



CHAPTER ccx.

An Act for enabling the Sidmouth Railway Company to extend their Railway to Budleigh Salterton and Exmouth ; and for other purposes. A.D. 1876.
[11th August 1876.]

WHEREAS the Sidmouth Railway Company (in this Act called "the Company") were incorporated by the Sidmouth Railway Act, 1871, and were thereby empowered to construct a railway from the London and South-western Railway to Sidmouth in the county of Devon, and to raise for that purpose the sum of sixty-six thousand pounds by shares and the sum of twenty-two thousand pounds by borrowing : 34 & 35 Vict.
c. lxxviii.

And whereas it is expedient that the Company should be empowered to extend their railway to Budleigh Salterton and Exmouth in the same county, and to raise additional capital for that purpose :

And whereas plans and sections showing the lines and levels of the railways by this Act authorised, 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 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, which plans, sections, and books of reference are in this Act respectively referred to as the deposited plans, sections, and books of reference :

And whereas it is expedient that the Company should be empowered to run over and use the portion herein-after described of the Exeter and Exmouth Railway of the London and South-western Railway Company :

And whereas it is expedient that the articles of agreement between the Company and the London and South-western Railway

A.D. 1876. Company which are set forth in the schedule to this Act should be confirmed, and that those two companies should be empowered to enter into further agreements as herein-after provided :

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 for all purposes as the " Sidmouth Railway Act, 1876."

Provisions of certain general Acts incorporated. 2. The following Acts and parts of Acts are, except where expressly varied by this Act, incorporated with and form part of this Act :

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

The Railways Clauses Consolidation Act, 1845, and Part I. (relating to the construction of a railway) and Part III. (relating to working agreements) of the Railways Clauses Act, 1863 :

The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters ; (that is to say,)

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 the borrowed money into capital ;

The consolidation of shares into stock ;

The general meetings of the Company ;

The making of dividends ;

The giving of notices ;

The provision to be made for affording access to the special Act by all parties interested ; and

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.

Interpretation 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 railway" or "the railways" means the new railways by this Act authorised :

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 for the purposes of this Act 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.

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 plans and sections, the railways herein-after described, with all proper stations, sidings, approaches, works, and conveniences connected therewith respectively, and may enter upon, take, use, and appropriate such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for that purpose.

Power to make railways according to deposited plans.

The railways herein-before referred to and authorised by this Act are,—

Railway No. 1 (six miles two furlongs eight chains and fifty links in length), commencing in the parish of Sidmouth in the county of Devon by a junction with the Company's railway at Sidmouth Station, and terminating in the parish of East Budleigh in the same county in the field numbered 437 on the tithe commutation map for that parish :

Railway No. 2 (four miles and three furlongs in length), commencing in the said parish of East Budleigh by a junction with Railway No. 1 at its termination, and terminating in the parish of Withycombe Rawleigh in the same county by a junction with the Exeter and Exmouth line of the London and South-western Railway Company near Exmouth Station.

5. For purposes of tolls and charges, and for all other purposes whatsoever, the railways shall be part of the Company's undertaking, and may be constructed as light railways, subject to and in accordance with the provisions of the Regulation of Railways Act, 1868.

New railways to be part of Company's undertaking.

6. In altering for the purposes of this Act the roads next herein-after mentioned, the Company may make the same of any inclina-

Inclinations of certain roads.

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A.D. 1876. tions not steeper than the inclinations herein-after mentioned in connexion therewith respectively; (that is to say,)

No. on deposited Plan.	Parish.	Description of Road.	Intended Inclination.
RAILWAY No. 1.			
17	Sidmouth	Turnpike	1 in 16 on one side.
75 and 80	Otterton	Public	1 in 7 on one side.
29	Otterton	Public	1 in 12 on one side and level on the other side.
10	Otterton	Public	1 in 15 on one side.
RAILWAY No. 2.			
35	Littleham and Exmouth	Public	1 in 15 on one side.

Heights and spans of certain bridges.

7. The Company may make the arches of the bridges for carrying the railways respectively over the roads next herein-after mentioned of any heights and spans not less than the heights and spans herein-after mentioned in connexion with those roads respectively; (that is to say,)

No. on deposited Plan.	Parish.	Description of Road.	Height.	Span.
RAILWAY No. 1.				
17	Sidmouth	Turnpike	16 feet	20 feet.
38	Sidmouth	Public	15 feet	12 feet.
104	Otterton	Public	15 feet	12 feet.
85	Otterton	Public	15 feet	15 feet.
37	Otterton	Public	15 feet	15 feet.
10	Otterton	Public	15 feet	12 feet.
100	East Budleigh	Public	15 feet	15 feet.
RAILWAY No. 2.				
59	East Budleigh	Public	15 feet	15 feet.
45	East Budleigh	Public	15 feet	12 feet.
24	East Budleigh	Public	15 feet	20 feet.
40	Withycombe Rawleigh	Public	15 feet	15 feet.
76	Withycombe Rawleigh	Public	15 feet	15 feet.

Widths of certain roadways.

8. The Company may make the roadway over the bridges by which the following roads will be carried over the railways respectively 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,) A.D. 1876.

No. on deposited Plan.	Parish.	Description of Road.	Width of Roadway.
RAILWAY NO. 1.			
31	Sidmouth	Public	12 feet.
29	Otterton	Public	12 feet.
65	East Budleigh	Public	15 feet.
RAILWAY NO. 2.			
35	Littleham and Exmouth	Public	20 feet.
83	Withycombe Rawleigh	Public	20 feet.

9. And whereas the estimated cost of Railway No. 1 by this Act authorised is eighty-one thousand four hundred pounds, being less than the existing capital of the Company: Therefore if the Company fail within the period limited by this Act to complete the said railway the Company shall be liable to a penalty of four thousand and seventy pounds, being five per centum on the estimated cost of the said railway, and the said penalty may be applied for by any landowner or other person claiming to be compensated in respect of the said railway in accordance with the provisions of the next following section of this Act, and in the same manner as the penalty provided in Section 3 of the Railway and Canal Traffic Act, 1854, and every sum of money recovered by way of such penalty as aforesaid shall be paid, under the warrant or order of such court or judge as is specified in the said third section of the Act seventeen and eighteen Victoria, chapter thirty-one, to an account to be opened in the name and with the privity of Her Majesty's Paymaster General on behalf of the Chancery Division of the High Court of Justice in the bank named in such order, and shall not be paid thereout except as herein-after provided; but no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company was prevented from completing or opening the said railway by unforeseen accident or circumstances beyond their control, provided that want of sufficient funds shall not be held to be a circumstance beyond their control.

Imposing penalty unless Railway No. 1 be opened.

10. Every sum of money so recovered by way of penalty as aforesaid shall be applicable and, after due notice in the London Gazette, shall be applied towards compensating any landowners or other persons whose property may have been interfered with or otherwise

Providing for application of penalty.

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rendered less valuable by the commencement, construction, or abandonment of the said Railway No. 1, or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers conferred upon the Company by this Act of taking property for the purposes of the said railway, and for which injury or loss no compensation or inadequate compensation shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Chancery Division of the High Court of Justice may seem fit; and if no such compensation shall be payable, or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum or sums of money recovered by way of penalty, or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty and accordingly be paid to or for the account of Her Majesty's Exchequer in such manner as the said Chancery Division thinks fit to order on the application of the Solicitor to Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the said Chancery Division, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid to such receiver, or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

Deposit
money in
respect of
Railway
No. 2 only
to be repaid
in certain
events.

11. And whereas, pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth year of Her present Majesty, chapter twenty, a sum of two thousand five hundred and eighty-six pounds new three pounds per cent. annuities, being equal to five pounds per centum upon forty-eight thousand six hundred pounds, the amount of the estimate in respect of the Railway No. 2 by this Act authorised, has been deposited with the Chancery Division of the High Court of Justice in respect of the application to Parliament for this Act: Be it enacted, that, notwithstanding anything contained in the said Act, the said sum so deposited as aforesaid in respect of the application for this Act shall not be 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, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the said railway, either open the said railway for the public conveyance of passengers, or prove to the satisfaction of the Board of Trade that the Company have expended for the purposes thereof a sum equal to one half of the amount of the

said estimate, and if the said period shall expire before the Company shall either have opened the said railway for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Board of Trade, the said sum deposited as aforesaid shall be applied in the manner herein-after specified; and the certificate of the Board of Trade that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so 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.

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12. The said sum of stock transferred as aforesaid shall be applicable and, after due notice in the London Gazette, shall be applied towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said Railway No. 2, or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers conferred upon the Company by this Act of taking property for the purposes of the said railway, and for which injury or loss no compensation or inadequate compensation shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Chancery Division of the High Court of Justice may seem fit; and if no such compensation shall be payable, or if a portion of the said stock shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said stock, or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty and accordingly be transferred to or for the account of Her Majesty's Exchequer in such manner as the Chancery Division of the High Court of Justice thinks fit to order on the application of the Solicitor of Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the said Chancery Division, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be transferred to such receiver, or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

Providing for application of deposit money.

13. If the railways are 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 same, or otherwise in relation thereto, shall cease to be exercised except as to so much thereof respectively as is then completed.

Period for completion of works.

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Lands for extraordinary purposes.

Period for compulsory purchase of lands.

Power to take easements by agreement.

Power to trustees of the Rolle estates to convey lands to the Company.

14. The quantity of land to be taken by the Company under the authority of this Act for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act, 1845, shall not exceed two acres.

15. The powers of the Company for the 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.

16. 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 required for the purposes of this Act in, over, or affecting lands; and the provisions of the Lands Clauses Acts with respect to lands and rentcharges, as far as the same are applicable in this behalf, shall extend and apply to such grants, easements, rights, and privileges as aforesaid respectively.

17. The Company may take so much of the lands forming part of the estates belonging to the trustees of the will of the Right Honourable John Lord Rolle, deceased, shown within the limits of deviation on the deposited plans, as shall be required for the railways and the stations at East Budleigh and Budleigh Salterton, on the following terms; that is to say,

- A. The lands and property so to be acquired by the Company shall, before the Company enter thereon, be valued, and the accommodation works shall be fixed in accordance with the provisions of the Lands Clauses Consolidation Acts in cases in which the vendor is under disability, but so that the price put upon lands required for the Railway No. 1 shall be distinguished from that put upon lands required for the Railway No. 2.
- B. The title of the said trustees shall be admitted before possession is given of any part of the said lands.
- C. Before possession is given of any part of the said lands, the whole purchase money in respect of all the lands for the time being required to be taken by the Company shall be paid into court to the credit of Drake v. Trefusis, and to a separate account so entitled as to show whence the money comes; and all money paid into such credit and account shall be treated as paid in pursuant to the 69th section of the Lands Clauses Consolidation Act, 1845.
- D. Upon completion of both or either of the railways and of all accommodation works in respect of such railways or railway, and the opening of such railways or railway for public traffic, and the payment of all costs, charges, and expenses payable by the Company to the said trustees, one half of

the purchase money so paid into court in respect of such railways or railway as aforesaid shall be repayable to the Company, and thereupon the conveyance to the Company of the lands required for such railways or railway shall be executed by the said trustees and all necessary parties in consideration of the other half of the said purchase money so paid into court in respect of such railways or railway.

E. All interest and dividends which may accrue upon the money paid into court as aforesaid, or the securities in which the same may be invested, shall belong to the said trustees as income of the estate of the said John Lord Rolle, deceased.

18. The Company from time to time may raise for the purposes of this Act, by the creation and issue of shares, such capital as they shall think necessary, not exceeding one hundred and thirty thousand pounds exclusive of the capital which they are or may be authorised to raise by any other Act or Acts of Parliament, and the Company may create and issue such shares as preferential shares to such an amount not exceeding sixty-five thousand pounds as they may think fit.

Power to Company to raise additional money by creation of shares.

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

Shares not to be issued until one fifth part paid up.

20. Except as by or under the provisions of this Act otherwise provided, the share capital created by the Company under this Act, and the shares therein, and the holders of those shares respectively, shall be subject and entitled to the same powers, provisions, forfeitures, liabilities, rights, privileges, and incidents whatsoever in all respects as if that capital were part of the now existing share capital of the Company and those shares were shares in that capital, and that new capital shall form part of the capital of the Company.

Except as otherwise provided, new shares to be subject to the same incidents as existing shares.

21. Every person who becomes entitled to a share created by the Company under this Act shall in respect of the same be a shareholder in the Company, and shall be entitled to a dividend, either preferential or ordinary, as the case may be, with the other holders of shares of the same class or description proportioned to the whole amount from time to time called and paid on such new shares.

Dividends on new shares.

22. Except as otherwise expressly provided by the resolution creating the same, no person shall be entitled to vote in respect of any share created or issued under this Act to which a preferential dividend shall be assigned.

Votes and qualifications in respect of new shares.

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Receipt in
cases of
persons not
sui juris.

Power to
borrow.

23. If any money is payable to a holder of shares in the Company being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

24. The Company may, in respect of the additional capital of one hundred and thirty thousand pounds which they are by this Act authorised to raise by shares, from time to time borrow on mortgage for the purposes of this Act any sum not exceeding in the whole forty-three thousand three hundred pounds, and they may borrow that sum from time to time as follows; that is to say, in respect of eighty thousand pounds of such additional capital they may borrow twenty-six thousand six hundred pounds, and in respect of the remaining fifty thousand pounds of such additional capital they may borrow sixteen thousand six hundred pounds; but no part of the said sums of twenty-six thousand six hundred pounds, and sixteen thousand six hundred pounds respectively shall be borrowed until shares for the respective portion of the additional capital in respect of which the same respectively are to be borrowed are issued and accepted, and one half of such portion 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 shares for the whole of such portion of additional capital have been issued and accepted, and that one half of such portion has been paid up, and that not less than one-fifth part of the amount of each separate share in such portion has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such shares were issued and accepted *bonâ fide*, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, or 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 certificate shall be sufficient evidence thereof.

For ap-
pointment
of a re-
ceiver.

25. Section 10 of the Sidmouth Railway Act, 1871, for appointment of a receiver is hereby repealed, but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under that section; and in lieu thereof the mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver; and 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 six thousand pounds in the whole. A.D. 1876.

26. 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 on all debenture stock at any time after the passing of this Act created and issued by the Company shall rank *pari passu* with the interest of all mortgages at any time after the passing of this Act granted by the Company, and shall have priority over all principal moneys secured by such mortgages. Company may create debenture stock.

27. All mortgages granted or to be granted under the authority of any former Act relating to the Company shall during the continuance thereof have priority over any mortgages granted by virtue of this Act; but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company. Existing mortgages to have priority.

28. All moneys raised under this Act, whether by shares, debenture stock, or mortgage, shall be applied to the purposes of this Act only. Application of moneys.

29. The Company may apply to the purposes of this Act any of the moneys which they now have in their hands, or which they have power to raise by shares, debenture stock, or mortgage, by virtue of the Sidmouth Railway Act, 1871, and which may not be required for the purposes to which they are by that Act made specially applicable. Power to apply corporate funds to purposes of Act.

30. The Company may run over and use with their engines, carriages, waggon, and trucks, and for traffic of every description, and with their clerks, officers, and servants, so much of the Exeter and Exmouth Railway of the London and South-western Railway Company as lies between the termination of the Railway No. 2 by this Act authorised and Exmouth Station, including that station, and all sidings, watering-places, water, and other works and conveniences connected therewith. Power to use portion of Exeter and Exmouth Railway.

31. The terms, conditions, and regulations to which the Company shall be subject in respect of the use of the said portion of railway and station, and the rents, tolls, or other consideration to be paid for the same, if not agreed on between the Company and the London and South-western Railway Company, shall from time to time be determined by an arbitrator to be appointed for that purpose by the Board of Trade upon the application of either party. Terms and conditions of exercise of the power.

The decision of any such arbitrator shall be binding and conclusive on the said Companies respectively, and the costs and expenses of the arbitrator shall be defrayed as he shall direct.

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During
exercise of
running
powers
railways to
be con-
tinuous.

32. During the exercise by the Company of the powers by this Act conferred upon them of using the before-mentioned portion of railway, that portion of railway and the railway of the Company shall for the purposes of short-distance tolls and charges be considered as one railway; and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the one railway and partly on the other railway for a less distance than four miles, tolls and charges may only be charged as for four miles; and in respect of passengers, for every mile or fraction of a mile beyond four miles, tolls and charges as for one mile only; and in respect of animals and goods, for every quarter of a mile or fraction of a quarter of a mile beyond four miles, tolls and charges as for a quarter of a mile only; and no other short-distance charge shall be made for the conveyance of passengers, animals, or goods partly on the one railway and partly on the other railway.

Byelaws to
be observed
by the Com-
pany.

33. The Company, in using or traversing the before-mentioned portion of railway and station, in accordance with the provisions herein-before contained, shall at all times observe the regulations and byelaws for the time being in force on the same, so far as those byelaws are applicable to the Company.

In the event of difference between the Company and the London and South-western Railway Company as to the reasonableness of any such regulation or byelaw, such difference shall from time to time be determined by an arbitrator to be appointed by the Board of Trade on the application of either party, and the costs of the arbitration shall be in his discretion.

Confirmation
of agree-
ment with
London and
South-wes-
tern Railway
Company.

34. The articles of agreement (herein-after called the scheduled agreement), dated the nineteenth day of May one thousand eight hundred and seventy-six, made between the Company of the one part and the London and South-western Railway Company of the other part, as set forth in the schedule to this Act, are by this Act confirmed and made obligatory on the Company and the London and South-western Railway Company.

Power to
Company
and London
and South-
western Rail-
way Com-
pany to
make work-
ing agree-
ments.

35. Subject and without prejudice to the scheduled agreement, the Company on the one part and the London and South-western Railway Company on the other part may, (subject to the provisions of Part III. of the Railways Clauses Act, 1863, as amended by the Regulation of Railways Act, 1873,) from time to time enter into and carry into effect contracts and agreements with respect to any or all of the following purposes; (that is to say,)

The working, use, management, and maintenance by the London and South-western Railway Company of the railways or any part or parts thereof respectively :

The supply of any rolling or working stock and of officers and servants for the conduct and conveyance of traffic on the railways or any part or parts thereof respectively :

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The payments to be made and the conditions to be performed with respect to the matters aforesaid :

The interchange, transmission, and delivery of traffic coming from or destined for the railways of the respective Companies :

The fixing of the tolls and charges to be demanded and recovered in respect of such traffic :

The division and apportionment between the Companies of the receipts arising from such traffic.

36. During the continuance of the scheduled agreement or of any agreement to be entered into under the provisions of this Act between the Company and the London and South-western Railway Company, the railways of the respective Companies shall for the purposes of tolls and charges be considered as one railway ; and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railways and partly on the railway of the London and South-western Railway Company for a less distance than four miles, tolls and charges may only be charged as for four miles ; and in respect of passengers, for every mile or fraction of a mile beyond four miles, tolls and charges as for one mile only ; and in respect of animals and goods, for every quarter of a mile or fraction of a quarter of a mile beyond four miles, tolls and charges as for a quarter of a mile only ; and no other short-distance charge shall be made for the conveyance of passengers, animals, or goods partly on the railways and partly on the railway of the London and South-western Railway Company.

During agreement railways to be continuous.

37. The Company shall not, out of any money by this Act authorised to be raised, pay interest or dividend 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.

Interest not to be paid on calls paid up.

38. 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.

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

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

39. Nothing in this Act contained shall exempt the railways 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, authorised by this Act.

Expenses of
Act.

40. 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.

SCHEDULE referred to in the foregoing Act.

ARTICLES OF AGREEMENT made the 19th day of May 1876 between the Sidmouth Railway Company (herein-after called the owning Company) of the one part and the London and South-western Railway Company (herein-after called the working Company) of the other part.

Article 1. The owning Company shall at their own expense acquire in fee simple and free from all incumbrances, rentcharges, land tax, rents, and outgoings (except a duly apportioned amount of tithe commutation rentcharge), all the necessary land and properties for forming the site of the railways described in and proposed to be authorised by their now pending Bill, and for forming the site of the several stations, approaches, works, and conveniences necessary and proper to be made in connexion therewith, which railways, works, and conveniences are enumerated or referred to in Articles 2 and 3, and which railways, stations, works, and conveniences are in these articles comprised under the expression "the Extension Railway."

Article 2. The Extension Railway mentioned in Article 1, at the expense of the owning Company,—

- (a.) Shall be constructed on the narrow gauge of 4 feet 8½ inches exclusively ;
- (b.) Shall be at least proper and sufficient for receiving, carrying, and accommodating the working plant of the working Company of all descriptions, and all traffic upon or over the Extension Railway. No bridges or other structures shall be constructed of timber ;
- (c.) Shall commence by a junction with the owning Company's existing railway (which with the works, stations, and conveniences thereof is herein-after called the Sidmouth Railway, and which as herein-after mentioned is worked, equipped, manned, managed, and maintained by the working Company) near the Sidmouth Station thereon, and shall terminate by a junction with the Exeter and Exmouth Railway of the working Com-

pany near the Exmouth Station thereon, and those respective junctions shall severally be formed, with their incidental signals, and signal and point apparatus, and block or electrical apparatus, by the working Company at the expense of the owning Company within the limits respectively proposed to be authorised by the pending Bill, and the plans and sections of the owning Company deposited with reference thereto; and the details incidental to the same junctions respectively, and the exact points and mode of forming the same junctions, shall be fixed by the working Company, but subject to and so as to receive the approval of the Board of Trade, and except that the junction at Sidmouth shall be as nearly as possible at the point shown on the deposited plans;

- (d.) Shall be constructed, finished, and completed as a single line of railway at least, with land for a double line, and with all proper lengths of double line for passing-places at least at each station, and with signals, signal boxes, and all appliances connected therewith, required by the Board of Trade or reasonably by the working Company, telegraph communication, the electric block system, and the incident works and conveniences, including proper and sufficient stations at Budleigh Salterton and East Budleigh, and on such site and in such positions as the working Company shall approve and as shall be consistent with the statutory powers and obligations of the owning Company, but no station shall be placed on a steeper gradient than 1 in 300;
- (e.) Shall also include proper and sufficient station and gate houses, waiting-sheds, station yards, and approaches, station buildings, with all usual necessary and proper accommodation, goods sheds, sidings, turntables, water cranes, tanks, loading banks, cranes, and other works and conveniences, such as in all respects the owning Company would have had to construct if they had been about to work the railway together with and as an extension of the Sidmouth Railway;
- (f.) Shall be constructed with rails made to a specification as to quality to be approved by the working Company's engineer, but not of better quality than the rails used in the construction of the Sidmouth Railway, and of not less weight than seventy-five pounds per yard (double-headed section), and to be properly fished and laid in chairs weighing not less than 32 lbs. each, which shall be fastened by spikes and trenails to sleepers, not less than two spikes and trenails to each sleeper for each chair, the sleepers to be laid not more than 2 feet 9 inches apart anywhere, and not more at any joint than 2 feet 2 inches apart from centre to centre, and measuring not less than 9 feet in length, and at no point of their length less than 10 by 5 inches if half round sleepers, or 9 by 4½ inches if rectangular sleepers, and the whole shall be of larch or foreign red wood timber of the best quality thoroughly creosoted;

The rails, fish plates, chairs, fastenings, and sleepers shall, subject as aforesaid, be in every respect equal and similar to those now obtained for use on the South-western Company's lines;

- (g.) Shall be properly ballasted with good clean ballast for a thickness of not less than 21 inches and a width of not less than 12 feet;

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(h.) Shall be completed by and at the expense of the owning Company in the particulars in this article enumerated, and in every other respect so as to be fit and safe for traffic of all descriptions, and to the satisfaction of the Board of Trade, and to the reasonable satisfaction of Mr. William Jacomb, civil engineer, herein-after called the engineer, or in case of his death or inability to act, of a competent engineer to be appointed in writing by the working Company in his room.

Article 3. The Extension Railway shall, at the expense of the owning Company, comprise all works lawfully required by landowners, commissioners, boards, turnpike trustees, surveyors, or others, under any statutory right or under any agreement, and all works rendered necessary by reason of roads being interfered with by the Extension Railway, and all accommodation and other works whatsoever which on the opening of the Extension Railway or at any time thereafter are or may be necessary or proper for the purposes of the Extension Railway, and the traffic thereon respectively, and which the Sidmouth Company would have to construct if the line were worked by themselves together with and as an extension of the Sidmouth Railway.

Article 4. The owning Company shall at its own expense, during one year after the opening of the Extension Railway for public traffic, uphold, maintain, and repair the structural works and embankments of the same, and all the buildings and works and conveniences of the Extension Railway except those in this article mentioned, and to be maintained and repaired by the working Company, the workmen engaged in the maintenance to be approved by and be under the control of the working Company; the working Company to maintain and repair the permanent way and all other works and conveniences from such day of opening at their own expense.

Article 5. From and after the completion or opening of the Extension Railway for public traffic the working Company shall (subject to the restrictions mentioned in these articles) have the privilege and duty of exclusively and in perpetuity working, equipping with all rolling stock and locomotive power, tools, and stores adequate and proper required by the working Company, manning, managing, and maintaining, and shall at their own expense exclusively and in perpetuity work, equip as aforesaid, man, manage, and (but subject and without prejudice to the obligation of the owning Company as aforesaid in Article 4) maintain the Extension Railway and the works and conveniences thereof as effectively as if the Extension Railway was part of their own system of railways, and having proper regard to the privileges, duties, and position of the working Company in respect of the working, equipping, manning, managing, and maintaining the Sidmouth Railway under the agreement, herein-after called the agreement of 1871, between the owning and working Companies, dated the 17th day of March 1871, contained in the schedule to the Sidmouth Railway Act, 1871, and confirmed and made obligatory by that Act, and which agreement of 1871 has been in some respects varied by an agreement herein-after called the agreement of 1874, between the same Companies, dated the 22nd day of April 1874, and approved by the Railway Commissioners, and the working Company shall pay all rates properly chargeable on the occupiers of the Extension Railway, including the apportioned tithe commutation rent-charge, and shall indemnify the owning Company therefrom, and shall at their

own expense effectually perform the service of cartage of all goods carried at carted rates so far as the same may be necessary.

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Article 6. Until the opening of the Extension Railway for public traffic the Sidmouth Railway shall continue to be worked, equipped, manned, managed, and maintained by the working Company on the terms and conditions as respects the gross earnings mentioned in the 6th and 7th Articles of the scheduled agreement of 1871, as varied by the agreement of 1874, but after the opening of the Extension Railway for public traffic those terms and conditions shall be altered and varied by and according to the next following articles, which shall from that time apply both to the Sidmouth Railway and to the Extension Railway, herein-after called the two railways.

Article 7. The term the gross earnings herein-after used means and includes the following things; viz.,

(a.) All fares, rates, and charges, including terminals (if any), for traffic conveyed only on the two railways, or either of the two railways, excluding the Ottery Road Station, and also excluding the Exmouth Station and the portions of line between these stations and the junctions of the two railways respectively with the working Company's railway near the Ottery Road and Exmouth Stations, but deducting the cartage cost of goods and parcels carried at carted rates :

(b.) A due mileage proportion of all fares, rates, and charges for traffic conveyed partly upon the two railways, or either of them, and partly either on the London and South-western Railway or on the London and South-western Railway and any others or other in connexion therewith over which through booking extends, including such terminals as may be credited by the clearing house to the two railways, or either of them, of traffic passing between some point on the two railways, or one of them, and some point on a railway not owned or worked by the working Company, and on the other hand excluding such terminals as may be credited by the clearing house to a railway not owned or worked by the working Company, but deducting in all cases before making the apportionment the cartage cost of goods and parcels carried at cartage rates :

(c.) The cartage cost mentioned in divisions (a.) and (b.) means the actual cost incurred by the working Company for the cartage service performed, and the allowance made by the working Company to consignors or consignees performing the cartage service :

(d.) There shall, in addition to the mileage proportion mentioned in division (b.), be credited to the gross earnings on the two railways by way of terminals, 6*d.* per ton on goods traffic and 2*d.* per ton on mineral traffic conveyed to or from any station situated on the two railways, or either of them, (but excluding the Ottery Road and Exmouth stations,) such terminal allowances only to be applicable to such traffic conveyed over the South-western Railway for upwards of fifty miles beyond the Ottery Road or the Exmouth Stations respectively :

(e.) There shall be included in the gross earnings all sums received for rents for use of cloak rooms, and for advertisements and book stalls at any station upon the two railways, or either of them, excluding the Ottery Road and Exmouth Stations.

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Article 8. The gross earnings of the two railways shall be received by the working Company, and be thus divided and apportioned :

- (a.) The Government duty shall be first paid thereout, and the remainder of the gross earnings, herein-after called the residue thereof, shall be dealt with as follows :
- (b.) Interest at a rate not exceeding 5*l.* per cent. per annum on the owning Company's mortgage and debenture stock and debt already created or to be hereafter created, but not exceeding in the aggregate a debt of 65,000*l.* nor an aggregate of annual charge of 3,250*l.*, to be in favour of the owning Company's mortgage or debenture stockholders and creditors a first charge on the residue of the gross earnings, and to be paid thereout by the working Company, but, as between the owning Company and the working Company, the same to be a charge exclusively upon the share of the residue of the gross earnings receivable by the owning Company under these articles, and the amount thereof to be deducted by the working Company out of the owning Company's share of that residue from time to time : Provided always, that if in any one half year the owning Company's share of the residue of the gross earnings is not sufficient to pay such interest on the owning Company's mortgage and debenture stock or debt as respectively aforesaid, the deficiency, in so far as the same from time to time is actually paid by the working Company, is to constitute a debt against the owning Company to be paid with interest at the rate of 5*l.* per cent. per annum out of the residue of the gross earnings thereafter from time to time payable to that Company :
- (c.) In every twelve months, calculated from the opening of the Extension Railway, in which the gross earnings of the two railways shall not exceed 10,000*l.* there shall be paid to the owning Company 60 per cent. of the residue thereof :
- (d.) In every such twelve months in which such gross earnings shall exceed 10,000*l.* but shall not exceed 11,500*l.* there shall be paid over to the owning Company 57½ per cent. of the residue thereof :
- (e.) In every such twelve months in which such gross earnings shall exceed 11,500*l.* but shall not exceed 13,000*l.* there shall be paid over to the owning Company 55 per cent. of the residue thereof :
- (f.) In every such twelve months in which such gross earnings shall exceed 13,000*l.* but shall not exceed 14,500*l.* there shall be paid over to the owning Company 52½ per cent. of the residue thereof :
- (g.) In every such twelve months in which such gross earnings shall exceed 14,500*l.* there shall be paid over to the owning Company 50 per cent. of the residue thereof :
- (h.) The working Company may deduct from the share of the residue of the gross earnings from time to time payable as before mentioned to the owning Company half of the expense in the same year of maintaining and working the junction between the Sidmouth Railway and the working Company's railway at Ottery Road, and half of the expense of maintaining and working the junction between the Extension Railway and the working Company's Exeter and Exmouth Railway, and the works incidental to those junctions respectively,

including the signals thereat and consequent thereon, and may also deduct from the owning Company's share of the residue of the gross earnings all rentcharges, land tax, rents, and outgoings properly payable by the owning Company in respect of the two railways, or either of them or any part of them, and which the working Company may have paid on the default of the owning Company : A.D. 1876.

- (i.) The remaining 40 per cent., 42½ per cent., 45 per cent., 47½ per cent., or, as the case may be, 50 per cent. of the residue of the gross earnings shall be retained by the working Company for its own use :
- (j.) The division shall be made half-yearly to the 30th day of June and 31st day of December, the proportion of the owning Company for the first or June half year being taken at 60 per cent., and the adjustment of the proportions for the twelve months being made on the apportionment of the second or December half year.

Article 9. The working Company shall so work the railways of the owning Company as fairly and efficiently to develop the traffic, and the working Company shall carry all goods and passengers destined to or coming from any station on either of the two railways (excluding Exmouth and Ottery Road) by the shortest route, or account for the same as if so carried.

Article 10. If the working Company apply to Parliament for powers enabling the owning Company to make and the working Company to accept a transfer or lease of the two railways on terms to be agreed on between the Companies, or, in the working Company's option, on terms analogous to the terms in these articles mentioned, and securing to the owning Company in perpetuity, in and for the consideration for the transfer or lease, the same proportion half-yearly and yearly of the residue of the gross earnings as is by these articles secured to them whilst the railways continue to be worked under the working arrangement effected by these articles, the owning Company will consent to and at the request and expense of the working Company will support the application, and if the necessary powers be obtained will, at the like request and expense, make an absolute transfer or perpetual lease of the two railways to the working Company on (if not otherwise agreed) the terms in this article mentioned.

Article 11. Any difference or dispute arising between the parties hereto with reference to the construction of this agreement, or questions relating thereto, shall be referred to the arbitration of a sole arbitrator under the Railway Companies Arbitration Act, 1859, such arbitrator to be nominated in case of difference by the Board of Trade.

Article 12. Provided always, that if within five years from the passing of the pending Bill of the owning Company in the present year, 1876, the Extension Railway is not completed according to these articles, including the acquisition of the necessary land, as mentioned in Article 1, and opened for public traffic, the working Company may by notice in writing under their common seal put an end to this agreement, and thereupon the same shall cease to have any force.

Article 13. Except as expressly varied and altered by these articles, and subject only thereto, the scheduled agreement of 1871, as varied by the agreement of 1874, shall remain in full force

[Ch. ccx.] *The Sidmouth Railway Act, 1876.* [39 & 40 VICT.]

A.D. 1876. In witness whereof the respective Companies, parties hereto, have set their common seals the day and year first above written.

The Common Seal of the Sidmouth Railway Company was hereunto affixed in the presence of

JAS. SUTHERLAND,
Secretary to the Sidmouth
Railway Company.



LONDON : Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1876.