under the Authority of an Act of Parliament passed in the 7th and 8th Years of the Reign of Her present Majesty, intituled *An Act to amend an Act for maintaining the Pier and Harbour of* Newquay *in the County of* Cornwall, *and to make certain Tramroads in connexion therewith*, and of "*Treffry's* Estate (*Newquay* Railway) Act 1857," or either of them; the Expression "the *Newquay* Railway" shall mean the said Railway or Tramroads belonging to *Treffry's* Trustees; and 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 common Simple Contract Debt, and not a Debt or Demand created by Statute.

7 & 8 Vict. c. xxiii.

20 & 21 Vict. c. xcv.

Power to make Deviation.

4. Subject to the Provisions of this Act, the Company may make and maintain in the Line and according to the Levels shown on the deposited Plans and Sections the Railway herein-after described, with all proper Works, Approaches, and Conveniences connected therewith, and may enter upon, take, and use such of the Lands delineated on the said Plans, and described in the deposited Book of Reference, as may be required for that Purpose; the Railway herein-before referred to and authorized by this Act is a Deviation of the authorized Line of the *Newquay and Cornwall Junction* Railway, One Mile and Two Chains or thereabouts in Length, wholly situate in the Parish of *Saint Stephen in Branwell* in the County of *Cornwall*.

Company and Treffry's Trustees may acquire additional Lands.

5. Subject to the Provisions of this Act, the Company and *Treffry's* Trustees jointly, or either of them separately, (as may be mutually agreed on,) may enter upon, take, use, and appropriate all or any of the Lands and Buildings in the Parishes of *Saint Dennis* and *Saint Columb Major* in the County of *Cornwall* delineated on the deposited Plans, and described in the deposited Book of Reference, and within the Limits of Land proposed to be acquired marked on those Plans.

Power to Company to cancel unissued Shares.

6. The Company may from Time to Time cancel all or any unissued Shares in their authorized Capital, and may create new Shares in lieu thereof, not being of less nominal Amount than Twenty Pounds each; and Part II. (relating to additional Capital) of the Companies Clauses Act, 1863, is extended to any Shares created by the Company in lieu of forfeited, surrendered, or cancelled Shares, as if such Shares hadbeencreated for the Purpose of raising additional Capital.

7. The

Power to assign preferential Dividend.

7. The Company, with the Consent of Three Fourths of the Votes of the Shareholders present personally or by proxy at a Meeting of the Company convened with special Notice of such Object, may assign to any Shares to be created or issued by them under the Authority of the last preceding Enactment, not exceeding in the aggregate Seven thousand Pounds, such Amount of preferential Dividends 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.

Power to raise additional Capital by new Shares.

8. The Company from Time to Time, in addition to their authorized Capital of Twenty-seven thousand Pounds, may raise by the Creation and Issue of new Shares any Sums not exceeding in the whole Three thousand Pounds, and the Money so raised shall be applied to the Purposes of this Act, and to the general Purposes of the Company, and to no other Purpose.

Shares not to issue until One Fifth Part paid up.

9. 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 Capital to be Part of general Capital.

10. 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, as if the Shares so created and issued were Part of 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 raise by Instalments Money authorized to be borrowed by the Act of 1864.

11. Notwithstanding anything in the Act of 1864 contained, the Company may raise the Sum of Nine thousand Pounds, which by that Act they are authorized to raise by borrowing, in manner following; that is to say, in respect of every entire Sum of Nine thousand Pounds, Part of the Capital of Twenty-seven thousand Pounds by the Act of 1864 authorized to be raised, the Sum of Three thousand Pounds, making together the said Sum of Nine thousand Pounds: Provided always, that the Company shall not borrow on Mortgage any of the respective Sums which they are by this Act authorized to borrow as aforesaid, or any Part thereof, until the whole of the respective Capital in respect of which such Sum is to be borrowed is subscribed for, issued, and accepted, and One Half thereof is paid up, and the Company 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 whole of such Capital has been issued and accepted, and that One Half thereof has been paid up, and that not less than One Fifth Part of the Amount of each separate Share 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 Subscribers or their Assigns, and that such Subscribers or their 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 shall be sufficient Evidence thereof.

Sect. 11 of Act of 1864 repealed.

12. Section 11 of the Act of 1864 is hereby repealed.

Arrears may be enforced by Appointment of a Receiver.

13. 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 Nine hundred Pounds in the whole.

Debenture Stock.

14. The Company may create and issue Debenture Stock.

Lands for extraordinary Purposes.

15. The Quantity of Land to be taken by the Company for the extraordinary Purposes mentioned in the Railways Clauses Consolidation Act, 1845, shall not exceed Half an Acre.

Powers for compulsory Purchases limited.

16. 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 Two Years from the passing of this Act.

Period for Completion of Works.

17. The Deviation shall be completed within Three Years from the passing of this Act, and on the Expiration of that Period the Powers by this Act granted to the Company for executing the Deviation, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Extending Period for Construction of Railway authorized by the Act of 1864.

18. The Period limited by the Act of 1864 for the Completion of the original Railway (except the Portion thereof by this Act authorized to be abandoned) is hereby extended and enlarged until the Expiration of Three Years from the passing of this Act, and on the Expiration of that Period the Powers by this Act and the Act of 1864 granted to the Company for executing the original Railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed, and Section 28 of the Act of 1864 shall be read and construed as if the Period by that Act limited for the Completion of the original Railway terminated at the Expiration of Three Years from the passing of this Act.

19. The

Abandonment of Portion of Railway authorized by the Act of 1864.

19. The Company shall abandon the Construction of so much of the original Railway as lies between the Commencement and Termination of the Deviation, and will be rendered unnecessary by reason of the Construction thereof.

Compensation for Damage to Land by Entry, &c. for Purposes of Railway abandoned.

20. 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, in accordance with the Provisions in that Behalf of the Lands Clauses Consolidation Act, 1845, 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 may have been temporarily occupied by the Company to receive Compensation, in accordance with the Provisions in that Behalf of the Railways Clauses Consolidation Act, 1845, for such temporary Occupation, or for any Loss, Damage, or Injury which may have 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 last-mentioned Act or the Act of 1864.

Compensation to be made in respect of Portions of Railway abandoned.

21. Where before the passing of this Act any Contract may have 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 Railway or Works authorized to be abandoned by this Act, and which shall not be required for the Purposes of any of the Works by this Act authorized, 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, for determining the Amount and Application of Compensation paid for Lands taken under the Provisions thereof.

Deviation to be Part of Undertaking of the Company.

22. The Deviation shall for the Purposes of Tolls and for all other Purposes whatsoever be deemed to be Part of the Undertaking of the Company as if the same had been authorized by the Act of 1864.

Alteration of Tolls for China Clay and China Stone.

23. Sections 30 and 35 of the Act of 1864 shall be read and construed as if China Clay and China Stone were therein classed with Sugar, Grain, Corn, Flour, Hides, Dyewoods, Earthenware, Timber and Deals, Copper, Tin, Lead, and other Metals (except Iron), Nails, Anvils, Vices, and Chains, instead of being classed with Stones for building and the other Articles classed therewith; and the Company may lawfully demand in respect of China Clay and China Stone any Tolls and Charges which by the Act of 1864 they are authorized

to

to demand in respect of Sugar, Grain, Corn, Flour, Hides, Dyewoods, Earthenware, Timber and Deals, Copper, Tin, Lead, and other Metals (except Iron), Nails, Anvils, Vices, and Chains.

Agreements with Treffry's Trustees.

24. The Company and *Treffry's* Trustees may from Time to Time enter into and carry into effect Arrangements and Agreements with respect to the Acquisition, Use, and Ownership of any of the Lands which they are by this Act authorized jointly or separately to enter upon, take, use, and appropriate.

Interest not to be paid on Calls paid up.

25. 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.

26. 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.

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

27. Nothing herein contained shall be deemed or construed to exempt the 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, authorized by the Act of 1864 or this Act.

Expenses of Act.

28. 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.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1868.