



ANNO TRICESIMO & TRICESIMO PRIMO

# VICTORIÆ REGINÆ.

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## *Cap. cv.*

An Act to enable the *Sidmouth* Railway and Harbour Company to make certain Deviations in their authorized Line; and for other Purposes.

[20th June 1867.]

**W**HEREAS the *Sidmouth* Railway and Harbour Company (in this Act called "the Company") were incorporated by "The *Sidmouth* Railway and Harbour Act, 1862," (in this Act called "the Act of 1862,") and were authorized to make and maintain a Harbour at *Sidmouth* in the Parish of *Salcombe Regis* in the County of *Devon*, and Railways therefrom to the *London and South-western* Railway, near the *Ottery Road* Station thereon, and to enter into working Arrangements with the *London and South-western* Railway Company, and to raise a Capital of One hundred and twenty thousand Pounds in Shares and Forty thousand Pounds on Mortgage of their Undertaking: And whereas by "The *Sidmouth* Railway and Harbour Act, 1865," (in this Act called "the Act of 1865,") the Company were authorized to make and maintain a short Branch Railway in the Parish of *Sidmouth*, and the Periods limited by the Act of 1862 in respect of the Railways, Harbour, and Works authorized by that Act for the compulsory Purchase of Lands and Houses, and for the Completion of the Undertakings, were respectively extended to One Year beyond the Period limited by that Act: And whereas the Company are pro-

25 & 26 Vict.  
c. ccxxvii.

28 & 29 Vict.  
c. ccxxxvii.

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ceeding to put their said Acts into execution: And whereas it is expedient that the Company should have Power to make and maintain the Railways herein-after described in substitution for certain Portions of their authorized Line: And whereas for the Purposes of this Act Plans and Sections describing the Line and Levels of the proposed Railways and Works by this Act authorized, and the Lands required or which may be taken for the Purposes thereof, together with Books of Reference to the said Plans containing the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and of the Occupiers of those Lands respectively, have been deposited with the Clerk of the Peace for the County of *Devon*: And whereas it is expedient that the Periods limited by the Acts of 1862 and 1865 for the Completion of the Works by those Acts respectively authorized, and not intended to be abandoned, should be extended and enlarged as in this Act mentioned: And whereas it is expedient to empower the Company to make Regulations relating to their authorized Capital, and to divide the same into Preferred and Deferred Half Shares as by this Act is provided: And whereas the Objects 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; (that is to say,)

Short Title.

1. This Act may be cited for any Purpose as "*The Sidmouth Railway and Harbour Act, 1867.*"

8 & 9 Vict.  
cc. 18. & 20.,  
23 & 24 Vict.  
c. 106., and  
26 & 27 Vict.  
c. 92: incor-  
porated.

2. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation Act, 1845," and Part I. (relating to Construction of a Railway) and Part II. (relating to Extension of Time) of "The Railways Clauses Act, 1863," shall (so far as the Provisions of the same respectively are applicable to the Purposes of and not expressly varied by this Act) be incorporated with and form Part of this Act.

Interpreta-  
tion of  
Terms.

3. In this Act the several Words and Expressions to which Meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective Meanings, unless there be something in the Subject or Context repugnant to such Construction; the Expression "the Company" shall mean the *Sidmouth Railway and Harbour Company*, the Expression "the Railway" shall mean the Railways by this Act authorized, and the Expression "Superior Courts" or "Court of competent Jurisdiction," or any other like Expression in this Act or any Act wholly or partially incorporated herewith, shall be read and have Effect as if the Debt or Demand with respect to which the Expression is used were a common Simple Contract Debt, and not a Debt or Demand created by Statute.

4. Subject

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4. Subject to the Provisions of this Act, the Company may make and maintain in the Line and according to the Levels shown on the deposited Plans and Sections the Railways herein-after described, with all proper Stations, 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 deposited Books of Reference as may be required for that Purpose. The Railways herein-before referred to and authorized by this Act are,—

Power to make Railway according to deposited Plans.

Railway No. 1. A Railway situate wholly in the County of *Devon*, Five Miles and Seven Furlongs in Length, commencing in the Parish of *Harpford* by a Junction with the Railway No. 2. authorized to be made by the Act of 1862 in a Field distinguished on the Plans deposited with the Clerk of the Peace for the County of *Devon* with reference to that Act as No. 53. in that Parish, and terminating by a Junction with the said authorized Railway No. 2. in a Field distinguished on the last-mentioned deposited Plans as No. 16. in the Parish of *Ottery Saint Mary* :

Railway No. 2. A Railway situate wholly in the County of *Devon*, One Furlong and Four Chains in Length, commencing in the said Parish of *Ottery Saint Mary* by a Junction with the said authorized Railway No. 2. in a Field distinguished on the said last-mentioned deposited Plans as No. 1. in that Parish, and terminating in the Parish of *Feniton* by a Junction with a Siding of the *London and South-western Railway (Yeovil and Exeter Line)* on the Western Side of that Railway at a Point Twelve Chains or thereabouts to the Southward of the *Ottery Road Station House* of the last-named Railway.

5. The Powers of the Company for the compulsory Purchase of Land for the Purposes of this Act shall not be exercised after the Expiration of Three Years from the passing of this Act.

Powers for compulsory Purchases limited.

6. The Railway shall be completed within Five Years from the passing of this Act, and on the Expiration of that Period the Powers by this Act granted to the Company for executing the Railway, or otherwise in relation thereto, shall cease to be exercised except as to so much thereof as shall then be completed.

Limiting Time for Completion.

7. The Company shall abandon and relinquish the Construction of so much of the said authorized Railway No. 2. as is situate between the Points of Commencement and Termination of the Railway No. 1. by this Act authorized, and between the Point of Commencement of the Railway No. 2. by this Act authorized and the Junction of the said authorized Railway No. 2. with the *London and South-western Railway*.

Abandonment of Part of authorized Works.

8. The Abandonment by the Company under the Authority of this Act of any Portion of any Railway or Works shall not prejudice or affect

Compensation for Damage to

*The Sidmouth Railway and Harbour Act, 1867.*

Land by  
Entry, &c.,  
for Purposes  
of Railways  
abandoned.

affect the Right of the Owner or Occupier of any Land to receive Compensation, in accordance with the Provisions in that Behalf of "The Lands Clauses Consolidation Act, 1845," 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 may have been temporarily occupied by the Company to receive Compensation, in accordance with the Provisions in that Behalf of "The Railways Clauses Consolidation Act, 1845," for such temporary Occupation, or for any Loss, Damage, or Injury which may have 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 last-mentioned Act or the Act of 1862.

Compensa-  
tion to be  
made in  
respect of  
Portions of  
Railway  
abandoned.

9. Where before the passing of this Act any Contract may have been entered into or Notice given by the Company for the purchasing of any Land for the Purposes of or in relation to any Portions of the Railways or Works authorized to be abandoned by this Act, and which shall not be required for the Purposes of any of the Works by this Act authorized, full Compensation shall be made by the Company to the Owners and Occupiers or other Persons interested in such Lands 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 Consolidation Act, 1845," for determining the Amount and Application of Compensation paid for Lands taken under the Provisions thereof.

Power to  
cross Road  
on the Level.

10. 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 No. 1. by this Act authorized carry the same with a single Line of Railway only whilst the Railway shall consist of a single Line, and afterwards with a double Line of Railway only, across and on the Level of the Road shown on the Plans deposited as aforesaid and numbered thereon 171 in the Parish of *Ottery Saint Mary*: Provided that in so doing the Company shall not make the Inclination of such Road steeper on the West Side of such crossing than One Foot in Fifty Feet, or on the East Side thereof than One Foot in Thirty Feet.

Inclination  
of Road.

11. In altering for the Purposes of this Act the Road next herein-after mentioned the Company may make the same of any Inclination not steeper than the Inclination herein-after mentioned in connexion therewith; (that is to say,)

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Railway.	No. on deposited Plans.	Parish.	Description of Road.	Intended Inclination.
Railway No. 1.	21	Harpford	Occupation Road	1 in 15 on One Side.

12. In carrying the several Roads numbered on the deposited Plans as follows over the Railway the Company may make and maintain the Bridges for carrying those respective Roads over the Railway of any Width not less than as follows; (that is to say,) Width of certain Bridges.

Railway.	No. on deposited Plans.	Parish.	Description of Road.	Width of Bridges.
Railway No. 1.	21	Harpford	Occupation Road	12 Feet.
"	183	Ottery Saint Mary	Parish Road	15 Feet.
Railway No. 2.	2a	Ottery Saint Mary	Parish Road	15 Feet.

13. Nothing in this Act contained shall authorize the Company to take or use the Lands and Buildings shown on the Plans deposited as aforesaid, and numbered respectively 90, 91, 92, 93, and 96, in the Parish of *Ottery Saint Mary*, or any of them, without the Consent in Writing of *James Heard Pulman Esquire*, or his Successors in Title, first had and obtained. Not to take Lands of J. H. Pulman without Consent.

14. The Provisions of Section Fifty of the Act of 1862 with respect to the Deposit and Bond for securing the Completion of the Railways by that Act authorized shall be read and have Effect as if the Railway had originally been Part of the Railways by the Act of 1862 authorized, and the Time limited for the Construction thereof had not been extended by this Act and as if the respective Portions of Railway by this Act required to be abandoned had not originally been Part of the Railway by the Act of 1862 authorized. Sect. 50 of Act of 1862 to be applicable to deviated Railways.

15. Sections Forty-six, Forty-seven, and Forty-eight of the Act of 1862 shall be and are severally applicable to Railway Number 2 by this Act authorized, and the Junction between that Railway and the *London and South-western Railway* and those Sections shall be read and applied as if, instead of having been enacted with reference to the Railway Number 2 by that Act authorized and its Incidents, they had been enacted with reference to that Railway, with the Alterations thereof and the Addition thereto of Railway Number 2 by this Act respectively authorized, and their respective Incidents. As to Junction with the London and South-western Railway.

16. The Lands and Property from Time to Time acquired by the Company under this Act, and the Railways and Works by this Act authorized, Deviation to form Part of Company's Undertaking.

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Saving  
Agreement  
with London  
and South-  
western  
Railway  
Company.

authorized, shall, for the Purposes of Tolls, Rates, and Charges, and for all other Purposes whatsoever, be Part of the Undertaking, Railway, Works, and Property of the Company, as if the Company had by the Act of 1862 been authorized to acquire, make, and maintain the same; and, except as in this Act excepted, nothing in this Act contained shall prejudice or affect certain Articles of Agreement dated the Tenth Day of *April* One thousand eight hundred and sixty-three made, in pursuance of the Sixty-first Section of the Act of 1862, between the Company of the one Part and the *London and South-western* Railway Company of the other Part, but those Articles of Agreement shall be and are applicable to the Railways by that Act and the Act of 1865 authorized as altered and added to by this Act.

London and  
South-west-  
ern Railway  
Company  
may retain  
Expense of  
level Cross-  
ing.

17. The *London and South-western* Railway Company shall be entitled to deduct and retain every Half Year, out of any Monies from Time to Time payable by them to the Company under the Provisions of those Articles of Agreement in respect of the Receipts for Traffic on the Railways, the Expense incurred by the *London and South-western* Railway Company during the Half Year then ending of and incident to the crossing on the Level of the public Road by this Act authorized.

Application  
of authorized  
Funds.

18. The Company may apply any Monies raised or to be raised by them under the Act of 1862 to the Purposes of this Act.

Power to  
divide  
Shares.

19. 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:" Provided always, that 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.

20. 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 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

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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.

**21.** 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.

Dividend on Preferred Half Shares to be paid out of the Profits of the Year only.

**22.** 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: Provided always, that the Directors shall not be bound to issue a Certificate of any Half Share until the Certificate of the existing Share be delivered to them to be cancelled, unless it be shown to their Satisfaction that the Certificate is destroyed or lost, and on any Certificate being so delivered up the Directors shall cancel it.

Half Shares to be registered and Certificates issued.

**23.** 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.

Terms of Issue to be stated in Certificates.

**24.** The Provisions of "The Companies Clauses Act, 1845," with respect to the Forfeiture of Shares for Nonpayment of Calls, shall apply to all Preferred Half Shares to be created under the Authority of this Act, and every such Preferred Half Share shall for that Purpose be considered a whole Share distinct from the corresponding Deferred Half Share: Provided always, that until any forfeited Preferred Half Share shall be sold by the Directors of the Company, 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.

Forfeiture of Preferred Half Shares.

**25.** No Preferred Half Share created under the Authority of this Act shall be cancelled, or be surrendered to the Company.

Preferred Half Shares not to be cancelled or surrendered.

**26.** The several Half Shares under this Act shall be Half Shares in the Capital of the Company, and every Two Preferred or Deferred Half Shares held by the same Person shall confer such Right of voting at Meetings of the Company, and (subject to the Provisions herein-

Half Shares to be Half Shares in Capital.

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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.

Extending  
Periods for  
Completion  
of Works.

27. The respective Periods limited by the Acts of 1862 and 1865 for the Completion of such of the Works by those Acts respectively authorized as are not authorized to be abandoned shall be and the same are hereby extended and enlarged until the Expiration of Three Years from the passing of this Act, and on the Expiration of that Period the Powers by those Acts or the Acts incorporated therewith granted to the Company for executing the said Works, or otherwise in relation thereto, shall cease to be exercised, except as to so much of the said Railways and Works as shall then be completed.

Deposits for  
future Bills  
not to be  
paid out of  
Company's  
Capital.

28. The Company shall not, out of any Money by any Act relating to them authorized to be raised for the Purpose of such Act, 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 authorizing the Company to construct any other Railway, or to execute any other Work or Undertaking.

Railway not  
exempt from  
Provisions  
of present  
and future  
General  
Acts.

29. Nothing herein contained shall be deemed or construed to exempt the Railways by this Act or the Acts of 1862 or 1865 respectively authorized to be made from the Provisions of any General Act relating to Railways, or to the better or 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, authorized by this Act or the Acts of 1862 or 1865.

Expenses of  
Act.

30. All Costs, Charges, and Expenses of and incident to the preparing for, obtaining, and passing of this Act, or in relation thereto, shall be paid by the Company.

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