CHAPTER xcii.

An Act for enabling the Tasmanian Main Line Railway Company, Limited, to attach a First Preference to a further amount of Debenture Bonds; and for other purposes. A.D. 1877.

[12th July 1877.]

WHEREAS in the year one thousand eight hundred and seventy certain persons formed themselves into a company under the name of the Tasmanian Main Line Railway Company, Limited, (herein-after referred to as "the Company,") for the purpose of establishing, maintaining, and working railway communication between Hobart Town and Launceston in the colony of Tasmania, and for other purposes connected therewith, and such company was duly registered under the Companies Acts, 1862 and 1867:

And whereas by a certain contract bearing date the fifteenth day of August one thousand eight hundred and seventy-one, between the Governor of the said Colony of the one part and the Company of the other, and made in pursuance of the provisions in that behalf contained in the Act of the Parliament of Tasmania, 33 Victoria, No. 1, entitled "The Main Line of Railway Act," as amended by the Act of the same Colony, 34 Victoria, No. 13, entitled "The Main Line of Railway Amendment Act," the Company agreed to construct, work, and maintain a railway between Hobart Town and Launceston, or as therein mentioned, and by the said contract the said Governor guaranteed to the Company interest at the rate of five pounds per centum per annum upon the money actually expended in and for the purposes of the construction of the said railway, up to and not exceeding the sum of six hundred and fifty thousand pounds during the period of construction therein mentioned, and for a period of thirty years from the opening of the entire line for traffic, subject as therein mentioned:

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And whereas by the memorandum and articles of association of the Company the capital of the Company was fixed at one million pounds, divided into one hundred thousand shares of ten pounds each, and the directors of the Company were authorised to raise and borrow money for the purposes of the Company to such an extent as, with the approval of a general meeting of the Company, they should think proper, on such terms and conditions as to time of repayment, rate of interest, and generally under and subject to such conditions, as they should think fit:

And whereas in pursuance of a resolution of the Company passed at a general meeting held on the twenty-first day of March one thousand eight hundred and seventy-two, the directors issued perpetual debenture bonds payable to bearer to the amount of six hundred and fifty thousand pounds, bearing interest at the rate of five pounds per centum per annum, the payment of which interest was made a first charge on the whole earnings and revenue to arise from the railway, including the interest guaranteed to the Company by the Governor of Tasmania as aforesaid; and in pursuance of another resolution passed at a general meeting held on the seventeenth day of December one thousand eight hundred and seventy-five, the directors issued or agreed to issue debenture stock to the amount of fifty thousand pounds, bearing interest at the rate of six pounds per centum per annum, but without prejudice to the debenture bonds for six hundred and fifty thousand pounds above referred to:

And whereas the Company have constructed the said railway, and the same is now being worked, but the Government of Tasmania have refused to pay the interest provided for by the recited contract, on the ground, as the said Government alleges, that the railway has not been constructed and is not being worked in due accordance therewith, and the Company have therefore been unable to pay the interest on their debenture bonds:

And whereas it is expedient in order to enable the Company to do certain further works on the railway, and to discharge certain liabilities, that they should be empowered to raise further money, to an amount not exceeding one hundred thousand pounds, but the same can only be raised on the security of a portion of the interest guaranteed by the said Government, and now payable to the holders of the six hundred and fifty thousand pounds debenture bonds created as aforesaid:

And whereas it is expedient that with the consent of the holders of the last-mentioned bonds, to be signified as herein-after prescribed,

the Company should be empowered to attach to a further amount of debenture bonds or stock, not exceeding one hundred thousand pounds, a preferential interest as herein-after provided, and that the interest now payable on the existing debenture bonds should be reduced to the extent herein-after mentioned:

And whereas it is expedient that with the consent of a sufficient majority of the holders of the said existing debenture bonds and debenture stock the payment of the interest now overdue thereon, and of that which shall become due during a certain period, should be delayed, and the coming due of the principal which has been caused by the nonpayment of the interest should be waived:

And whereas the greater portion of the capital expended in the construction of the railway has been raised by means of the debenture bonds and debenture stock, and it is expedient that the holders of debenture bonds and debenture stock of the Company should, as herein-after mentioned, be empowered to vote at all meetings of the shareholders of the Company, and should be eligible as directors of the Company:

And whereas the purposes aforesaid 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 Tasmanian Main Line Railway Act, 1877."

Power to debenture bond and stock holders and Company to make agreement.

2. Any agreement to carry into effect the purposes of this Act must be in writing, and must—

First, be approved by the votes of three fourths in amount of such of the holders of the Company's perpetual debenture bonds for six hundred and fifty thousand pounds and six per cent. debenture stock for fifty thousand pounds (voting together) as shall be present in person or by proxy at a general meeting of such holders, to be convened by the Board of the Company by one week's previous notice by advertisement in the "Times," "Daily News," and "Standard" newspapers, or at any adjournment thereof:

Second, be duly signed by or on behalf of the Company, and by the holders of not less than three fourths in amount of the

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said perpetual debenture bonds for six hundred and fifty thousand pounds, and by the holders of not less than three fourths in amount of the said six per cent. debenture stock for fifty thousand pounds, or by the duly authorised agents of such holders respectively.

Provisions of such agreement.

3. An agreement approved and executed, as in the preceding section mentioned, may provide for all or any of the things hereinafter in this section mentioned, with, under, and subject to such terms, provisions, conditions, and limitations as may be contained in the said agreement, and such determination, subject as aforesaid, shall be binding upon and enure to the benefit of the Company, and all persons now or hereafter holders of or interested in the said perpetual debenture bonds and six per cent. debenture stock, whether they shall have executed the said agreement or not; that is to say,

Reduction of interest on debenture bonds.

(A.) That from and after any day to be named in the said agreement, the interest payable on the said six hundred and fifty thousand pounds perpetual debenture bonds shall be reduced from such date and for such period, on such conditions and to such rates, as may be prescribed in such agreement, such reduction of interest not being more than twenty shillings per one hundred pounds per annum:

Issue of further amount of debenture bonds or stock.

(B.) That the Company may from time to time issue, on such terms as they shall think fit, such further amount or amounts of debenture bonds or debenture stock, perpetual or not, as the directors of the Company shall think fit, not exceeding in the whole one hundred thousand pounds, and may attach thereto such a rate of interest, subject as herein-after mentioned, as they shall think fit, and that the principal and interest of the said bonds shall, if and so far as so determined by the said agreement, be secured by a first mortgage or charge upon the Company's railway, rolling stock, plant, machinery, and other accessories thereof, upon such terms and conditions as the Company may agree upon with the persons advancing the money; and if so determined and agreed, the said mortgage or charge may include the whole or any part of the earnings and revenue to arise from the railway, including the interest guaranteed by the said Government as aforesaid; provided that the aggregate amount of the interest so attached shall not exceed a sum equal to the aggregate amount of the reduction in the interest

payable to the holders of the perpetual debenture bonds for six hundred and fifty thousand pounds so determined as aforesaid, and any such mortgage and charge shall take effect according to the tenour thereof, in priority to the rights of all the holders of or persons interested in the said perpetual debenture bonds and six per cent. debenture stock:

Funding of coupons on existing debenture bonds.

(c.) That there shall be cut off and deposited in the hands of trustees the coupons now due and unpaid on the said perpetual debenture bonds, and those to become due during such period as shall be prescribed by the said agreement, not being longer than to the end of one thousand eight hundred and seventy-eight, and that the same, and the interest now due and to become due for the corresponding period on the said six per cent. debenture stock, shall not be payable for such period as may be so determined, not later than the last-mentioned date, and that the falling due of the principal of the said perpetual debentures and six per cent. debenture stock occasioned by the nonpayment of the coupons and interest already due shall be suspended for such time as may be so determined:

Scheme of distribution.

(d.) That the scheme of distribution of the proceeds of sale of the railway or other property of the Company contained in the First Schedule to this Act shall take effect.

Application of special capital.

4. The capital to which any special interest shall be assigned under the last preceding section shall be expended only upon completing the railway (if and so far as the same has not been so completed) in accordance with, and in or towards satisfaction of, the contract between the Tasmanian Government and the Company, and in such other expenditure upon the railway and its equipment, and in discharging the liabilities of the Company, as the Board of the Company shall think desirable.

Right of debenture holders to vote and to be elected as directors.

5. If and so soon as an agreement shall be approved and executed, as mentioned in section 2, the provisions in the Second Schedule hereto for giving votes to the debenture holders, and making them eligible as directors, shall become and be part of the regulations of the Company, and a copy of them shall thereupon be filed by the Board of the Company with the Registrar of Joint Stock Companies, and such filing shall be conclusive evidence that the said agreement has come into force.

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Saving rights of Government of Tasmania.

6. Nothing contained in this Act shall prejudice, limit, or interfere with any of the rights, powers, privileges, or interests of the Government of Tasmania under the contract in this Act recited, or otherwise however.

Expenses of Act.

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

The FIRST SCHEDULE above referred to.

SCHEME (referred to in section 3, sub-section D.) for the distribution of the proceeds of sale of railway, which may be adopted if thought fit, by an agreement approved and executed as mentioned in section 2.

ART. 1. If (except in the cases stated in Art. 2) the Company shall sell the whole or any part of its railway or other property (which, so far as any further authority may be necessary, it is hereby authorised to do), the net proceeds of such sale, after deducting therefrom (or, in case the sale shall be for some other consideration than actual cash, after raising and paying thereout) all costs, charges, and expenses of and attending such sale, shall (subject to the provisions of Art. 3) be divided and distributed as follows, and in the following order of priority :

(A.) The principal of the new debentures and all arrears of interest thereon (if any) shall be paid in full and in cash :

(B.) The amount owing on the coupons on the perpetual debenture bonds, and interest on the six per cent. debenture stock now due, or which, but for the provisions of the agreement mentioned in the Act, would at the date of such payment have become due and payable and shall not have been previously paid, shall next be paid in full, an apportionment being made in respect of the current interest up to the date on which notice by the Company of the payment shall be given, but subject to the said provision for apportionment, the said coupons and interest which would not then have become due shall be cancelled and shall never become payable :

(C.) Seventy-seven per cent. of the balance shall next be paid and distributed to and among the holders for the time being of the six hundred and fifty thousand five per cent. perpetual debenture bonds rateably and equally in proportion to the amounts held by them respectively, and which payment shall be taken and received by them in full satisfaction and discharge of the said perpetual debenture bonds held by them, and shall only be made upon the same being delivered up to the Company for the purpose of being cancelled :

(D.) Three per cent. of the same balance shall at the same time be paid to the holders of the six per cent. debenture stock in the same manner and subject to the same conditions as above mentioned in sub-section C. with reference to the five per cent. perpetual debenture bonds :

(E.) The residue after discharging liabilities shall belong to the Company freed and discharged from all rights or claims of the holders of the said five per cent. perpetual debenture bonds and six per cent. debenture stock.

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ART. 2. The provisions of Article 1, as to distribution of proceeds of sales, shall not apply to sales made by the Company while holding and working its railway of surplus land or buildings, or surplus or worn-out plant, rolling stock or materials, and which shall not be required for the working of the railway, in all which cases the said proceeds shall be received by the Company and retained to its own use.

ART. 3. If the payment to the Company for any such sale as is subject to the provisions of Article 1 shall be made in approved securities, or in some other approved consideration than cash, the Company shall raise by a sale of a competent part of the said securities or other consideration a sufficient sum in cash to defray the costs, charges, and expenses of and attending the said sale, and the payments included in sub-section A. of Article 1, but the payments included in sub-sections B., C., and D. of that article shall be made by distributing among the persons entitled thereto their proportion of the residue of the said securities or other consideration in kind, and without converting or realising them, but in the same proportions as prescribed by the said article; and for the purpose of making the distribution to and among the persons included in sub-section B., the said securities or other consideration shall be assumed to be of the value at which the Company shall on the sale have agreed to take them, and if no value shall have been so set thereon, then at their par or nominal value.

ART. 4. In case of a distribution in accordance with the preceding article, the Board of the Company may make such regulations as they shall think fit concerning the payment of sums or parts of sums which shall be too small to be paid by any such distribution in kind, and in particular may direct that all or any part of the securities or other consideration which shall correspond to the total of such sums or parts of sums shall be sold as the regulations may direct, and that the proceeds may be distributed among the persons to whom such sums or parts of sums shall be owing, and the provisions of Arts. 1 and 2 shall in that case take effect only subject to and as modified by such regulations.

ART. 5. If at the time of any such payment or distribution as is mentioned in Art. 1 the Company shall have paid off or otherwise acquired for itself all or any of the perpetual debenture bonds or six per cent. debenture stock therein mentioned, or shall have redeemed any six per cent. debenture stock now pledged for debts, the amount payable or distributable to the class of debentures, the amount of which shall then have been reduced, shall be the same proportion of what would otherwise have been payable or distributable as the reduced amount of the said class shall be of the full amount of six hundred and fifty thousand pounds or fifty thousand pounds at which the two classes now respectively stand.

The SECOND SCHEDULE above referred to.

Regulation referred to in section 5 for giving votes to Debenture Holders and making them eligible as Directors.

That the following alterations be and they are hereby made in the regulations of the Company. Each of the new articles to be read in the place of the existing articles of a corresponding number in cases of repeal, and immediately after the existing articles of a corresponding number in other cases, and that the existing regulations of the Company, and the additions and amendments hereby made, be read and construed as one document, and that such of the existing regulations, whether herein-after specially mentioned or not, as are inconsistent with the following articles, be and they are hereby repealed, so far as they are inconsistent, and that this regulation or any modification thereof hereafter made may be altered by special resolution; provided that at the meeting at which such resolution shall be first passed it shall be carried by at least three fourths of the votes given in respect of debentures by the debenture holders present thereat in person or by proxy, but unless so carried at that meeting the resolution shall not be deemed to have been duly passed.

Art. 3a. The following interpretations are added to those contained in Art. 3, and shall be construed as forming part thereof:

Words interpreted.	Meanings assigned thereto.
Debentures.	The perpetual five per cent. debenture bonds and the six per cent. debenture stock which has been issued by this Company, and any other debentures, debenture bonds, or debenture stock which the Company may issue under this Act, or such of the said premises as may from the time being be outstanding.
Debenture holders.	The holders for the time being of the debentures.
General Meetings.	General meetings, whether ordinary or extraordinary, of the members and debenture holders, or as the case may be of members or debenture holders alone, lawfully convened and held in accordance with the Company's regulations.
Voters.	The members and debenture holders, or as the case may be, the members or debenture holders alone, who shall be entitled according to the Company's regulations to vote at a general meeting.
Board of the Company.	The directors of the Company as elected in accordance with the provisions contained in this schedule.

Art. 63a. The debenture holders, with the exceptions and in the manner and subject to the conditions herein-after expressed, shall be entitled to attend, speak, and vote at all general meetings of the Company in the same way as members, and to give upon a poll one vote for every ten pounds nominal amount of debentures held by them respectively, and shall have the same right as members to convene or to sign a requisition for the purpose of convening a

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general meeting, which rights they may exercise either jointly with members or not, and may be elected as directors, the holding of debentures of the nominal amount of five hundred pounds being equivalent to the holding of fifty shares prescribed by Art. 101 of the Articles of Association.

ART. 63B. The provisions in the regulations of the Company as to the attendance, speaking, and voting of members at general meetings shall apply mutatis mutandis, and subject as hereafter directed to the attendance, speaking, and voting of debenture holders.

ART. 63C. The debenture holders shall not as such be members of the Company, nor have any right to participate in the capital or profits of the Company.

ART. 66 is repealed.

ART. 66A. Notice of every general meeting, ordinary or extraordinary, and by whomsoever convened, specifying the place and hour of meeting, and in the case of extraordinary meetings the business proposed to be transacted thereat shall be given by the persons calling such meeting.

ART. 66B. The said notice shall be given by sending by post to such of the members as hold shares or stock passing by transfer registered on the Company's books letters, addressed to them at their registered addresses, and like letters to the holders of such of the debentures as shall pass by like transfer, at the addresses given in such transfers, or as otherwise directed by them, and by advertisement in at least three newspapers circulating in London, inserted twice in each.

ART. 66C. Notice of all the said meetings shall be given not less than seven days before the day appointed for holding the meeting, including the day of such meeting, but excluding the day of giving the notice, and the notice shall be deemed to be given when all the letters directed by Art. 66B shall have been posted, and the last of the advertisements thereby directed shall have appeared.

ART. 69. The word "voters" shall in this article be substituted for "members."

ART. 70 is hereby repealed.

ART. 70A. The quorum of voters for the transaction of business shall be ten voters present in person.

In ARTS. 71, 72, 73, 74, 76, 77, 79, 82, and 96, for the word "members" the word "voters" shall throughout be substituted.

ART. 90 is hereby repealed.

ART. 90A. No person shall be entitled as being holder of any transferable share, warrant, or certificate issued by the Company, or as being the holder of any debentures which shall pass without transfer in the Company's books, to exercise any of the following rights, except under the conditions herein-after specified, in which conditions the word "security" means the transferable warrant or certificate, or the debenture, as the case may be:

1. For attending or voting or exercising any rights at any general meeting of the Company in respect of his security, he must at least the day before the day appointed for the meeting deposit his security at the office, or at such other place or one of such other places as the Board of the Company shall from time to time direct, together with a statement in writing of his name and address, and his security must remain

so deposited until after the general meeting shall have been held. The names of more persons than one as joint owners of a security shall not be received. There shall be delivered to the person so depositing a security a certificate stating his name and address, the nature of his security, and the number of votes to which the security so deposited entitles him, which certificate shall entitle him, subject to the Company's regulations, to attend and vote at a general meeting held in accordance with such regulations, with the number of votes mentioned in the said certificate. Upon delivery up to the Company of the said certificate, the security in respect whereof it shall have been given shall be returned to him:

2. For signing a requisition for the calling of an extraordinary general meeting under Arts. 64 and 65, or for calling such meeting under the same Articles before the said requisition shall be left at the office, or the notice calling the meeting shall be issued, he must deposit his security at the registered office of the Company, together with a statement in writing of his name, occupation, and address, and in either case the said security shall remain so deposited until after the meeting shall have been held:
3. For election as a director he must deposit with the Company the securities constituting his qualification, and they must remain so deposited so long as he shall remain a director.

Art. 91. After the word "shares" shall be added "or debentures."

Art. 92. After the words "if there be joint owners of a share" shall be added the words "or of a debenture passing by transfer registered in the Company's books."

Art. 92A. The debenture holders shall not be entitled to vote at any general meeting on any resolution for disposing of the surplus proceeds of the sale of all or any part of the Company's railway and other property, after satisfying the lawful claims of the debenture holders, as the same may be defined by any agreement made in accordance with the Tasmanian Main Line Railway Act, 1877.

Art. 92B. If a general meeting is convened only for the purpose of passing resolutions on which the members, or, as the case may be, the debenture holders alone, have the right to vote, it shall not be necessary to give notice to that one of the said classes the members of which shall not have the right to vote.

Art. 100 is repealed.

Art 100A. The members of the board of directors shall be eight in number, but they may act notwithstanding any vacancy in their number.

Art. 105 is repealed.

Art. 105A. An extraordinary general meeting shall be called by the directors, to be held within two calendar months after any agreement under the Tasmanian Main Line Railway Act, 1877, shall have been approved and executed in accordance with the said Act, at which the debenture holders only shall have the right to vote.

Art. 105B. At the said meeting four directors shall be elected by the votes of the debenture holders present in person or by proxy.

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Art. 105c. Every subsequent vacancy among the directors elected by the debenture holders shall be filled up by election at a general meeting by the votes of the debenture holders present thereat in person or by proxy, and every vacancy among the directors elected by the members shall be filled up by election at a general meeting by the votes of the members present thereat in person or by proxy, and so on from time to time, so that each class of voters shall elect its own directors. This article is without prejudice to the power in Art. 111a to fill up casual vacancies.

Art. 105d. At the first ordinary general meeting which shall be held after the meeting mentioned in Art. 105a, and at each subsequent ordinary general meeting, one director elected by the debenture holders and one director elected by the members shall retire.

Art. 106. The words "subject to the provisions of Arts. 105a to 105d" shall be prefixed to this article.

Art. 108 is repealed.

Art. 108a. The director who shall retire by rotation shall be he who shall have been longest in office of his class (namely, that chosen by the debenture holders, or that chosen by members), and when there shall be more than one director of the same class and of the same standing, the director to retire shall be chosen by agreement among the directors of his class, or failing agreement, by lot.

Art. 111 is hereby repealed.

Art. 111a. Any vacancy occurring in the board of directors, otherwise than by retirement or removal, shall be filled up by the directors of the class in which the vacancy has occurred, or a majority of such directors, by the appointment of a person duly qualified to be director, and any person so appointed shall for the purposes of future retirement by rotation go out of office at the time when the director into whose place he shall be put would have retired by rotation if no vacancy had occurred.

Art. 111b. All the directors, whether elected by the members or debenture holders, shall have the same powers and duties except as provided in Art. 111a.

Art. 113 is hereby repealed.

In Art. 114, after the word "member," in both places where it occurs, shall be added the words "or debenture holder."

Art. 115. At the end shall be added these words, "provided that the only "persons entitled to vote on any resolution under this article shall be those "belonging to the class (members or debenture holders) by the votes annexed "to which class the director removed, or proposed to be removed, shall have "been originally elected."

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