



CHAPTER xc.

An Act to confer further Powers on the South Devon Railway Company with reference to their own Undertaking and the Undertaking of the Buckfastleigh, Totnes, and South Devon Railway Company ; and for other purposes.

A.D. 1875.

[29th June 1875.]

WHEREAS it is expedient that the South Devon Railway Company (in this Act referred to as "the Company") be empowered to acquire the additional lands herein-after described for the purpose of extending and improving their station, siding, and other accommodation :

And whereas it is expedient that the powers granted by the South Devon Railway Act, 1872, for the compulsory purchase of lands for the purposes of the Railway No. 3, and the diversion of Sutton Road, by that Act respectively authorised, and the time limited by the said Act for the construction of the said railway, respectively be extended :

35 & 36 Vict
c. cxxxii.

And whereas the railways of the Company and of the Buckfastleigh, Totnes, and South Devon Railway Company (whose railways are worked by the Company under the authority of the Buckfastleigh, Totnes, and South Devon Railway Act, 1864) are constructed on the broad gauge, and it is expedient that the Company be authorised to lay down upon all or any part of the said railways an additional rail or additional rails, and to make such other alterations and adaptations therein and thereof as may be necessary or expedient for making the same available for purposes of broad and narrow gauge traffic or of narrow gauge traffic only :

And whereas the portion of the railway firstly described in and authorised by the Buckfastleigh, Totnes, and South Devon Railway Act, 1864, which crosses on the level the public road numbered on the deposited plans referred to in that Act twenty-eight, in the parish of Totnes, and is constructed along the quays on the River Dart at Totnes, is authorised to be worked by horse-power only, and it is expedient that the prohibition contained in section fifty-

A.D. 1875. seven of the South Devon Railway Act, 1874, against the use thereon of locomotive engines be repealed :

And whereas the Company and the Buckfastleigh, Totnes, and South Devon Railway Company respectively have from time to time purchased or acquired lands adjoining or near to their railways or stations, which are not immediately but eventually may be required for the purposes of their respective undertakings, and it is expedient that the time limited for the sale of such lands be extended :

And whereas it is expedient that the Company be empowered to apply their capital or funds to the purposes aforesaid, and to the execution of works upon or in connexion with the railways of the Buckfastleigh, Totnes, and South Devon Railway Company worked by them as aforesaid, and that further powers should be conferred upon the said Companies for the making of agreements between them with reference to the execution of such works, and to the repayment by the Buckfastleigh, Totnes, and South Devon Railway Company of moneys expended by the Company thereon, or of interest on such moneys :

And whereas by the South Devon Railway Act, 1869, the Company were empowered, for the purpose of consolidating their borrowed capital as defined by that Act, to create and issue debenture stock to the amount of not exceeding in the aggregate six hundred and forty-two thousand seven hundred and ninety-four pounds, to be called South Devon Debenture Stock, and to bear interest at the rate of five pounds per centum per annum; and by the same Act, and by other subsequent Acts relating to the Company, the Company are empowered to create and issue further amounts of South Devon debenture stock, ranking *pari passu* and forming one stock with the said amount of six hundred and forty-two thousand seven hundred and ninety-four pounds :

And whereas the total amount of South Devon debenture stock which under the said Acts the Company are authorised to raise is one million and seventy-two thousand three hundred and eighty-one pounds, and the Company have created South Devon debenture stock to the amount of eight hundred and eighty-seven thousand seven hundred and ninety-four pounds, a considerable portion of which remains unissued :

And whereas it is found that debenture stock might be more advantageously issued by the Company at a lower rate of interest than five pounds per centum per annum, and it is expedient that the Company be empowered to cancel the whole or such portion as they think fit of the South Devon debenture stock which has

been created but not issued, and to create and issue in lieu thereof, and in lieu of any portion of the said stock which has not yet been created, and for the purpose of the conversion next herein-after mentioned, debenture stock bearing a lower or other rate of interest than five pounds per centum per annum, and that the holders of any South Devon debenture stock which has been created and issued be empowered to exchange the same for the debenture stock to be created and issued under the authority of this Act :

A.D. 1875.

And whereas plans of the additional lands by this Act authorised to be acquired, with a book of reference thereto containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the said lands, have been duly deposited with the clerk of the peace for the county of Devon, and are herein-after respectively referred to as the deposited plans and book of reference :

And whereas the objects of this Act cannot be attained 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,)

1. This Act may be cited for all purposes as "The South Devon Railway Act, 1875." Short title.

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

Provisions of certain general Acts incorporated.

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

Part II. (relating to extension of time) of the Railways Clauses Act, 1863 ; and

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

3. In this Act the several words and expressions to which by the Acts wholly or partially incorporated herewith meanings are assigned have the same respective meanings, unless there be something in the subject or context repugnant to such construction ; the expression "the Buckfastleigh Company" means the Buckfastleigh, Totnes, and South Devon Railway Company ; 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.

Interpretation of terms.

A.D. 1875.

Power to
acquire
additional
lands.

4. Subject to the provisions of this Act, the Company may from time to time enter upon, take, use, and appropriate for the purpose of extending their station, siding, and other accommodation, and for other purposes of their undertaking, all or any of the lands, houses, and buildings herein-after mentioned, delineated on the deposited plans and described in the deposited book of reference; (that is to say,)

Certain lands and buildings in the parish of Cockington in the county of Devon, lying on the west side of and adjoining the Company's station at Torquay, and extending from a point thirty yards or thereabouts southwards of the bridge over the railway, at the south end of the said station, to the second bridge over the railway, northwards of the said station, and certain other lands in the same parish, south of and adjoining the said station and the entrance thereto :

Certain lands and buildings in the parish of Churston Ferrers in the county of Devon, lying between and adjoining the public roads on the west side of the Company's railway at their Churston Station :

Certain lands and buildings in the parish of Plympton Saint Mary in the county of Devon, on the southern side of and adjoining the Company's railway near the east end of their Plympton Station : Provided always, that the Company shall not enter upon, take, appropriate, or stop up any portion of the parish road numbered on the deposited plans relating to the last-mentioned lands and buildings 2, in the parish of Plympton Saint Mary; but they may, in lieu of so doing, carry their rails and sidings over the said road by means of a bridge or arching, to be constructed within the limits of the said lands, of a span and height respectively not less than the span and height of the bridge by which the existing railway of the Company is now carried over the said road, and of a width not exceeding the width of that bridge : Provided also, that the Company shall leave between the present bridge and any bridge or arching to be constructed under the provisions of this section an open space of not less than one foot for the entire width of the said road at the point of crossing.

Powers for
compulsory
purchases
limited.

5. The powers by this Act conferred for the compulsory purchase of lands shall not be exercised after the expiration of two years from the passing of this Act.

Extending
powers for
purchase of
lands for
certain pur-

6. The powers conferred on the Company by the South Devon Railway Act, 1872, for the compulsory purchase of lands and buildings for the purposes of the Railway No. 3, and the diversion of Sutton Road, by that Act respectively authorised, are hereby

continued, and may be exercised by the Company until but not after the eighteenth day of July one thousand eight hundred and seventy-eight.

poses authorised by 35 & 36 Vict. c. cxxxii.

7. The time limited by the South Devon Railway Act, 1872, for the completion of the Railway No. 3 by that Act authorised is hereby extended to the eighteenth day of July one thousand eight hundred and eighty, which day shall be deemed to be for all purposes the period limited by the said Act for the completion of the said railway.

Extending time for completion of Railway No. 3 authorised by South Devon Railway Act, 1872.

8. The Company may from time to time lay down on all or any part of their railways or the railways of the Buckfastleigh Company an additional rail or additional rails, and may make such other alterations and adaptations therein and thereof respectively as may be necessary or expedient for making the same available for purposes of broad and narrow gauge traffic or of narrow gauge traffic only.

Provision as to alteration of gauge.

9. So much of section fifty-seven of the South Devon Railway Act, 1874, as prohibits the use by the Company or the Buckfastleigh Company of locomotive engines on the railway firstly described in and authorised by the Buckfastleigh, Totnes, and South Devon Railway Act, 1864, beyond a point twenty yards to the north of the road numbered on the deposited plans referred to in the said last-mentioned Act 28, in the parish of Totnes, is hereby repealed; provided always, that with respect to the use of locomotive engines on so much of the said railway as crosses the said road on the level, the company using the same shall be subject to the provisions with reference to level crossings contained in Part I. of the Railways Clauses Act, 1863, for which purpose the said provisions are hereby incorporated with and shall form part of this Act.

Repealing prohibition against use of locomotives on part of railway firstly authorised by Buckfastleigh, Totnes, and South Devon Railway Act, 1864.

10. Section fifty-eight of the South Devon Railway Act, 1874, shall, notwithstanding anything contained in the said Act, extend and apply to the whole of the said railway firstly described in and authorised by the Buckfastleigh, Totnes, and South Devon Railway Act, 1864.

Amending section fifty-eight of the South Devon Railway Act, 1874.

11. The Company and the Buckfastleigh Company respectively may, notwithstanding anything to the contrary in the Lands Clauses Consolidation Act, 1845, or any Act relating to those companies respectively with which that Act is incorporated, retain and hold for the period of ten years from the passing of this Act any lands acquired by them respectively, or on their behalf, which have not yet been applied to the purposes of the said Companies respectively, or sold or disposed of by them; but the said Companies shall at the expiration of such period of ten years sell and dispose of all

As to sale of superfluous lands.

A.D. 1875. — parts of such lands which shall not then have been applied to and are not then required for the purposes of their respective undertakings.

Power to cancel unissued South Devon debenture stock.

12. The Company, with the consent of three fourths of the votes of the shareholders present in person or by proxy at a meeting of the Company convened with special notice of such object, may resolve to cancel and may cancel accordingly the whole or any part of the South Devon debenture stock which has been created but not issued at the time of the holding of such meeting.

Power to create debenture stock in lieu of South Devon debenture stock.

13. The Company, with the like consent as aforesaid, may from time to time create and issue in lieu of the South Devon debenture stock so cancelled, and instead of creating and issuing any further amount of South Devon debenture stock under the authority of the South Devon Railway Act, 1869, or any other Act relating to the Company already passed authorising the creation and issue of such stock, and for the purposes of the next following section of this Act, debenture stock bearing interest at such rate or rates as the Company think fit: Provided always, that the Company shall not create and issue under the authority of this section a greater amount of debenture stock than will produce at the rate or rates of interest attached thereto an annual amount equal to the annual amount payable by way of interest in respect of the South Devon debenture stock in lieu of which the same is created and issued: Provided also, that to the extent to which the Company shall create debenture stock under the authority of this Act, their powers of creating South Devon debenture stock under the authority of the South Devon Railway Act, 1869, and the other Acts before mentioned, empowering them in that behalf, shall cease and determine.

Power to agree with holders of South Devon debenture stock for exchange thereof.

14. The Company may from time to time, with the consent of any holder for the time being of South Devon debenture stock, issue to such holder, in exchange for such stock, such an amount of the debenture stock to be created under the authority of this Act as will produce to such holder an annual income not exceeding the annual income produced by the South Devon debenture stock in exchange for which the same is issued, and thereupon such last-mentioned South Devon debenture stock shall be extinguished, and the certificates thereof shall be delivered up to be cancelled, and shall be cancelled accordingly.

New debenture stock to be subject to the same trusts, &c. as the stock in substitu-

15. The debenture stock to be created and issued under the authority of this Act in exchange for South Devon debenture stock shall be subject to the same trusts, estates, interests, rights, powers, authorities, and liabilities in all respects as the stock for which the same shall be substituted was subject and liable to, and so as not

to revoke any testamentary disposition affecting such last-mentioned stock, and every such testamentary disposition shall be held to apply to a proportionate amount of the new stock.

tion for which it is issued.

16. Any company, and any trustees, guardians of infants, husbands, committees of lunatics, and others, being respectively in such capacities entitled to or to the control of any South Devon debenture stock, may accept in exchange therefor debenture stock to be created under the authority of this Act.

Trustees, &c. may take new debenture stock in substitution for South Devon debenture stock.

17. The interest on all debenture stock created under the authority of this Act shall rank *pari passu* with the interest of the South Devon debenture stock created under the authority of any Act passed prior to the passing of this Act.

Debenture stock to rank *pari passu*.

18. Notwithstanding anything contained in the heads of agreement scheduled to and confirmed by the Buckfastleigh, Totnes, and South Devon Railway Act, 1864, or in any other agreement between the Company and the Buckfastleigh Company, the Company and the Buckfastleigh Company may from time to time, with the previous consent of three fourths of the votes of the shareholders in the Company and in the Buckfastleigh Company respectively, present in person or by proxy at some general meeting of the respective Company specially convened for the purpose, enter into and carry into effect agreements with reference to the execution by the Company of works upon or in connexion with the railways of the Buckfastleigh Company, and to the repayment by the last-named Company of moneys expended by the Company for the purposes of such works, or of interest thereon.

Power to Company and Buckfastleigh Company to make agreements.

19. The Company may apply to the purposes of this Act, including the purposes thereof connected with the railways of the Buckfastleigh Company, and the execution of works upon or in connexion with those railways under the authority of this Act, any moneys which they now have in their hands, or which they have power to raise by virtue of any Act or Acts relating to the Company, by the creation and issue of ordinary or preference or debenture stock, or by borrowing on mortgage, and which moneys may not be required for the purposes to which they are by any such Act or Acts made specially applicable.

Power to apply funds.

20. Nothing in this Act contained shall exempt the railway of the Company from the provisions of any general Act relating to railways, or the better and more impartial audit of the accounts of railway companies, now in force or which may hereafter pass during this or any future session of Parliament, or from any future revision or alteration, under the authority of Parliament, of the

Railway not exempt from provisions of present and future general Acts.

[Ch. xc.] *The South Devon Railway Act, 1875.* [38 & 39 VICT.]

A.D. 1875. — maximum rates of fares and charges, or of the rates for small parcels, authorised to be taken by the Company.

Expenses of Act.

21. 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.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1875.