CHAPTER cxxxix.

An Act for making a railway from Torrington to Okehampton in the county of Devon and for other purposes. [6th July 1895.]

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WHEREAS the construction of a railway in the county of Devon between Torrington and Okehampton would be of public and local advantage:

And whereas the persons in this Act named are willing with others at their own expense to make and maintain such railway and it is expedient that they be incorporated into a company for that purpose:

And whereas it is expedient that the Company should be authorised to run over and use portions of railways and other works of the London and South Western Railway Company upon the terms and subject to the conditions herein-after mentioned:

And whereas it is expedient that such arrangements should be authorised and such powers conferred with reference to other undertakings and companies as are herein-after provided:

And whereas plans and sections showing the lines and levels of the railway as originally proposed to be authorised by this Act and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which would have been taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the county of Devon and are herein-after respectively referred to as "the original deposited plans sections and books of reference":

And whereas during the progress of this Act through Parliament an alteration of the line or course of the railway has been deemed expedient and a plan and section showing the lines and levels of such altered line with a book of reference thereto were in the month of March in the present year deposited with the clerk of

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the peace for the county of Devon and such plan section and book of reference are in this Act referred to as "the additional deposited plan section 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 (that is to say):—

Short title.

1. This Act may be cited as the Torrington and Okehampton Railway Act 1895.

Incorporation of general Acts.

2. The Companies Clauses Consolidation Act 1845 Part I. (cancellation and surrender of shares) and Part III. (debenture stock) of the Companies Clauses Act 1863 the Lands Clauses Acts the Railways Clauses Consolidation Act 1845 and Part I. (construction of a railway) and Part III. (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.

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 expressions "the railway" and "the undertaking" mean respectively the railway and the undertaking by this Act authorised and for the purposes of this Act 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.

Company incorporated.

4. Wilson Hoare George Mill Frederick Molesworth Samuel Hooper and James Henry Lockley and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking and their executors administrators successors and assigns respectively shall be and are hereby united into a company for the purpose of making and maintaining the railway and for other the purposes of this Act and for those purposes shall be and are hereby incorporated by the name of "The Torrington and Okehampton 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.

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 original and additional deposited plans and sections the railway herein-after described with all proper stations sidings approaches 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 original and additional deposited books of reference as may be required for that purpose.

The railway herein-before referred to and authorised by this Act is—

A railway No. 1 twenty miles four furlongs two and a half chains in length commencing in the parish of Great Torrington by a junction with the London and South Western Railway at its termination at Torrington Station and terminating in the parish of Okehampton by a junction with the South Western Railway at a point opposite the mile post indicating one hundred and ninety-six miles from London on that railway and being fourteen chains or thereabouts measured in a northerly direction along the railway of the London and South Western Railway from the bridge carrying the public road from Okehampton to Sticklepath over the said last-mentioned railway and commonly known as "Fatherford Bridge" towards Sampford Courtenay Station.

Railway may be a light railway.

6. The railway may be constructed and worked as a light railway but in that event the traffic on the railway shall not be worked by engines exceeding eight tons in weight on each pair of wheels nor at a higher maximum speed than twenty-five miles an hour unless the Board of Trade by licence authorise engines of greater weight and trains of a higher rate of speed on the railway and then only by engines and trains not exceeding the rate and speed specified in any such licence and if the Company or any company working or using the railway or any person fails to comply with or acts in contravention of this provision or of any such licence or directs anyone so to fail or act every such company or person shall be liable to a penalty not exceeding twenty pounds and a like penalty for every day during which such offence continues.

Not to take certain lands.

7. Nothing in this Act contained shall authorise the Company to enter upon take or use any of the lands shown on the original plans which are situate between the points on the centre line of

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the railway indicating twelve miles six and a half chains and fourteen miles two and a half chains from the commencement of the railway.

Capital.

8. The capital of the Company shall be two hundred and fifty thousand pounds in twenty-five thousand shares of ten pounds each.

Shares not to be issued until one fifth paid.

9. The Company shall not issue any share created under the authority of this Act nor shall any such share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share is paid in respect thereof.

Calls.

10. 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.

Receipt in case of persons not sui juris.

11. If any money is payable to a shareholder or mortgagee or debenture 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.

Power to divide shares.

12. Subject to the provisions of this Act the Company with the authority of three fourths of the votes of the shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose may from time to time divide any share in their capital into half shares of which one shall be called "preferred half share" and the other shall be called "deferred half share" but the Company shall not divide any share under the authority of this Act unless and until not less than sixty per centum upon such share has been paid up and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share (being the whole amount payable thereon) and the residue to the credit of the preferred half share.

Dividends on half shares.

13. The dividend which would from time to time be payable on any divided share if the same had continued an entire share shall be applied in payment of dividends on the two half shares in manner following (that is to say):—

First in payment of dividend after such rate not exceeding six per centum per annum as shall be determined once for all at a general meeting of the Company specially convened for the purpose on the amount for the time being paid up on the preferred half share and the remainder (if any) in payment

of dividend on the deferred half share and the Company shall not pay any greater amount of dividend on the two half shares than would have from time to time been payable on the entire share if the same had not been divided.

Dividend on preferred shares to be paid out of the profits of the year only.

14. Each preferred half share shall be entitled out of the profits of each year to the dividend which may have been attached to it by the Company as aforesaid in priority to the deferred half share bearing the same number but if in any year ending the thirty-first day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half share for that year no part of the deficiency shall be made good out of the profits of any subsequent year or out of any other funds of the Company.

Half shares to be registered and certificates issued.

15. Forthwith after the creation of any half shares the same shall be registered by the directors and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued and the directors shall issue certificates of the half shares accordingly and shall cause an entry to be made in the register of the entire shares of the conversion thereof but the directors shall not be bound to issue a certificate of any half share until the certificate of the existing entire share be delivered to them to be cancelled unless it be shown to their satisfaction that such certificate is destroyed or lost and on any certificate being so delivered up the directors shall cancel it.

Terms of issue to be stated on certificates.

16. The terms and conditions on which any preferred half share or deferred half share created under this Act is issued shall be stated on the certificate of each such half share.

Forfeiture of preferred shares.

17. The provisions of the Companies Clauses Consolidation Act 1845 with respect to the forfeiture of shares for non-payment of calls shall apply to all preferred half shares created under the authority of this Act and every such preferred half share shall for that purpose be considered an entire share distinct from the corresponding deferred half share and until any forfeited preferred half share shall be sold by the directors all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards payment of any expenses attending the declaration of forfeiture thereof and of the arrears of calls for the time being due thereon with interest.

Preferred half shares not to be cancelled or surrendered.

18. No preferred half share created under the authority of this Act shall be cancelled or be surrendered to the Company.

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Half shares to be half shares in capital.

19. The several half shares under this Act shall be half shares in the capital of the Company and every two half shares (whether preferred or deferred or one of each) held by the same person shall confer such right of voting at meetings of the Company and (subject to the provisions herein-before contained) shall confer and have all such other rights qualifications privileges liabilities and incidents as attach and are incident to an entire share.

Power to borrow.

20. The Company may from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole eighty-three thousand three hundred and thirty-three pounds but no part thereof shall be borrowed until the whole capital of two hundred and fifty thousand pounds is 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 in such capital has been paid on account thereof before or at the time of issue or acceptance thereof and the Company have proved to such justice as aforesaid (before he so certifies) 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.

For appointment of a receiver.

21. The mortgagees of the undertaking 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 eight thousand pounds in the whole.

Debenture stock.

22. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 but notwithstanding anything therein contained the interest of all debenture stock and of all mortgages at any time created and issued or granted by the Company under this or any subsequent

Act shall subject to the provisions of any subsequent Act rank pari passu (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Application of moneys.

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

First ordinary meeting.

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

Number of directors.

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

Qualification of directors.

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

Quorum of directors.

27. The quorum of a meeting of directors shall be five but if the number of the directors be reduced to four or three the quorum shall be three.

First directors.

28. Wilson Hoare George Mill Frederick Molesworth Samuel Hooper James Henry Lockley and three other duly qualified persons to be nominated by them or the majority of them and consenting to such nomination 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 they continue 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 of the Companies Clauses Consolidation Act 1845 and the several persons elected at any such meeting being neither removed nor disqualified nor having died or resigned shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Election of directors.

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For the protection of the North Devon Clay Company Limited.

29. Whereas the North Devon Clay Company Limited (herein-after referred to as "the Clay Company") are the lessees of a railway known as the Marland Light Railway (herein-after referred to as "the Light Railway") And whereas such intended railway and Light Railway respectively are delineated on the plan signed by the Right Honourable the Earl of Morley the Chairman of Committees of the House of Lords and by the engineer of the Company and the secretary of the Clay Company and which plan has been deposited in the Office of the Clerk of the Parliaments And whereas the Light Railway will be interfered with by the railway and works of the Company Now the following provisions for the protection of the Clay Company shall (save as otherwise agreed in writing between the Company and the Clay Company) be observed and have effect (that is to say) :—

(A) The Company shall before interfering with the Light Railway give to the Clay Company in writing addressed to the secretary of the Clay Company notice of their intention so to do at least forty-eight hours before commencing any works that may interfere with the Light Railway and shall prior to such interference if and so far as may be necessary make and construct such efficient and proper temporary works as shall enable the Clay Company to carry on their traffic without interruption over the Light Railway during the construction of the works of the Company and until the railway shall be completed and ready for the carriage of the Clay Company's traffic Provided nevertheless that if during the construction of such works it shall be at any time necessary for such construction to stop the traffic on the Light Railway the Company may stop such traffic not more than once in any one week for any period not exceeding twenty-four consecutive hours and in respect of each such stoppage the Company shall on demand pay to the Clay Company by way of liquidated damages the sum of five pounds such damages to be recoverable with full costs by the Clay Company in any court of competent jurisdiction Provided nevertheless that the Clay Company shall not be entitled to liquidated damages for anything done causing stoppage only by the Company on a Sunday Christmas Day or on any public holiday on which the traffic on the Light Railway is suspended:

(B) The Company shall construct the bridge marked B on the said plan for carrying the railway over the Light Railway of such a width as shall be sufficient to enable the Clay Company to work the Light Railway and with a headway of not less than

ten feet between the upper surface of the rails of the Light Railway and the under surface of such bridge and of a clear width of twelve feet between the abutments :

(c) The Company shall at their own expense if and when required by the Clay Company so to do in writing construct and so long as the Clay Company shall continue to send traffic over the same for conveyance on the railway of the Company maintain in proper working order a siding commencing at the option of the Company either at the point A shown on the said plan and extending to the point "a" or at the point B shown on the said plan and extending to the point "b" on the property of the Clay Company also shown thereon for the accommodation of the said traffic of the Clay Company with all necessary switches or moveable rails and other appliances necessary for the convenient proper and safe working of such siding And the Clay Company shall have the right at their own expense to make connexions on their own land with such sidings and to convey the Company's trucks to their works for the purposes of loading and unloading :

(d) The Company shall permit the Clay Company their servants and agents and all other persons authorised by them at all times to use the said siding free of toll or charge for the purpose of conveying the said traffic to and from the railway and the works of the Clay Company and the Clay Company their servants and agents and all other persons so authorised as aforesaid shall at all times observe perform and be bound by all byelaws and regulations of the Company for the time being in force for the government and user of the railway and the sidings communicating therewith and with respect to passing upon or crossing the railway or otherwise :

(e) The Company shall duly provide for the conveyance of the Clay Company's traffic and shall stop at least one train per day each way at the said siding for the accommodation thereof and in addition the Company will on the request of the Clay Company stop any train beyond such daily train for the purpose of taking up not less than five loaded trucks of the Company :

(f) If the Clay Company shall at any time for the space of six months cease to use the said siding for the purposes of traffic to and from the railway the Company may take up and remove the said siding and the switches moveable rails and appliances connected therewith and belonging to the Company and dispose of the materials in such manner as they may think fit and if

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necessary for the purpose of such removal may enter upon the lands of the Clay Company:

(G) The Company will from and after the opening of the railway for public traffic convey the workmen and servants of the Clay Company to and fro between the nearest station to the works of the Clay Company and Torrington Station at reasonable times and fares any difference as to such times or fares to be settled failing agreement by arbitration as in the concluding subsection provided regard being had to the number of workmen to be carried and to the usual hours of labour at the Clay Company's works and the usual practice of railway companies in the matter of the issue of workmen's tickets at reduced fares:

(H) The term "the Company" in this section shall include any Company for the time being working the railway and the term "the Clay Company" shall include their successors and assigns:

(I) All disputes and differences from time to time arising between the Company and the Clay Company under this section shall if the parties cannot agree be referred to a single arbitrator to be appointed under and to act in accordance with the provisions of the Railway Companies Arbitration Act 1859 and for the purposes of any such arbitration the Clay Company shall be deemed to be a railway company within the meaning of such last-mentioned Act.

Lands for extra-ordinary purposes.

30. 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 five acres but nothing in that Act or in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any land so taken.

Period for compulsory purchase of lands.

31. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Power to cross road on the level.

32. 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 only whilst the railway shall consist of a single line and afterwards

with a double line only across and on the level of the road next herein-after mentioned (that is to say) :— A.D. 1895.

No. of Railway.	No. on Deposited Plan.	Parish.	Description of Road.
1	46	Jacobstowe - -	Public

Inclination of roads.

33. 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. of Railway.	No. on original Deposited Plan.	Parish.	Description of Road.	Intended Inclination.
1	35	Langtree - -	Parish - -	1 in 6
1	25	Petrockstow - -	Public - -	1 in 30
1	69	Hatherleigh - -	Public - -	1 in 20
1	26	Sampford Courtenay -	Public - -	1 in 12
1	14	Okehampton - -	Public - -	1 in 11
1	26	Okehampton - -	Public - -	1 in 20

No. of Railway.	No. on additional Deposited Plan.	Parish.	Description of Road.	Intended Inclination.
1	100	Hatherleigh - -	Parish - -	1 in 20

Height and span of bridges.

34. The Company may make the arches of the bridges for carrying the railway over the roads next herein-after mentioned of any heights and spans not less than the heights and spans herein-after mentioned in connexion therewith respectively (that is to say) :—

No. of Railway.	No. on Deposited Plan.	Parish.	Description of Road.	Height.	Span.
				Feet.	Feet.
1	23	Little Torrington -	Parish -	15	15
1	47	Little Torrington -	Parish -	15	15
1	35	Langtree - -	Parish -	15	15
1	21	Hatherleigh - -	Public -	15	15
1	69	Hatherleigh - -	Public -	15	20
1	85	Hatherleigh - -	Public -	15	20
1	72	Jacobstowe - -	Public -	15	15
1	14	Okehampton - -	Public -	15	15
1	26	Okehampton - -	Public -	15	15

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Width of certain roadways.

35. The Company may make the roadway over the bridges by which the following roads will be carried over the railway of such width between the fences thereof as the Company think fit not being less than the respective widths herein-after mentioned in connexion therewith respectively (that is to say) :—

No. of Railway.	No. on original Deposited Plan.	Parish.	Description of Road.	Width of Roadway.
				Feet.
1	3	Great Torrington -	Public - -	20
1	26a	Little Torrington -	Parish - -	15
1	7	Peters Marland -	Public - -	15
1	32	Merton - -	Parish - -	15
1	25	Petrockstow - -	Public - -	20
1	16	Meeth - - -	Public - -	20
1	62	Jacobstowe - -	Public - -	15
1	26	Sampford Courtenay -	Public - -	20

No. of Railway.	No. on additional Deposited Plan.	Parish.	Description of Road.	Width of Roadway.
				Feet.
1	100	Hatherleigh - -	Parish - - - -	15

Power to divert roads as shown on deposited plans.

36. The Company may divert the public highways referred to in the next following table in the manner shown upon the deposited plans and sections and when and as in each case the new portion of any road is made to the satisfaction of two justices and is open for public use may stop up and cause to be discontinued as a road so much of the existing road as will be rendered unnecessary by the new portion of road (that is to say) :—

Railway.	Parish.	Number of Road on Plan.
No. 1 - -	Little Torrington - -	47
No. 1 - -	Petrockstow - - -	27
No. 1 - -	Hatherleigh - - -	74

And when and so soon as such portion of any of the said roads is so stopped up all rights of way over the same shall cease and the Company may subject to the provisions of the Railways Clauses Consolidation Act 1845 with respect to mines lying under or near to the railway appropriate and use for the purposes of their under-

taking the site of the portion of road stopped up as far as the same is bounded on both sides by lands of the Company.

Power to take easements &c. by agreement.

37. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which other than parties to the agreement have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Restriction on taking houses of labouring class.

38. The Company shall not under the powers of this Act purchase or acquire ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied:

For the purposes of this section the expression "labouring class" means and includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

Deposit money not to be repaid except so far as railway is opened.

39. Whereas pursuant to the Standing Orders of both Houses of Parliament and to the Parliamentary Deposits Act 1846 a sum of nine thousand seven hundred and forty-seven pounds Consolidated two and three-quarters per centum Bank Annuities being equal to five per centum upon the amount of the estimate in respect of the railway has been transferred into the name of the Paymaster-General for and on behalf of the Supreme Court in respect of the application to Parliament for this Act which sum is referred to in this Act as "the deposit fund" Be it enacted that notwithstanding anything contained in the said Act the said deposit fund shall not (save to the extent herein-after provided) 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 which persons survivors or survivor are or is in this Act referred to as "the

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depositors" unless the Company shall previously to the expiration of the period limited by this Act for completion of the railway open the same for the public conveyance of passengers and if the Company shall make default in so opening the railway the deposit fund shall be applicable and shall be applied as provided by the next following section Provided that if within such period as aforesaid the Company open any portion of the railway for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of the railway opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the railway so opened bears to the entire length of the railway the High Court shall on the application of the depositors order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct Provided also that on the passing of this Act and on the production of the certificate of the Board of Trade specifying the length of Railway No. 2 shown on the original deposited plans and sections and described in the original deposited books of reference and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the said Railway No. 2 bears to the entire length of the railway shown on the original and additional deposited plans and sections and described in the original and additional deposited books of reference the High Court shall on the application of the depositors order the portion of the deposit fund specified in the last-named certificate to be paid to them and the certificate of the Board of Trade shall in each case be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of this Act having passed anything in the above mentioned Act to the contrary notwithstanding.

Application of deposit.

40. If the Company do not previously to the expiration of the period limited for the completion of the railway complete the same and open it for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the London Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or any portion thereof or who 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 has been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the High Court may seem fit and if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall if a receiver has been appointed or the Company is insolvent or the undertaking has been abandoned be paid or transferred to such receiver or be applied in the discretion of the Court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid or retransferred tothe depositors Provided that until the deposit fund has been repaid or re-transferred to the depositors or has 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 depositors.

Period for completion of works.

41. If the railway is not completed within five years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for making and completing the railway or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Tolls.

42. The Company may demand and take for the use of the railway by any other company or person with engines and carriages such reasonable tolls as they think fit.

Rates for merchandise.

43. The classification of merchandise traffic (including perishable merchandise exceeding fifty-six pounds in weight by passenger train) and the schedule of maximum rates and charges applicable thereto and the regulations and provisions contained in the schedule to the London and South Western Railway Company (Rates and Charges) Order 1891 (which Order is scheduled to and confirmed by the London and South Western Railway Company (Rates and Charges) Order Confirmation Act 1891) shall be applicable and apply to the Company as if it were one of the railway companies named in the appendix to the schedule to the Order confirmed by the said Act Provided that in respect of the conveyance of a consignment of perishable merchandise not exceeding fifty-six pounds in weight by passenger train the Company shall not be entitled to charge a higher rate than the maximum rate which they are authorised to charge for the conveyance of parcels of the same weight.

Charges for small parcels.

44. For the conveyance on the railway of small parcels not exceeding five hundred pounds in weight by passenger train other

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than perishable merchandise exceeding fifty-six pounds in weight the Company may demand and take any charges not exceeding the following (that is to say) :—

For any parcel not exceeding seven pounds in weight three pence ;

For any parcel exceeding seven pounds but not exceeding fourteen pounds in weight five pence ;

For any parcel exceeding fourteen pounds but not exceeding twenty-eight pounds in weight seven pence ;

For any parcel exceeding twenty-eight pounds but not exceeding fifty-six pounds in weight nine pence ; and

For any parcel exceeding fifty-six pounds but not exceeding five hundred pounds in weight the Company may demand any sum they 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.

Maximum rates for conveyance of passengers.

45. The maximum rate of charge to be made by the Company for the conveyance of passengers upon the railway including every expense incidental to such conveyance shall not exceed the following (that is to say) :—

For every passenger conveyed in a first-class carriage three pence per mile ;

For every passenger conveyed in a second-class carriage two pence per mile ;

For every passenger conveyed in a third-class carriage one penny per mile ;

For every passenger conveyed on the railway for a less distance than three miles the Company may charge as for three miles and every fraction of a mile beyond three miles or any greater number of miles shall be deemed a mile.

Passengers' luggage.

46. Every passenger travelling upon the railway may take with him his ordinary 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.

Foregoing charges not to apply to special trains.

47. 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 shall think fit but shall only apply to the ordinary and express

trains appointed from time to time by the Company for the conveyance of passengers upon the railway.

Power to use portion of South Western Company's railway.

48. The Company and any company or persons for the time being working or using the railway or any part thereof either by agreement or otherwise may but only with the consent of the London and South Western Railway Company under their common seal run over and use with their engines carriages and wagons officers and servants whether in charge of engines and trains or for any other purpose whatsoever and for the purposes of their traffic of every description so much of the London and South Western Railway as is situate between the junctions therewith of the said Railway No. 1 near Torrington and Okehampton respectively and the stations on the said London and South Western Railway at Torrington and Okehampton respectively including the use of the said stations respectively together with the stations roads platforms points signals water water-engines water sheds standing room for engines and carriages booking and other offices warehouses sidings junctions machinery works and conveniences of or connected with the said portions of the London and South Western Railway and stations and as regards traffic conveyed by them the Company may demand and take the same rates and charges upon and in respect of the said portions of railways and stations as are now authorised to be taken upon and in respect of such portions of railways and stations.

Terms of such user.

49. The terms conditions and regulations to be observed and fulfilled and the tolls charges rent or other consideration to be paid by the Company or any such other company or persons as aforesaid for and in respect of the use of such portions of railways stations works and conveniences shall be such as are from time to time agreed upon between them and the South Western Company or failing such agreement as may from time to time be determined by an arbitrator to be appointed by the Board of Trade on the application of either of the companies or persons interested and the cost of the arbitration shall be in his discretion and the decisions of such arbitrator shall be final and binding on all parties.

Short distance charge in case of running powers where rates and charges fixed with reference to

50. During the exercise with the consent of the South Western Company as aforesaid of any running powers by this Act conferred on the Company over the railways of the South Western Company the railways of the two companies shall for the purposes of short distance rates and charges be considered as one railway and in estimating the amount of rates and charges in respect of passengers conveyed partly on the railway of the Company and partly on the

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existing Rates and Charges Order of another company.

railways of the South Western Company rates and charges may be charged as for three miles and for every mile or fraction of a mile beyond three miles as for one mile only and in estimating the amount of rates and charges in respect of merchandise traffic conveyed partly on the railway of the Company and partly on the railway of the South Western Company the Company shall be deemed to be a company connected with the South Western Company and specified in the appendix to the schedule to the aforesaid London and South Western Railway Company (Rates and Charges) Order confirmed by the London and South Western Railway Company (Rates and Charges) Order Confirmation Act 1891.

Power to pay interest out of capital during construction.

51. Notwithstanding anything in this Act or any Act or Acts incorporated therewith contained it shall be lawful for the Company out of any money by this Act authorised to be raised to pay interest at such rate not exceeding three pounds per centum per annum as the directors may determine to any shareholder on the amount from time to time paid up on the shares held by him from the respective times of such payments until the expiration of the time limited by this Act for the completion of the works by this Act authorised or such less period as the directors may determine but subject always to the conditions herein-after stated (that is to say):—

(A) No such interest shall begin to accrue until the Company shall have obtained a certificate from the Board of Trade that two thirds at least of the share capital authorised by this Act in respect of which such interest may be paid has been actually issued and accepted and is held by shareholders who or whose executors administrators or assigns are legally liable for the same:

(B) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear:

(C) The aggregate amount to be so paid for interest shall not exceed twenty-five thousand pounds and the amount so paid shall not be deemed share capital in respect of which the borrowing powers of the Company may be exercised but such borrowing powers shall be reduced to the extent of one third of the amount paid for interest as aforesaid:

(D) Notice that the Company has power so to pay interest out of capital shall be given in every prospectus advertisements or other document of the Company inviting subscriptions for shares and in every certificate of shares:

(E) The half-yearly accounts of the Company shall show the amount of capital on which and the rate at which interest has been paid in pursuance of this section:

Save as herein-before set forth no interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

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

52. 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.

Provision as to general Railway Acts.

53. Nothing in this Act contained shall exempt the Company or any other company named in this Act or the railway of any 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.

Costs of Act.

54. 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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