CHAPTER cxiv.

An Act to enable the South Devon Railway Company to acquire lands and execute works in connexion with their undertaking; and for other purposes. [7th July 1873.]

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WHEREAS it is expedient that the South Devon Railway Company (in this Act referred to as "the Company") should be empowered for the general purposes of their undertaking to acquire the lands and to execute the several works herein-after respectively described:

And whereas it is expedient that the quantity of land which the Company are authorised to purchase by agreement for the extraordinary purposes mentioned in the two hundred and forty-seventh section of the South Devon Railway Act, 1844, and in the forty-eighth section of the Railways Clauses Consolidation Act, 1845, should be prescribed and enlarged:

And whereas it is expedient that the Company should be authorised to raise further moneys for the purposes of this Act:

And whereas plans and sections showing the lines and levels of the said works by this Act authorised, and the lands required for the purposes thereof, and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands, were duly deposited with the clerk of the peace for the county of Devon, and are herein-after respectively referred to as the deposited plans, sections, and book of reference:

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:

1. This Act may be cited as the South Devon Railway Act, 1873. Short title.

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Provisions of general Acts herein named incorporated.

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

The Lands Clauses Consolidation Acts, 1845, 1860, and 1869;

The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters; namely,

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 consolidation of shares into stock;

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 giving of notices; and

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), Part II. (relating to additional capital), and Part III. (relating to debenture stock) of the Companies Clauses Act, 1863.

Interpretation of terms.

3. Except as is by this Act otherwise provided, the several words and expressions to which in the Acts incorporated wholly or partially with this Act meanings are assigned shall have in this Act the same respective meanings, unless excluded by the subject or context; 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 simple contract debt and not a debt or demand created by statute.

Power to acquire additional lands and execute works.

4. Subject to the provisions of this Act, the Company may from time to time enter upon, take, use, and appropriate to the general purposes of their undertaking all or any of the lands, houses, and buildings herein-after mentioned, delineated on the deposited plans and described in the deposited book of reference respectively relating thereto, and may in accordance with the deposited plans and sections relating thereto respectively, and in and upon the said lands, execute the several works and do the several acts herein-after described; (that is to say,)

They may enlarge and improve as they from time to time think fit and provide additional accommodation at and near to their

existing stations at Plymouth, Exeter, Dawlish, Newton, and Totnes, and may acquire for those purposes the additional lands shown on the deposited plans in the several parishes of Saint Andrew Plymouth, Saint Thomas the Apostle Exeter, Dawlish, Wolborough, Coombinteignhead, Abbotskerswell, and Littlehempston, all in the county of Devon:

They may widen on its northern side the bridge carrying the South Devon Railway over the Saltash Road at Plymouth:

They may widen on its eastern side the bridge known as the Colonnade at Dawlish, carrying the South Devon Railway over the stream known as Dawlish Water, and they may, when and so soon as they have formed and opened to the public a new and convenient footway in lieu thereof, stop up and discontinue and appropriate to the purposes of the Company the footway near the Coastguard Station at Dawlish aforesaid leading from the Dawlish and Starcross turnpike road to the beach:

They may alter, widen, and enlarge on the eastern sides thereof respectively the bridge carrying the turnpike road leading from Newton to Torquay over the South Devon Railway at Newton, and the bridge carrying the South Devon Railway over the public road leading from the said turnpike road to Keyberry Mill near Newton aforesaid, and they may divert so much of the said turnpike road as situate between points thereon respectively thirty-four chains and forty-eight chains in a southernly direction from the toll-house known as the Keyberry Toll-house at Newton aforesaid.

Power to raise further capital.

5. The Company may raise for the purposes of this Act by the creation and issue of new stock such amount of capital as they shall think fit, not exceeding seventy-five thousand pounds, and such new stock may be either ordinary stock or preference stock, or partly ordinary and partly preference, as the Company from time to time determine.

Receipt clause in case of persons not sui juris.

6. If any money is payable to a stockholder being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Qualifications of new stock.

7. All new ordinary stock created and issued under the powers of this Act shall form part of the consolidated ordinary stock of the Company, and shall, in proportion to the amount of such new stock held by the same person at the same time, entitle the respective holders thereof to the same dividends and profits, and confer on them the like qualifications and the like rights of voting, as the like amount paid up on the said consolidated ordinary stock of the Company, and all new preference stock created and issued under the powers of this Act shall rank pari passu with and form part

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of the South Devon five pounds per cent. preference stock authorised to be created by the South Devon Railway Act, 1869, and shall, in proportion to the aggregate amount of such new stock held by the same person at the same time, entitle the respective holders thereof to the same dividends, and confer on them the like qualifications and rights of voting, as the like amount paid up on the said South Devon five pounds per cent. preference stock.

Power to borrow on mortgage.

8. The Company may borrow on mortgage, in addition to any sums which they are already empowered to borrow, any sum not exceeding in the whole twenty-five thousand pounds, as follows; that is to say, they may borrow five thousand pounds in respect of each fifteen thousand pounds of the additional capital of seventy-five thousand pounds by this Act authorised to be raised by stock, but no part of any such sum of five thousand pounds shall be borrowed until the whole of the capital in respect of which the same is to be borrowed is issued and accepted and 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 paid up, 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, 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 shall be sufficient evidence thereof.

Repealing existing provisions as to receiver.

9. Every provision in any Act 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 principal money, or principal money 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.

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. 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 ten thousand pounds in the whole.

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Existing mortgages to have priority.

11. All mortgages and bonds granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing hereof, shall during the continuance of such mortgages and bonds have priority over any mortgage granted by virtue of this Act, but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Power to create debenture stock.

12. The Company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863, and any debenture stock created and issued under the powers of this Act shall rank pari passu and form one stock with and bear the same interest as the South Devon debenture stock authorised to be created by the South Devon Railway Act, 1869.

Power to apply corporate funds.

13. The Company may apply to the purposes of this Act any of the moneys which they now have in their hands, or which they have power to raise by the creation and issue of ordinary or preference or debenture stock, or by borrowing on mortgage, by virtue of any Act or Acts relating to the Company, and which may not be required for the purposes to which they are by any such Act or Acts made specially applicable.

Period for compulsory purchase of lands.

14. 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.

As to lands for extraordinary purposes under the Company's existing Acts and this Act.

15. The aggregate quantity of land to be taken by the Company by agreement under their existing Acts for the extraordinary purposes mentioned in section two hundred and forty-seven of the South Devon Railway Act, 1844, and in section forty-eight of the Railways Clauses Consolidation Act, 1845, shall not exceed fifty acres, and in addition thereto the Company may purchase and take by agreement under this Act for the like purposes any quantity of land not exceeding in the whole five acres.

Saving rights of the Crown.

16. Nothing contained in this Act, or in any of the Acts herein referred to, shall authorise the Company to take, use, or in any manner interfere with any land or hereditaments, or any rights of whatsoever description, belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, without the consent in writing of the same Commissioners or one of them, on behalf of Her Majesty, first had and obtained for that purpose, (which consent such Commissioners are hereby respectively authorised to give,) neither shall anything in the said Act or Acts contained extend to take away, prejudice, diminish,

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or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

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

17. 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.

18. Nothing in this Act contained shall exempt the railway 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 to be taken by the Company.

Provisions of Act.

19. 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.

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