

[51 & 52 VICT.] *Plymouth, Devonport, and South* [Ch. clxxx.]
Western Junction Railway Act, 1888.



CHAPTER clxxx.

An Act to confer further Powers on the Plymouth
Devonport and South Western Junction Railway
Company. A.D. 1888.
[7th August 1888.]

WHEREAS by the Plymouth Devonport and South Western Junction Railway Act 1883 (in this Act called "the Act of 1883") the Plymouth Devonport and South Western Junction Railway Company (in this Act called "the Company") were incorporated and empowered to make and maintain the Plymouth Devonport and South Western Junction Railway being a railway from the London and South Western Railway at Plymouth and Devonport to that railway at Lidford with junctions with the Cornwall Railway at Saint Budeaux and with the authorised Devon and Cornwall Central Railway at Calstock and certain diversions and widenings of streets in the parish of Charles (Plymouth) in the county of Devon:

And whereas the Company have proceeded to exercise the powers of the Act of 1883 and have acquired or contracted for a considerable part of the land required for the purposes of the Railways Nos. 2 3 4 and 9 thereby authorised and have commenced and are proceeding with the construction of those railways:

And whereas the powers of the Company for the compulsory purchase of lands for the purposes of the Act of 1883 have expired and the period limited for the completion of the railways and works will expire on the twenty-fifth day of August one thousand eight hundred and eighty-eight and it is expedient that those powers in respect of the lands in that behalf in this Act specified be revived and that period and the period for the completion of the railways and works extended as by this Act provided:

And whereas by the Devon and Cornwall Central Railway Act 1882 (in this Act called "the Act of 1882") the Devon and Cornwall Central Railway Company (in this Act called "the Devon Company") were incorporated and empowered to make and maintain the Devon

A.D. 1888. — and Cornwall Central Railway being a railway from the Great Western Railway and the London and South Western Railway respectively at Lidford to the East Cornwall Mineral Railway at Calstock and to Callington and certain other works and to acquire the undertaking of the East Cornwall Mineral Railway Company :

And whereas by the Plymouth Devonport and South Western Junction Railway Act 1884 (hereinafter called "the Act of 1884") the powers of the Devon Company were transferred to and vested in the Company and provision was made for the winding-up and dissolution of the Devon Company :

And whereas so much of the Devon and Cornwall Central Railway as is situate between Lidford and the junction therewith at Calstock of the Railway No. 6 authorised by the Act of 1883 was by the Act of 1884 authorised to be abandoned :

And whereas by the Plymouth Devonport and South Western Junction Railway Act 1885 (hereinafter called "the Act of 1885") the time limited by the said Act of 1882 for the purchase of lands and the completion of the works was extended until the eighteenth day of August one thousand eight hundred and eighty-seven and the eighteenth day of August one thousand eight hundred and eighty-eight respectively and it is expedient that those powers should be revived and further enlarged :

And whereas it is expedient to authorise the Company to make the new roads hereinafter described :

And whereas plans and sections showing the lines and levels of the new roads by this Act authorised and the lands in or through which the same respectively are intended to be made and plans of the additional lands which the Company are by this Act empowered to acquire and books of reference to those respective plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands respectively have been deposited with the respective clerks of the peace for the counties of Devon and Cornwall and are respectively referred to as the deposited plans sections and books of reference :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

Short title. 1. This Act may for all purposes be cited as the Plymouth Devonport and South Western Junction Railway Act 1888.

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2. The undermentioned enactments are except where expressly varied by this Act incorporated with and form part of this Act: A.D. 1888.
 The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883. Incorporation of general Acts.
 The Railways Clauses Consolidation Act 1845 and Part I. (relating to the construction of a railway) and Part II. (relating to the extension of time) of the Railways Clauses Act 1863.
3. Notwithstanding the expiration of the period limited by the Act of 1883 and by the Act of 1882 as amended by the Act of 1884 and extended by the Act of 1885 with respect to the compulsory purchase and taking of lands required for the purposes of the railways and works by those Acts respectively authorised the Company may exercise such powers for a period of two years from the twenty-fifth day of August one thousand eight hundred and eighty-eight except as to the Railways 2 3 4 and 9 authorised by the Act of 1883 in respect of which railways the Company may exercise such powers for a period of one year from the twenty-fifth day of August one thousand eight hundred and eighty-eight. Renewing and extending time for purchase of lands authorised by Acts of 1883 and 1882.
4. The time limited by the Acts of 1883 and 1882 as amended by the Act of 1884 for the completion of the railways and works by those Acts respectively authorised is hereby extended until the twenty-fifth day of August one thousand eight hundred and ninety-one. Extending time for completing railways authorised by Acts of 1883 and 1882.
5. If the respective railways and works shall not be completed within the period limited by this Act then on the expiration of such period the powers by the Acts of 1883 and 1882 and by this Act granted to the Company for making and completing the railways or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed. Time limited for completion of railways.
6. Subject to the powers of this Act the Company may on the lines and according to the levels shown on the deposited plans and sections make the new roads hereinafter described with all proper works and conveniences connected therewith respectively and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for those purposes. Power to the Company to make new roads.
- A new road (No. 1) wholly in the parish of Tavistock in the county of Devon commencing where Post Office Lane joins Bedford Square and terminating on Trelawny Road twelve chains or thereabouts west of the point where Trelawny Road joins Kilworthy Lane.

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A new road (No. 2) commencing in the parish of St. Budeaux in the county of Devon by a junction with the high road leading from Plymouth to Saltash two chains or thereabouts in a south-easterly direction from the junction with the said road of the road leading to Bull Point and terminating in the parishes of St. Budeaux and St. Stephens by Saltash or one of them in the county of Cornwall by a junction with the said road leading from Plymouth to Saltash seventeen chains or thereabouts in a westerly direction from the bridge carrying the Cornwall Railway over that road.

Power to stop up parts of roads.

7. The Company may stop up and discontinue for public and other traffic the following portions of roads namely:—

Barley Market Street in the parish of Tavistock in the county of Devon;

Post Office Lane in the same parish which will both be rendered unnecessary by the new road No. 1 above described; and

So much of Kilworthy Lane in the same parish as will be occupied by the railways and works of the Company;

So much of the road leading from Plymouth to Saltash as will be rendered unnecessary by the new road No. 2 above described.

Roads not to be stopped up until substitution completed.

8. The Company shall not stop up and discontinue for public traffic Barley Market Street and Post Office Lane in the parish of Tavistock or the road above mentioned leading from Plymouth to Saltash until the work (if any) by this Act authorised to be respectively made in substitution therefor has been completed.

Vesting sites of roads thoroughfares &c. stopped up and extinguishing rights over same.

9. The sites and soil of so much as under the powers of this Act the Company shall stop up and discontinue for public traffic of any public road lane thoroughfare or place are by this Act vested (as to so much thereof as is bounded on both sides by land of the Company) in the Company and all public and private rights of way or passage and all rights across over or along the same shall be by this Act extinguished. The provisions of the Railways Clauses Consolidation Act 1845 with respect to mines lying under or near the railway shall apply to the lands so vested in the Company as if such lands had been purchased by the Company but the mines had not been expressly purchased.

Power to Company to acquire additional lands.

10. Subject to the provisions of this Act in addition to the other lands which the Company are by this Act authorised to acquire the Company may from time to time enter upon take use and appropriate for the purpose of their station sidings warehouses coal wharfs depôt and other accommodation for mineral goods and cattle traffic and for other purposes connected with their undertaking the lands and buildings hereinafter described or referred to delineated on the

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deposited plans and described in the deposited books of reference A.D. 1888.
 (that is to say) :—

A garden and outbuilding in Kilworthy Lane in the parish of Tavistock in the county of Devon belonging or reputed to belong to the Duke of Bedford and in the occupation of Allan Phillips and George Merrifield.

11. 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 one year from the passing of this Act. Period for compulsory purchase of lands.

12. If the new works are not completed within two years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for the purposes of the new roads or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed. Period for completion of works.

13. For the protection of the Cornwall Railway Company (in this section called "the Cornwall Company") and for the protection of the Great Western Railway Company the lessees of the Cornwall Railway (in this section referred to as "the lessees") the following provisions shall have effect (that is to say) :— For the protection of the Cornwall and Great Western Railway Companies.

1. The Company shall not enter upon or interfere with the railway of the Cornwall Company or any of the lands or works of that Company or execute any works whatever under or affecting the same until the Company shall have delivered to the Cornwall Company plans and drawings of such intended works and those plans and drawings shall have been approved in writing by the principal engineer for the time being of the Cornwall Company or in the event of his failure for fourteen days after the delivery of the plans and drawings until the same shall have been approved by an engineer to be appointed on the application of the Company by the Board of Trade and all the intended works shall be executed by the Company at their sole expense in all things according to such approved plans and drawings and to the reasonable satisfaction of the said engineer for the time being of the Cornwall Company or in case of difference by an engineer to be appointed by the Board of Trade. Not to enter on lands of Cornwall Company until plans of proposed works affecting that Company approved.

2. In constructing the new road No. 2 by this Act authorised through or over the land and property of the Cornwall Company the Company shall not deviate from the centre line shown on the deposited plans where the road crosses the railway of the Cornwall Company without the previous consent in writing of that Company under their common seal and the said road where the same is intended to cross the As to execution of the new road No. 2 on lands of Cornwall Company.

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railway of the Cornwall Company shall unless otherwise agreed be carried over that railway and works by means of a bridge of one span of not less than 30 feet on the square and a headway of not less than 16 feet and such crossing of the railway and works shall be effected in such a manner as not to injure or interfere with the railway and works of the Cornwall Company in any way whatever.

Not to interfere with Cornwall Railway bridge without consent.

3. In constructing the authorised railway of the Company under the bridge of the Cornwall Company which carries the Cornwall Railway over the Saltash Road the Company shall not take or acquire any interest other than an easement over any lands of the Cornwall Company or in any way interfere with the said bridge without the previous consent in writing of that Company and the lessees under their respective common seals and such crossing under the railway shall be effected in such a manner as not to injure or interfere with the railway and works of the Cornwall Company in any way whatever and the Company shall from time to time afford to the Cornwall Company or to the lessees as the case may be all reasonable facilities for repairing altering amending enlarging or reconstructing the said bridge or any part thereof or for the widening of such bridge to carry a double line of rails over the same and the Company or the Company for the time being working and maintaining the railway of the Company will also from time to time temporarily at the expense of the Cornwall Company slue the lines of rails of the Company if required for the purposes aforesaid or either of them.

Company to bear expense of restoring telegraph posts drainage and other works and signals.

4. Should it be necessary in constructing the works authorised by or referred to in sub-sections 2 and 3 or any of them or in consequence of the construction thereof respectively for the Cornwall Company or their lessees to alter or remove the telegraph posts and wires or any drainage or other works or signals on or connected with their said railway or any of them at or near to the said crossings the Company shall bear and on demand pay to the Cornwall Company or their lessees as the case may be the expense of and connected with such alteration and removal and of restoring the same to their former or placing them in a different position or of substituting other works therefor.

Company to pay to the Cornwall Company expenses of

5. The Company shall bear and on demand pay to the Cornwall Company or to the lessees as the case may be the reasonable expense of the employment by them during the making of the road No. 2 by this Act authorised over and adjacent to

the Cornwall Company's railway or during the making of the authorised railway under and adjacent to the Cornwall Company's railway of a sufficient number of inspectors signalmen or watchmen to be appointed by the Cornwall Company or the lessees for watching the Cornwall Railway and works and the conduct of the traffic thereon with reference to and during the execution of the intended works and for preventing as far as may be all interference obstruction danger and accident from any of the operations or from the acts or defaults of any person or persons in the employ of the Company with reference thereto or otherwise.

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 watchmen
 during construction of
 works.

6. Notwithstanding anything in this Act contained the Company or the company for the time being working the railway of the Company shall from time to time be responsible for and make good to the Cornwall Company or to the lessees as the case may be all losses costs damages and expenses which may be occasioned to them respectively or any of their works or property or to the traffic on the Cornwall Railway or to any company or persons using the same or otherwise during the execution or by reason of the failure of any of the works or intended works or of any act or default or omission of the Company or of any persons in their employ or of their contractors or otherwise and the Company shall effectually indemnify and hold harmless the Cornwall Company and the lessees from all claims and demands upon or against them by reason of such execution or failure and of any such act default or omission.

Damages
 sustained by
 Cornwall
 Company or
 lessees to be
 repaid.

7. The Company or the company for the time being working the railway of the Company shall at their sole expense at all times maintain the bridge and other works by which the said road No. 2 by this Act authorised shall be carried over the railway of the Cornwall Company in substantial repair and good order and condition to the reasonable satisfaction in all respects of the engineer for the time being of the Cornwall Company and if and whenever the Company fail so to do after one month's notice from the Cornwall Company for that purpose or in case of urgency the Cornwall Company or the lessees may make and do in and upon as well the land of the Company as their own lands all such works and things as the Cornwall Company or the lessees shall think requisite in that behalf for ensuring such repair and the sum from time to time certified by the engineer of the Cornwall Company or of the lessees as the case may be to be the amount of the expenditure reasonably incurred in that behalf shall be repaid

Maintenance
 of works
 affecting the
 railway of
 the Cornwall
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to the Cornwall Company or to the lessees as the case may be by the Company and in default of full repayment the amount due may be recovered with full costs by the Cornwall Company or the lessees as the case may be from the company for the time being working the railway of the Company in any court of competent jurisdiction.

Not to interfere with traffic on Cornwall Railway.

8. In constructing the road No. 2 by this Act authorised or in making and maintaining the railway of the Company under the Cornwall Railway the Company shall not in any way obstruct or interfere with the traffic passing along the Cornwall Railway and if by reason of any works or proceedings of the Company there shall be any obstruction or interference with the said Cornwall Railway so as to impede or prevent the convenient passage of engines and carriages along the same the Company shall pay to the Cornwall Company or to the lessees as the case may be the sum of £30 per hour during which any such obstruction or interference shall continue.

No land of Cornwall Company to be taken except for certain works.

9. Except for the purpose of the crossing of road No. 2 the Company shall not take or acquire any land of the Cornwall Company or any right in or over the same and save as aforesaid nothing in this Act contained shall extend to authorise or enable the Company to take or enter upon or use either temporarily or permanently any of the lands of the Cornwall Company or to alter vary or interfere with the railway of that Company or with any of the works thereof further or otherwise than is necessary for the construction and maintenance of the road No. 2 by this Act authorised without the consent in writing in every instance for that purpose first had and obtained of the Cornwall Company under their common seal and with respect to any lands of the Cornwall Company which the Company are by this Act from time to time authorised to purchase take use enter upon or interfere with for the purpose of such crossing the Company shall not purchase or take any greater or other estate or interest in any such lands than an easement or right of using such lands in perpetuity for the purposes for which but for this enactment the Company might purchase and take the same and the provisions of this Act and of the Acts incorporated with this Act shall be construed and apply accordingly and the provisions of the Lands Clauses Consolidation Act 1845 with respect to lands shall extend and apply to such easement or right of using so far as such provisions are not inconsistent with this enactment.

10. If any dispute shall arise between the Cornwall Company and the Company or between the lessees and the Company respecting the matters and provisions aforesaid or any of them such dispute shall be settled by an arbitrator to be agreed upon between the parties or in case of difference to be appointed upon the application of either party by the President for the time being of the Institution of Civil Engineers in London subject to which such arbitration shall be an arbitration under the provisions of the Railway Companies Arbitration Act 1859. A.D. 1888.
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 Arbitration.

11. Nothing in this Act contained shall extend to prejudice diminish alter or take away any of the rights privileges or powers of the Cornwall Company or the lessees otherwise than is by this Act expressly provided. Saving rights of Cornwall Company.

14. (1.) The Company shall not under the powers of this Act or under the powers of any other Act extended by this Act purchase or acquire in any city borough or other urban sanitary district or any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until— Restrictions on displacing persons of the labouring class.

(a.) They shall have obtained the approval of the Local Government Board to a scheme for providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of December last or for such number of persons as the Local Government Board shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such persons and to all the circumstances of the case; and

(b.) They shall have given security to the satisfaction of the Local Government Board for the carrying out of the scheme.

(2.) The approval of the Local Government Board to any scheme under this section may be given either absolutely or conditionally and after the Local Government Board have approved of any such scheme they may from time to time approve either absolutely or conditionally of any modifications in the scheme.

(3.) Every scheme under this section shall contain provisions prescribing the time within which it shall be carried out and shall

A.D. 1888. require the new dwellings proposed to be provided under the scheme to be completed fit for occupation before the persons residing in the houses in respect of which the scheme is made are displaced :

Provided that the Local Government Board may dispense with the last-mentioned requirement subject to such conditions if any as they may see fit.

(4.) Any conditions subject to which the Local Government Board may have approved of any scheme under this section or of any modifications of any scheme or subject to which they may have dispensed with the above-mentioned requirement shall be enforceable by a writ of mandamus to be obtained by the Local Government Board out of the Queen's Bench Division of the High Court of Justice.

(5.) If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court of Justice and shall be carried to and form part of the Consolidated Fund of the United Kingdom :

Provided that the Court may if it think fit reduce such penalty.

(6.) For the purpose of carrying out any such scheme under this section such scheme shall for all purposes be deemed to be an undertaking of the Company and the Company may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require and for the purpose of any such purchase sections 176 and 297 of the Public Health Act 1875 shall be incorporated with this Act and shall apply to the purchase of lands beyond the Metropolis by the Company for the purposes of any scheme under this section in the same manner in all respects as if the Company were a local authority within the meaning of the Public Health Act 1875 and the scheme were one of the purposes of that Act.

(7.) The Company may on any lands belonging to them or purchased or acquired under this section or any provisional order issued in pursuance of this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell demise or let or otherwise dispose of such dwellings and any lands purchased or acquired as aforesaid and may apply for the purposes of this section to which capital is properly applicable or any of such purposes any moneys which they

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may be authorised to raise or apply for the general purposes of their undertaking : A.D. 1888.

Provided that all lands on which any buildings have been erected or provided by the Company in pursuance of any scheme under this section shall for a period of twenty-five years from the passing of this Act be appropriated for the purpose of dwellings and every conveyance demise or lease of such lands and buildings shall be endorsed with notice of this enactment :

Provided also that the Local Government Board may at any time dispense with all or any of the requirements of this sub-section subject to such conditions if any as they may see fit.

(8.) So much of section 157 of the Public Health Act 1875 as provides that the provisions of that section and of sections 155 and 156 of the same Act shall not apply to buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament shall not apply to buildings erected or provided by the Company for the purpose of any scheme under this section.

(9.) The Local Government Board may direct any inquiries to be held by their inspectors which they may deem necessary in relation to any scheme under this section and for giving effect to any of the provisions of this section and the inspectors of the Local Government Board shall for the purposes of any such inquiry have all such powers as they have for the purposes of inquiries directed by the Local Government Board under the Public Health Act 1875.

(10.) The Company shall pay to the Local Government Board a sum to be fixed by that Board in respect of the preparation and issue of any provisional order in pursuance of this section and any expenses incurred by that Board in relation to any inquiries under this section including the expenses of any witnesses summoned by the inspector and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector.

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

15. The sum of forty-seven thousand and seventy-seven pounds two shillings and one penny Two Pounds Ten Shillings per Centum Annuities representing the sums deposited on the application to Application of money deposit made

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A.D. 1888. Parliament for the Act of 1883 shall be and remain impounded as security for the completion of the new works authorised by this Act in respect of Act of 1883. as well as for the completion of the railways and works authorised by the Act of 1883 and sections 43 and 44 of the Act of 1883 shall apply to the said deposit fund as if the new works authorised by this Act and the period limited for the completion thereof were respectively referred to in those sections in addition to the railways and works by that Act authorised and the period limited for the completion thereof respectively.

Provision for general rail-
way Acts. **16.** Nothing herein contained shall be deemed or construed to exempt the railways of the Company from the provisions of any general Act relating to railways or to 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 and alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised to be taken by the Company.

Expenses of Act. **17.** All the costs charges and expenses of obtaining and passing this Act or incident thereto shall be paid by the Company.

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