CHAPTER lvi.

An Act to authorise the Torrington and Okehampton Railway Company to deviate their Railway to extend the time for compulsory purchase of lands and completion of works and for other purposes. A.D. 1898.

[1st July 1898.]

WHEREAS the Torrington and Okehampton Railway Company (herein-after called "the Company") were incorporated by the Torrington and Okehampton Railway Act 1895 (herein-after called "the Act of 1895") and were authorised to construct and maintain the railways and works by that Act authorised: 58 & 59 Vict. c. cxxxix.

And whereas it is expedient that the Company should be authorised to make and maintain as part of their undertaking the railway and works by this Act authorised and to abandon so much of Railway No. 1 authorised by the Act of 1895 as will be rendered unnecessary by the construction of the railway by this Act authorised:

And whereas the railway by this Act authorised is in substitution for the portion of railway by this Act authorised to be abandoned and the estimated cost thereof does not exceed the estimated cost of the portion of railway to be abandoned:

And whereas it is expedient that the time limited by the Act of 1895 for the compulsory purchase of land and completion of the works by that Act authorised should be extended:

And whereas the Company have raised by the issue of shares a portion of the capital which by the Act of 1895 they were authorised to raise and it is expedient that the said Act should be amended and the further provisions in this Act contained with reference to the raising of capital by shares and borrowing should be enacted:

And whereas the Company have not exercised any of the borrowing powers conferred upon them by section 20 of the Act of

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1895 and it is expedient that the powers in this Act contained as to borrowing should be conferred on the Company:

And whereas a plan and section showing the lines and levels of the railway authorised by this Act 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 lands required or which may be 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 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 1898.

Incorporation of general Acts.

2. The Lands Clauses Acts the Railways Clauses Consolidation Act 1845 and Part I. (Construction of a railway) Part II. (Extension of time) of the Railways Clauses Act 1863 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 remedies of creditors of the Company against the shareholders;

The borrowing of money;

The conversion of borrowed money into capital;

The consolidation of shares into stock;

The general meetings of the Company;

The making of dividends;

The giving of notices; and

For affording access to the special Act by all parties interested;

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 (as amended by subsequent Acts) 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 Act of 1895 and 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 railway" means the railway and works by this Act authorised and the expression "the undertaking" in the Act of 1895 and this Act shall include the railway.

Power to make railway.

4. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plan and section 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 deposited plan and described in the deposited book of reference as may be required for that purpose:

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

A railway one mile one furlong six chains in length commencing in the parish of Meeth by a junction with the Railway No. 1 authorised by the Act of 1895 at a point nine miles forty-six chains measured from the commencement of the said authorised Railway No. 1 and terminating in the parish of Hatherleigh by a junction with the said authorised Railway No. 1 at a point ten miles sixty-two chains or thereabouts measured as before.

Extending time under Act of 1895 and limiting time under this Act for compulsory purchase of lands.

5. The powers of the Company for the compulsory purchase of lands under the Act of 1895 are hereby extended but the said powers and the powers for 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.

Extending period for completion of works authorised by Act of 1895 and limiting time for completion of railway.

6. The period limited by the Act of 1895 for the completion of the railways and works by that Act authorised is hereby extended but if the railways and works by that Act authorised and the railway are not completed within five years from the passing of this Act then on the expiration of that period the powers by the Act of 1895 and this Act granted to the Company for making and completing the railways and works by the Act of 1895 authorised and the railway or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

For protection of Ernest Joseph Oldham.

7. The Company shall not enter upon take or use for the purposes of the Act of 1895 or of this Act the lands numbered respectively on the original deposited plans and books of reference referred to

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in the Act of 1895 28 29 and 30 and 106 107 108 109 and 110 in the parish of Hatherleigh in the county of Devon or any part of such lands without the consent in writing of the owner for the time being thereof.

Abandonment of part of authorised works.

8. The Company shall abandon and relinquish the construction of so much of the Railway No. 1 by the Act of 1895 authorised as was proposed to be situate between the above-described points of commencement and termination of the railway.

Compensation for damage to land by entry &c. for purposes of portion of railway abandoned.

9. The abandonment by the Company under the authority of this Act of the portion of railway authorised to be abandoned shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels or probing or boring to ascertain the nature of the soil or setting out of the line of railway and shall not prejudice or affect the right of the owner or occupier of any land which has been temporarily occupied by the Company to receive compensation for such temporary occupation or for any loss damage or injury which has been sustained by such owner or occupier by reason thereof or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation Act 1845 or this Act.

Compensation to be made in respect of portion of railway abandoned.

10. Where before the passing of this Act any contract has been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to the portion of railway authorised to be abandoned by this Act the Company shall be released from all liability to purchase or to complete the purchase of any such land but notwithstanding full compensation shall be made by the Company to the owners and occupiers or other persons interested in such land for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice and the amount and application of the compensation shall be determined in manner provided by the Lands Clauses Acts for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Sections 39 and 40 of the Act of 1895 to be applicable to deviated railway.

11. The provisions of sections 39 and 40 of the Act of 1895 with respect to the deposit pursuant to the Parliamentary Deposits Act 1846 shall be read and have effect as if the railway had originally been part of the railways by that Act authorised and as if the portion of railway by this Act required to be abandoned had not originally been part of the railway by the Act of 1895 authorised.

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Deviation to form part of Company's undertaking.

12. The lands and property from time to time acquired by the Company under this Act and the railway shall for all purposes of tolls rates and charges and for all other purposes whatsoever be part of the undertaking of the Company as defined by the Act of 1895 as if the Company had by the Act of 1895 been authorised to acquire make and maintain the same.

Application of authorised funds.

13. The Company may apply any moneys raised or to be raised by them under the Act of 1895 and this Act to the purposes of the Act of 1895 and this Act.

Additional capital to form part of capital of Company.

14. The additional capital so created shall form part of the capital of the Company.

Dividends on new shares or stock.

15. Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amounts from time to time called up and paid on such new shares or to the whole amount of such stock as the case may be.

Restriction as to votes in respect of preferential shares or stock.

16. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned.

Power to borrow.

17. The Company may from time to time subject as herein-after provided and notwithstanding anything in section 20 (Power to borrow) of the Act of 1895 contained exercise the power to borrow thereby conferred upon them in manner following (that is to say):—

They may borrow any sum not exceeding twenty-seven thousand seven hundred and seventy-seven pounds in respect of each eighty-three thousand three hundred and thirty-three pounds of their capital but no part of each such sum of twenty-seven thousand seven hundred and seventy-seven pounds shall be borrowed until the whole of the respective portion of eighty-three thousand three hundred and thirty-three pounds of capital in respect of which the same is borrowed 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 portion of 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 portion of

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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 portion of 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 Provided always that the powers of this section may be exercised by the Company only as follows namely they may borrow the sum of twenty-seven thousand five hundred pounds in respect of each section of the undertaking between Torrington and a point shown on the original deposited plans referred to in the Act of 1895 as six and one half miles between such last-mentioned point and a point shown on the said plans as twelve miles and between such last-mentioned point and the junction of the Railway No. 1 authorised by the Act of 1895 with the London and South Western Railway at or near Okehampton as and when each such section shall have been constructed up to formation level.

Applying sections 21 and 22 of Act of 1895.

18. Sections 21 (For appointment of a receiver) and 22 (Debenture stock) of the Act of 1895 shall apply to all moneys borrowed under this Act.

Power to take easements &c. by agreement.

19. 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 persons than the grantors 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.

Provision as to general Railway Acts.

20. Nothing in this Act contained shall exempt the Company or any other company named in this Act or the Act of 1895 or the railway of any such 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.

Restriction on taking houses of labouring class.

21. Section 38 of the Act of 1895 shall be read and have effect as if the words "the fifteenth day of December one thousand eight "hundred and ninety-seven or the fifteenth day of December one "thousand eight hundred and ninety-four as the case may be" were therein inserted instead of the words "the fifteenth day of December last" and as so amended shall apply to the powers of the Company under this Act and under the Act of 1895 as extended by this Act as if the same were re-enacted in this Act.

Costs of Act.

22. 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.

Printed by Eyre and Spottiswoode,
FOR
T. Digby Pigott, Esq., C.B., the Queen's Printer of Acts of Parliament.

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