CHAP. lxviii.

An Act to authorise the construction of a Railway in Devonshire, to be called "the Sidmouth Railway;" and for other purposes. [29th June 1871.] A.D. 1871.

WHEREAS the construction of a railway from the London and South-western Railway, in the parish of Feniton, to Sidmouth, all in the county of Devon, and of an approach road thereto at Sidmouth, would be of great local and public advantage:

And whereas the persons in this Act named are willing, with others, at their own expense, to construct such railway and approach road:

And whereas plans and sections of the said railway and approach road showing the lines and levels thereof, with a book of reference to the plans containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands through which the said railway and approach road will pass, have been deposited with the clerk of the peace for Devonshire:

And whereas it is expedient that the London and South-western Railway Company, and the Company by this Act incorporated, should be authorised to enter into agreements with respect to the working and management of the proposed railway; but the purposes aforesaid cannot be accomplished 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:

1. This Act may be cited for all purposes as "The Sidmouth Railway Act, 1871." **Short title.**

2. The Companies Clauses Consolidation Act, 1845, Part I. (relating to cancellation and surrender of shares) and Part III. **Provisions of general Acts herein**

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named incorporated.

(relating to debenture stock) of "The Companies Act, 1863," as amended by "The Companies Act, 1869," "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," "The Railways Clauses Consolidation Act, 1845," and Part I. (relating to construction of a railway) and Part III. (relating to working agreements) of "The Railways 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 have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Company" means the Company incorporated by this Act; the expression "the railway," "the road," and "the undertaking," mean respectively the railway, the approach road, and the undertaking by this Act authorised; the expression "the South-western Company" means the London and South-western Railway Company; 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.

Company incorporated.

4. John Henry Kennaway, John Macmillan Dunlop, John Fulford Vicary, Neil Bannatyne, and John Heugh, and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns, respectively, shall be united into a company for the purpose of making and maintaining the railway and road, and for other the purposes of this Act, and for those purposes shall be incorporated by the name of "the Sidmouth Railway Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

Power to make railway according to deposited plans.

5. 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 and road, with all proper stations, approaches, fences, drains, culverts, works, 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 books of reference as may be required for that purpose. The railway and road are,—

(1.) A railway eight miles one furlong and two chains in length, situate wholly in the county of Devon, commencing in the parish of Feniton by a junction with a siding situate on the west side of the Yeovil and Exeter line of the South-western Company at a point thereon about twelve chains south of the Ottery Road station house of that railway, and terminating in a field in the parish of Sidmouth, belonging or reputed to belong to the trustees of the late George Edmond Balfour, Esquire, occupied by Thomas Clarke, and numbered 294 on the tithe map of that parish:

(2.) An approach road one mile and three furlongs in length, situate wholly in the parish of Sidmouth aforesaid, commencing in the aforesaid field, and terminating at or near the western end of York Terrace, Sidmouth.

Capital.

6. The capital of the Company shall be sixty-six thousand pounds, in six thousand six hundred shares of ten pounds each.

Shares not to issue until one fifth paid up.

7. 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.

Calls.

8. One fifth of the amount of a share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Power to borrow on mortgage.

9. The Company may from time to time borrow on mortgage any sum not exceeding in the whole the sum of twenty-two thousand pounds, and of that sum they may from time to time borrow not exceeding one third part thereof in respect of every twenty-two thousand pounds of their share capital, but no part of any such third part shall be borrowed until the whole of the respective twenty-two thousand pounds of capital in respect of which it 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 the respective twenty-two thousand pounds of capital has been subscribed for, 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 in such twenty-two thousand pounds has been paid on account thereof before or at the time of the issue or acceptance thereof, and that the respective twenty-two thousand pounds

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of 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.

Arrears may be enforced by appointment of a receiver.

10. 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 authorise 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 is made shall not be less than two thousand five hundred pounds in the whole.

Debenture stock.

11. The Company may create and issue debenture stock.

Application of moneys.

12. All moneys raised under this Act, whether by shares or borrowing, shall be applied for the purposes of this Act only.

First ordinary meeting.

13. The first ordinary meeting of the Company shall be held within six months after the passing of this Act.

Quorum for general meetings.

14. The quorum for a general meeting of the Company shall be ten shareholders holding in the aggregate not less than one twentieth of the capital of the Company.

Number of directors.

15. The number of directors shall be five, but the Company may from time to time reduce the number, provided that the number be not less than three.

Qualification of directors.

16. The qualification of a director shall be the possession in his own right of not less than thirty shares.

Quorum.

17. The quorum of a meeting of directors shall be three, but if the number of directors be reduced to three the quorum shall be two.

First directors.

Election of directors.

18. John Henry Kennaway, John Macmillan Dunlop, John Fulford Vicary, Neil Bannatyne, and John Heugh, shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act, or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting, the shareholders present in person or by proxy shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from

office, agreeably to the provisions in "The Companies Clauses Consolidation Act, 1845," contained; and the several persons elected at any such meeting, being neither removed nor disqualified, nor having resigned, shall continue to be directors until others are elected in their stead, in manner provided by the same Act.

Lands for extraordinary purposes.

19. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in "The Railways Clauses Consolidation Act, 1845," shall not exceed two acres.

Powers for compulsory purchases limited.

20. 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.

Power to cross certain roads on the level.

21. Subject to the provisions in "The Railways Clauses Consolidation Act, 1845," and in Part I. (relating to the construction of a railway) of "The Railways Clauses Act, 1863," contained in reference to the crossing of roads on the level, the Company may, in the construction of the railway, carry the same with a single line of railway only whilst the railway shall consist of a single line, and afterwards with a double line of railway only, across and on the level of the roads next herein-after mentioned; (that is to say,)

No. on deposited plan.	Parish.	Description of road.
37	Ottery St. Mary - -	Parish road.
65	Ottery St. Mary - -	Parish road.
89	Ottery St. Mary - -	Parish road.
171	Ottery St. Mary - -	Parish road.

Provided, with respect to the road number 171 in Ottery St. Mary, that the inclination thereof on either side be not less than 1 in 20.

Inclination of roads.

22. In altering for the purposes of this Act the roads next herein-after mentioned, the Company may make the same of any inclinations not steeper than the inclinations herein-after mentioned in connexion therewith respectively; (that is to say,)

No. on deposited plan.	Parish.	Description of road.	Intended inclination.
21	Harpford	Occupation or parish road.	1 in 13 on one side of the railway, and level on the other.
76	Harpford	Turnpike road -	1 in 15.
1	Sidmouth	Parish road -	1 in 8.

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Width of certain bridges.

23. The Company may make the width between the parapets of the bridges for carrying the roads next herein-after-mentioned over the railway of any width not less than the widths herein-after mentioned in connexion with those roads respectively; (that is to say,)

No. on deposited plans.	Parish.	Description of road.	Width of roadway.
2a	Ottery St. Mary	Parish road -	15 feet.
183	Ottery St. Mary	Parish road -	12 feet.
21	Harpford -	Occupation or parish road.	12 feet.
20	Sidmouth -	Parish road -	15 feet.

And if the Company carry the parish road, numbered 1 in the parish of Sidmouth, over the railway, they may make the width between the parapets of the bridge for so carrying the same of any width not less than twelve feet, or if they carry the railway over that road they may make the arch of the bridge for so carrying the same of any span not less than twelve feet.

Power to deviate in constructing road.

24. In constructing the approach road by this Act authorised, the Company may deviate to the extent of the limits of deviation marked on the deposited plans, and may deviate from the levels shown on the deposited sections to any extent not exceeding five feet.

Railway may be constructed as a light railway.

25. The railway may be constructed as a light railway within the meaning and subject to the provisions of "The Regulation of Railways Act, 1868."

Deposit money not to be repaid until line opened or half the capital paid up and expended.

26. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth and tenth years of Her present Majesty, chapter twenty, a sum of two thousand seven hundred and seventy-five pounds, being five per centum upon the amount of the estimate in respect of the railway authorised by this Act, has been deposited with the Court of Chancery in England in respect of the application to Parliament for this Act: Be it enacted, That notwithstanding anything contained in the said recited Act, the said sum of two thousand seven hundred and seventy-five pounds so deposited as aforesaid in respect of the application for this Act, shall not be paid or transferred to or on the application of the person or persons, or the majority of the persons, named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them, unless the said Company shall, previously to the expiration of the period limited by this Act for

completion of the railway hereby authorised to be made, either open the said railway for the public conveyance of passengers, or prove to the satisfaction of the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations that the said Company have paid up one half of the amount of the capital by this Act authorised to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital; and if the said period shall expire before the said Company shall either have opened the said railway for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Lords of the said Committee, the said sum of money deposited as aforesaid shall be applied in the manner herein-after specified; and the certificate of the Lords of the said Committee that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the said recited Act to the contrary notwithstanding.

Application of deposit.

27. The said sum of two thousand seven hundred and seventy-five pounds deposited as aforesaid shall be applicable, and after due notice in the "London Gazette" shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said railway, or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, and for which injury or loss no compensation, or inadequate compensation, shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Chancery in England may seem fit; and if no such compensation shall be payable, or if a portion of the said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, or such portion thereof as may not be required as aforesaid, shall be paid to or on the application of the person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivor or survivors of them: Provided that until the said sum of money shall have been repaid to the depositors, or shall have become otherwise applicable, as herein-before mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, be paid to or on the application of the person or persons, or the majority of the persons, named in

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such warrant or order as aforesaid, or the survivors or survivor of them.

Period for completion of works.

28. The railway and road shall be completed within five years from the passing of this Act, and if the railway and road shall not be completed within that period, then on the expiration thereof the powers by this Act granted to the Company for making and completing the railway and road, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Tolls for passengers.

29. The Company may demand and take in respect of the use of the railway any tolls not exceeding the following; (that is to say,)

In respect of passengers and animals conveyed on the railway:

Class 1. For any person conveyed in a first-class carriage, per mile twopence; and if conveyed in carriages provided by the Company, an additional sum per mile of one penny:

Class 2. For every person conveyed in a second-class carriage, per mile one penny halfpenny; and if conveyed in carriages provided by the Company, an additional sum per mile of three farthings:

Class 3. For every person conveyed in a third-class carriage, per mile one penny; and if conveyed in carriages provided by the Company, an additional sum per mile of one halfpenny:

Class 4. For every horse, per mile fourpence, and for every mule, ass, or other beast of draught or burden conveyed in or upon any carriage, per mile threepence; and in each case, if conveyed in carriages provided by the Company, an additional sum per mile of one penny:

Class 5. For every ox, cow, bull, or head of neat cattle conveyed in or upon any carriage, per mile twopence; and if conveyed in carriages provided by the Company, an additional sum per mile of one penny:

Class 6. For every calf, pig, sheep, lamb, or other small animal conveyed in or upon any carriage, per mile one penny; and if conveyed in carriages provided by the Company, an additional sum per mile of one penny.

Tolls for goods.

In respect of goods conveyed on the railway:

Class 7. For all lime, limestone, salt, dung, compost, and all sorts of manure, and all undressed materials for the repair of highways, coals, slack, cannel, coke, culm, and cinders, per ton per mile one penny; and if conveyed in carriages provided by the

Company, an additional sum per ton per mile of one halfpenny:

Class 8. For all stones for building, pitching, and paving, bricks, tiles, slates, clay, sand, chalk, marl, iron, ironstone and iron ore, copper, tin, lead, and other ores, pig iron, bar iron, rod iron, hoop iron, sheet iron, and all other similar descriptions of wrought iron, and iron castings not manufactured into utensils or other articles of merchandise, per ton per mile one penny halfpenny; and if conveyed in carriages provided by the Company, an additional sum per ton per mile of one halfpenny:

Class 9. For all sugar, grain, corn, flour, hides, dyewoods, Manchester packs, earthenware, timber, staves and deals, metals (except iron), tinned plates, nails, anvils, vices and chains, per ton per mile, twopence; and if conveyed in carriages provided by the Company, an additional sum per ton per mile of three farthings:

Class 10. For all cotton and all other wools, drugs, or manufactured goods, and all other wares, merchandise, fish, articles, matters, or things, per ton per mile threepence; and if conveyed in carriages provided by the Company, an additional sum per ton per mile of one penny.

With respect to the conveyance of carriages:

Class 11. For every carriage of whatever description, not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton, carried or conveyed on a truck or platform not belonging to the Company, if having more than two wheels, per mile fourpence, and if having only two wheels, per mile threepence; and for every additional quarter of a ton which any such carriage weighs one penny per mile in addition.

Tolls for propelling power.

30. The toll which the Company may demand for the use of engines for propelling carriages on the railway shall not exceed one penny per mile for each passenger or animal, or for each ton of goods, in addition to the several other tolls or sums by this Act authorised to be taken.

Regulations as to tolls.

31. The following provisions and regulations shall apply to the fixing of all tolls and charges payable under this Act; (that is to say,)

For all passengers, animals, or goods conveyed on the railway for a less distance than four miles the Company may demand tolls and charges as for four miles:

For a fraction of a mile beyond four miles, or beyond any greater number of miles, the Company may demand tolls and charges

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on animals and goods for such fraction in proportion to the number of quarters of a mile contained therein, and if there be a fraction of a quarter of a mile such fraction shall be deemed a quarter of a mile; and in respect of passengers every fraction of a mile beyond any integral number of miles shall be deemed a mile:

For a fraction of a ton the Company may demand tolls according to the number of quarters of a ton in such fraction, and if there be a fraction of a quarter of a ton such fraction shall be deemed a quarter of a ton:

With respect to all articles, except stone and timber, the weight shall be determined according to the usual avoirdupois weight:

With respect to stone and timber, fourteen cubic feet of stone, forty cubic feet of oak, elm, mahogany, teak, beech, or ash, and fifty cubic feet of any other timber, shall be deemed one ton weight, and so in proportion for any smaller quantity.

Tolls for small parcels and single articles of great weight.

32. With respect to small parcels not exceeding five hundred pounds in weight, and single articles of great weight, notwithstanding anything in this Act, the Company may demand and take any tolls not exceeding the following; (that is to say,)

For the carriage of small parcels on the railway, as follows:

For any parcel not exceeding seven pounds in weight, threepence;

If exceeding seven and not exceeding fourteen pounds in weight, fivepence;

If exceeding fourteen and not exceeding twenty-eight pounds in weight, sevenpence;

If exceeding twenty-eight and not exceeding fifty-six pounds in weight, ninepence;

If exceeding fifty-six and not exceeding one hundred and twelve pounds in weight, one shilling;

If exceeding one hundred and twelve and not exceeding two hundred and twenty-four pounds in weight, two shillings;

And for parcels exceeding two hundred and twenty-four pounds but not exceeding five hundred pounds in weight, the Company may demand any sum which they may think fit:

Provided always, that articles sent in large aggregate quantities, although made up in separate parcels, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but that term shall apply only to single parcels in separate packages:

For the carriage of single articles of great weight on the railway as follows:

For the carriage of any one boiler, cylinder, or single piece of machinery, or single piece of timber or stone, or other

single article, the weight of which, including the truck or platform, shall exceed four tons but shall not exceed eight tons, the Company may demand and take such sum as they think fit, not exceeding eightpence per ton per mile:

For the carriage of any one boiler, cylinder, or single piece of timber, stone, machinery, or other single article, the weight of which, with the carriage, shall exceed eight tons, the Company may demand and take such sum as they think fit.

Maximum rates for passengers.

33. The maximum rate of charge to be made by the Company for the conveyance of passengers upon the railway, including the tolls for the use of the railway, and for carriages and locomotive power, and every other expense incidental to such conveyance, shall not exceed the following; (that is to say,)

For every passenger conveyed in a first-class carriage the sum of threepence per mile:

For every passenger conveyed in a second-class carriage the sum of twopence per mile:

For every passenger conveyed in a third-class carriage the sum of one penny halfpenny per mile.

Maximum rates for animals and goods.

34. The maximum rate of charge to be made by the Company for the conveyance of animals, minerals, and goods on the railway, including the tolls for the use of the railway, and for waggons or trucks and locomotive power, and for every other expense incidental to the conveyance (except a reasonable charge for loading and unloading goods at any terminal station in respect of such goods, and for delivery and collection, and any other service incidental to the duty or business of a carrier, where any such service is performed by the Company), shall not exceed the following sums; (that is to say),

Class 4. For each animal, fourpence per mile:

Class 5. For each animal, threepence per mile:

Class 6. For each animal, twopence per mile:

Class 7. One penny halfpenny per ton per mile:

Class 8. Twopence per ton per mile:

Class 9. Threepence per ton per mile:

Class 10. Fourpence halfpenny per ton per mile:

Class 11. If having more than two wheels fivepence per ton mile, and one penny halfpenny per mile for every additional quarter of a ton; and if having only two wheels fourpence per ton per mile, and one penny per mile for every additional quarter of a ton.

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Passengers luggage.

35. Every passenger travelling upon the railway may take with him his ordinary or personal luggage, not exceeding one hundred and twenty pounds in weight for first-class passengers, one hundred pounds in weight for second-class passengers, and sixty pounds in weight for third-class passengers, without any charge being made for the carriage thereof.

Terminal station.

36. No station shall be considered a terminal station in regard to any goods conveyed on the railway unless such goods have been received thereat direct from the consignor, or are directed to be delivered thereat to the consignee.

Foregoing charges not to apply to special trains.

37. The restrictions as to the charges to be made for passengers shall not extend to any special train run upon the railway (in respect of which the Company may make such charges as they think fit), but shall apply only to the ordinary and express trains appointed from time to time by the Company for the conveyance of passengers and goods upon the railway.

Company may take increased charges by agreement.

38. Nothing in this Act shall prevent the Company from taking any increased charges over and above the charges by this Act limited for the conveyance of animals or goods of any description by agreement with the owners or persons in charge thereof, either by reason of any special service performed by the Company in relation thereto, or in respect to the conveyance of animals or goods (other than small parcels) by passenger trains.

Confirmation of agreement with South-western Company.

39. The articles of agreement (herein-after called the scheduled agreement) dated the seventeenth day of March one thousand eight hundred and seventy-one, made between provisional directors of the Company of the one part, and the South-western Company of the other part, and a copy whereof is set forth in the schedule to this Act, is by this Act confirmed and made obligatory on the Company and the South-western Company, and may and shall have full effect, and as if the scheduled agreement had been entered into by the Company after its incorporation, instead of by the provisional directors thereof.

Power to enter into traffic arrangements with South-western Company.

40. Subject and without prejudice to the scheduled agreement, the Company on the one hand, and the South-western Company on the other hand, may from time to time enter into agreements or arrangements with respect to the following purposes, or any of them; (that is to say,)

The management, use, working, and maintenance of the railway, or of any part or parts thereof:

The supply of any rolling or working stock, and of officers and servants for the conduct of the traffic on the railway:

The payments to be made and the conditions to be performed with respect to the matters aforesaid:

The management, interchange, transmission, and delivery of traffic coming from or destined for the railways of the contracting Companies, or either of them, and the fixing, collection, and division between the said Companies of the receipts arising from such traffic.

Tolls on traffic conveyed partly on the railway and partly on the railway of the South-western Company.

41. During the continuance of the scheduled agreement, or of any other agreement to be entered into under the provisions of this Act for the use of the railway by the South-western Company, the railways of the Company and of the South-western Company shall, for the purposes of tolls and charges, be considered as one railway; and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railway and partly on the railway of the South-western Company for a less distance than four miles, tolls and charges may only be charged as for four miles; and in respect of passengers, for every mile or fraction of a mile beyond four miles, tolls and charges as for one mile only; and in respect of animals and goods, for every quarter of a mile or fraction of a quarter of a mile beyond four miles, tolls and charges as for a quarter of a mile only; and no other short-distance charges shall be made for the conveyance of passengers, animals, or goods, partly on the railway and partly on the railway of the South-western Company.

Provision for future dedication of road.

42. If and when or at any time after the approach road by this Act authorised is made and completed, the authority having the control and management of the highways in the parish of Sidmouth may, by notice in writing given to the Company, require the same to be dedicated to the use of the public, and at the end of one calendar month from the giving of such notice, and from thenceforth, it shall be a public road, and shall from time to time be repaired and maintained by and at the expense of the same parties, in the same manner and to the same extent as other like roads within the parish of Sidmouth are from time to time liable to be repaired or maintained, and until it shall become so dedicated the said road shall be a private road of the Company, under their sole control.

Interest not to be paid on calls paid up.

43. 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

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actually made as is in conformity with "The Companies Clauses Consolidation Act, 1845."

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

44. 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.

Railway not exempt from provisions of present and future general Acts.

45. Nothing herein contained shall be deemed or construed to exempt the railway by this Act authorised to be made 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 this Act.

Expenses of Act.

46. 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.

The SCHEDULE referred to by the foregoing Act.

Articles of Agreement made the seventeenth day of March one thousand eight hundred and seventy-one between the undersigned provisional directors of the Sidmouth Railway Company (herein-after called the owning Company) of the one part, and the London and South-western Railway Company (herein-after called the working Company) of the other part.

Article 1. The owning Company shall at their own expense acquire in fee simple, and free from all incumbrances, rentcharges, land tax, rents, and outgoings (except a duly apportioned amount of tithe commutation rentcharge), all the necessary land and properties for forming the site of the railway described in and proposed to be authorised by their now pending Bill, and for forming the site of the several stations, approaches, other than the Sidmouth approach road, works, and conveniences necessary and proper to be made in connexion therewith, which railway, works, and conveniences are enumerated or referred to in Articles 2 and 3, and which railway, stations, works, and conveniences are in these articles comprised under the expression "the railway."

Article 2. The railway mentioned in Article 1, at the expense of the owning Company:

(*a.*) Shall be constructed on the narrow gauge of four feet eight and a half inches exclusively:

(*b.*) May be constructed as a light railway according to the terms and conditions, and subject to the restrictions mentioned in "The Regulation of Railways Act, 1868," and shall be (whether so constructed or not), at least proper and sufficient for receiving, carrying, and accommodating the working plant of the working Company of all descriptions, with the exception of plant having a greater weight than eight tons on any pair of wheels. No bridges or other structures shall be constructed of timber:

(*c.*) Shall commence by a junction, to be formed with its incidental signals by the working Company at the expense of the owning Company, with the working Company's railway, or the siding thereof, mentioned in the owning Company's pending Bill, near the Ottery Road station thereon, and within the limits proposed to be authorised by the pending Bill, and the deposited plans and sections of the owning Company (the point of junction and its incidental details to be fixed by the working Company, but subject to and so as to receive the approval of the Board of Trade), and shall terminate in a field in the parish of Sidmouth in the county of Devon, numbered 294 on the tithe map of that parish:

(*d.*) Shall be constructed, finished, and completed as a single line of railway at least, with land for a double line, and with all proper lengths of

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double line for passing places, at least at each station, and with signals, telegraph communication, and the incident works and conveniences, including proper and sufficient stations at Ottery Saint Mary and at Sidmouth, on such site and in such positions as shall be consistent with the statutory powers and obligations of the owning Company, but no station to be placed on a steeper gradient than 1 in 300:

(*e.*) Shall also include proper and sufficient station and gate houses, working sheds, station yards and approaches, station buildings and accommodation, goods sheds, engine sheds, carriage sheds, sidings, turntables, water cranes, tanks and water, loading banks, cranes, and other works and conveniences, such as in all respects the owning Company would have had to construct if they had been about to work the railway:

(*f.*) Shall be constructed with rails made to a specification as to quality to be approved by the working Company's engineer, and of not less weight than sixty pounds per yard (Vignolle's pattern), and to be properly fished and fastened by fang bolts to sleepers, not less than one fang bolt to each sleeper for each rail, the sleepers to be laid not more than thirty-eight inches apart anywhere, and at the joint two feet two inches apart from centre to centre, and measuring at no point of their length less than nine by four and a half inches on their base, except those at the joints and one in the centre, which shall be ten by five inches, and of larch timber or foreign red wood timber, or Scotch fir, thoroughly creosoted:

(*g.*) Shall be properly ballasted with good clean ballast for a thickness of not less than eighteen inches, and a width of not less than twelve feet:

(*h.*) Shall be completed by and at the expense of the owning Company in the particulars in this article enumerated, and in every other respect, so as to be fit and safe for traffic of all descriptions, subject to the limitations before expressed, and to the satisfaction of the Board of Trade, and to the reasonable satisfaction of Mr. William Jacomb, civil engineer, herein-after called the engineer, or in case of his death or inability to act, of a competent engineer to be appointed in writing by the working Company in his room.

Article 3. The railway shall, at the expense of the owning Company, comprise all works lawfully required by landowners, commissioners, boards, turnpike trustees, surveyors, or others, under any statutory right, or under any agreement, and all works rendered necessary by reason of roads being interfered with by the railway, and all accommodation and other works whatsoever which on the opening of the railway, or at any time thereafter, are or may be necessary or proper for the purposes of the railway, and the traffic thereon respectively, and which the Sidmouth Company would have to construct if the line were by themselves worked.

Article 4. The owning Company shall, at its own expense, during one year after the opening of the railway for public traffic, uphold, maintain, and repair the same, and the stations, and all the buildings, works, and conveniences thereof respectively, the workmen engaged in the maintenance to be under the control of the working Company.

Article 5. From and after the completion or opening of the railway for public traffic, the working Company shall (subject to the restrictions mentioned

in these articles), have the privilege and duty of exclusively and in perpetuity working, equipping with all adequate and proper rolling stock and locomotive power, tools, and stores required by the working Company, manning, managing, and maintaining, and shall at their own expense exclusively and in perpetuity work, equip as aforesaid, man, manage, and maintain the railway as effectively as if the railway was part of their own system of railways, and the works and conveniences thereof, subject and without prejudice to the obligation (as expressed in Article 4) of the owning Company to maintain the same during one year after their opening for public traffic, and the working Company shall pay all rates properly chargeable on the occupiers of the railway, including the apportioned tithe commutation rentcharge, and shall indemnify the owning Company therefrom, and shall at their own expense effectively perform the service of cartage of all goods carried at carted rates, so far as the same may be necessary.

Article 6. The term the gross earnings, herein-after used, means and includes the following things; viz.,

(*a.*) All fares, rates, and charges, including terminals (if any) for traffic conveyed only on the Sidmouth Railway, excluding the Ottery Road station, and the portion of line between that station and the proposed junction, but deducting the cartage cost of goods and parcels carried at carted rates:

(*b.*) A due mileage proportion of all fares, rates, and charges, for traffic conveyed partly upon the Sidmouth Railway, and partly either on the South-western Railway or on that railway, and any others or other in connexion therewith, over which through booking extends, including such terminals as may be credited by the clearing house to the railway of the owning Company, but only in respect of traffic passing between some point on the Sidmouth Railway and some point on a railway not owned or worked by the working Company, and on the other hand excluding such terminals as may be credited by the clearing house to a railway not owned or worked by the working Company, but deducting in all cases, before making the apportionment, the cartage cost of goods and parcels carried at carted rates:

(*c.*) The cartage cost mentioned in divisions (*a*) and (*b*) means the actual cost incurred by the working Company for the cartage service performed, and the allowance made by the working Company to consignors or consignees performing the cartage service.

Article 7. The gross earnings shall be received by the working Company, and be thus divided and apportioned:

(*a.*) The Government duty payable by the owning Company shall be first paid thereout, and the remainder of the gross earnings, herein-after called the residue thereof, shall be dealt with as follows:

(*b.*) In every twelve months, calculated from the opening of the railway, in which the gross earnings shall not exceed 4,000*l.*, there shall be paid over to the owning Company 55 per cent. of the residue thereof:

(*c.*) In every such twelve months in which the gross earnings shall exceed 4,000*l.*, there shall be paid over to the owning Company 50 per cent. of the residue thereof:

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(*d.*) The working Company may deduct from the share of the residue of the gross earnings from time to time payable to the owning Company half of the expense in the same year of maintaining and working the junction between the railway and the working Company's railway, and its incidental works, including the signals thereat and consequent thereon, and may also deduct from the owning Company's share of the residue of the gross earnings all rentcharges, land tax, rents, and outgoings properly payable by the owning Company in respect of the railway, or any part of them, and which the working Company may have paid on the default of the owning Company:

(*e.*) The remaining 45 per cent., or as the case may be, 50 per cent., of the residue of the gross earnings shall be retained by the working Company for its own use:

(*f.*) The division shall be made half-yearly to the 30th June and 31st December, the proportion of the owning Company for the first or June half year being taken at 55 per cent., and the adjustment of the proportions for the twelve months being made on the apportionment of the second or December half year.

Article 8. If the working Company apply to Parliament for powers enabling the owning Company to make and the working Company to accept a transfer or lease of the railway, on terms to be agreed on between the Companies, or on terms analogous to the terms in these articles mentioned, the owning Company will consent to, and at the request and expense of the working Company will support, the application, and if the necessary powers be obtained will, at the like request and expense, make an absolute transfer or perpetual lease of the railway to the working Company on terms (if not otherwise agreed) analogous to the terms of these articles.

Article 9. Any difference or dispute arising between the parties hereto with reference to the construction of this agreement, or questions relating thereto, shall be referred to the arbitration of a sole arbitrator under "The Railway Companies Arbitration Act, 1859," such arbitrator to be nominated, in case of difference, by the Board of Trade.

Article 10. Provided always, that if within five years from the passing of the Act of incorporation in the present year 1871, the railway is not completed according to these articles, including the acquisition of the necessary land, as mentioned in Article 1, and opened for public traffic, the working Company may, by notice in writing under their common seal, put an end to this agreement, and thereupon the same shall cease to have any force.

In witness whereof the said parties of the first part have hereunto set their hands, and the said London and South-western Railway Company their common seal, the day and year first above written.

John Henry Kennaway.
John Macmillan Dunlop.
John Fulford Vicary.
John Heugh.

The London and South-western Railway Company.

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