



CHAPTER liii.

An Act for conferring further powers on the Plymouth and Dartmoor Railway Company for the construction of a new railway to Modbury and otherwise in relation to their Undertaking; and for other purposes. [28th June 1888.] A.D. 1888.

WHEREAS it is expedient that the Plymouth and Dartmoor Railway Company (in this Act called "the Company") be empowered to make and maintain the railway by this Act authorized and to raise for the purposes thereof a separate share and loan capital:

And whereas it is expedient that the Company be empowered to apply any unexpended portion of the capital authorized by the Plymouth and Dartmoor Railway Act 1865 not exceeding twenty thousand pounds which is not required for the purposes of the general undertaking to the purposes of any of their authorized extensions and of this Act:

And whereas plans and sections showing the lines and levels of the railway by this Act authorized and also books of reference to the plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the county of Devon and are herein-after respectively referred to as the deposited plans sections and books 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):—

[Ch. liii.] *Plymouth and Dartmoor Railway* [51 & 52 Vict.]
(*South Hams Extension*) Act, 1888.

A.D. 1888.

Short title.

Incorporation of general Acts.

1. This Act may be cited for all purposes as the Plymouth and Dartmoor Railway (South Hams Extension) Act 1888.

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):—

The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883;

The Railways Clauses Consolidation Act 1845;

Part I. (relating to the construction of a railway) and Part III. (relating to working agreements) of the Railways Clauses Act 1863;

The clauses and 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 non-payment of calls;

The remedies of creditors of the Company against the shareholders;

The borrowing of money by the Company on mortgage or bond;

The conversion of borrowed money into capital;

The consolidation of shares into stock;

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) and Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction:

The expressions “the railway” “the railways” “the South Hams Extension” “the undertaking” mean respectively the railway and the separate undertaking by this Act authorized:

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. A.D. 1888.

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 railway herein-after described with all proper stations sidings junctions approaches works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for that purpose The railway herein-before referred to and authorized by this Act and called the South Hams Extension is wholly situate in the county of Devon and is— Power to make railway and works.

A railway twelve miles and two-and-a-half chains in length commencing in the parish of Plymstock in the county of Devon by a junction with the Railway No. 1 authorized by the Plymouth and Dartmoor Railway Act 1883 at a point on the centre line of the said authorized Railway No. 1 in the field numbered 40 in the said parish of Plymstock on the plans of that railway deposited in November one thousand eight hundred and eighty-two with the clerk of the peace for the county of Devon which point is four furlongs and four-and-a-half chains from the commencement of the said authorized Railway No. 1 and terminating in the parish of Modbury in the said county at a point in or near the centre of the field numbered 1197 on the tithe commutation map of the said parish :

And the railway shall with respect to tolls rates fares and charges be part of the undertaking of the Company and the Company may demand and take in respect of the railway a like amount of tolls rates fares and charges as they would have been entitled to demand and take if the same had formed part of the railway vested in the Company by the Plymouth and Dartmoor Railway Act 1865.

5. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 from time to time raise by shares any additional capital not exceeding in the whole one hundred and fifty thousand pounds for the purposes of the South Hams Extension and all new shares to be created under this Act are hereafter comprised under the name of South Hams Extension shares. Power to Company to raise additional capital.

6. 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 thereof shall have been paid up.

A.D. 1888.

Calls.

7. One-fifth of the amount of a share shall be the greatest amount of a call and two months at least shall be the interval between successive calls and four-fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipt in
case of per-
sons not sui
juris.

8. If any money is payable to a shareholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Application
of divisible
profits of
Extension.

9. The profits of the South Hams Extension applicable to dividend from time to time shall be applied in the first instance in payment of dividend on the South Hams Extension shares at the rate of six per centum per annum on the total amount from time to time paid up on those shares and (subject thereto and also subject to payment of dividend on such (if any) additional capital for any purposes of or in connection with the South Hams Extension as Parliament may hereafter sanction) the residue of those profits shall fall into and become part of the general profits of the Company.

South Hams
Extension
shares not
to participate
in general
profits.

10. The holders of South Hams Extension shares shall not in respect thereof have or be entitled to any interest or dividend out of any profits of the Company except the profits of the South Hams Extension.

For ascer-
taining divi-
sible profits.

11. The Company shall keep separate accounts of all receipts and payments from for or on account of the South Hams Extension and the balance of the gross receipts of the South Hams Extension which shall remain after deducting for expenses of working and management such a proportion (not exceeding sixty per centum per annum) of such gross receipts as shall be determined by any meeting of the Company before the issue of any South Hams Extension shares and also after deducting all interest on debenture stock or borrowed money for the time being secured or attaching upon the South Hams Extension and all rates rents and taxes payable on or in respect of the South Hams Extension shall for the purposes of this Act be deemed the profits of the South Hams Extension applicable to dividend and all the certificates of South Hams Extension shares shall be endorsed with notice of the provisions of this and the two preceding sections.

Power to
borrow.

12. The Company may from time to time borrow on mortgage for the purposes of the South Hams Extension on the sole security of the profits of that undertaking as aforesaid any sum not exceeding in the whole fifty thousand pounds but no part of any

such sum of fifty thousand pounds shall be borrowed until the whole of the capital of one hundred and fifty thousand pounds is issued and accepted and one-half thereof is paid up and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for the whole of such capital have been issued and accepted and that one-half thereof has been paid up and that not less than one-fifth part of the amount of each separate share has been paid on account thereof before or at the time of the issue or acceptance thereof and that such capital was issued bonâ fide and is held by the persons or corporations to whom the same was issued or their executors administrators successors or assigns and that such persons or corporations 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. A.D. 1888.

13. The mortgagees of the Company under this Act may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver of the profits of the South Hams Extension as aforesaid In order to authorize 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 two thousand pounds in the whole. For appointment of a receiver.

14. The mortgages and debenture stock from time to time granted or created and issued by the Company under this Act shall only comprise and affect the profits of the undertaking upon which the same are charged and the mortgages and debenture stock granted or created and issued or to be granted or created and issued by the Company under any Act already passed other than this Act shall not comprise or affect the South Hams Extension undertaking. Rights of mortgagees.

15. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 and such debenture stock with the interest thereon shall be exclusively charged upon the profits of the South Hams Extension undertaking but notwithstanding anything in the said Act contained the interest of all debenture stock and of all mortgages charged upon the profits of the South Hams Extension undertaking at any time created and issued or granted by the Company under this or Power to create debenture stock.

A.D. 1888. — any subsequent Act shall subject to the provisions of any subsequent Act rank *pari passu* (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorized) and shall have priority over all principal moneys secured by such mortgages and every mortgage deed granted and all certificates of debenture stock issued by the Company under this Act shall be endorsed with notice of the provisions of this section.

Application of moneys. 16. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only for the purposes of this Act to which capital is properly applicable.

Land for extraordinary purposes. 17. The Company may take for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 any quantity of land not exceeding five acres but nothing in this Act shall exonerate the Company from any action indictment or other proceeding for nuisance in the event of any nuisance being caused by them upon any lands taken under the powers of this section.

Period for compulsory purchase of lands. 18. 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.

Power to owners to grant easements. 19. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement (not being an easement of water) right or privilege required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges as far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Restriction on displacing persons of the labouring class. 20. The Company shall not under the powers of this Act without the consent of the Local Government Board purchase or acquire in any city borough or other urban sanitary district or in 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:

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.

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21. The Company may make the arches of the bridges for
carrying the railway over the roads next herein-after mentioned of
any heights and spans not less than the heights and spans herein-
after mentioned in connection therewith respectively (that is to
say):—

Height and
span of
bridges.

No. on deposited Plan.	Parish.	Description of Road.	Height.	Span.
10	Plympton St. Mary	Public	12 feet	12 feet
19	Brixton	Public	15 feet	15 feet
40	Brixton	Public	15 feet	15 feet
30	Newton Ferrers	Public	15 feet	15 feet
1A	Ermington	Public	15 feet	12 feet
62	Ermington	Public	15 feet	25 feet
82	Ermington	Public	15 feet	15 feet
6	Modbury	Public	15 feet	20 feet

22. In altering for the purposes of this Act the roads next
herein-after mentioned the Company may make the same of any
inclinations not steeper than the inclinations herein-after mentioned
in connection therewith respectively (that is to say):—

Inclination
of certain
roads.

No. on deposited Plan.	Parish.	Description of Road.	Intended Inclination.
84	Plymstock	Public	1 in 12
19	Brixton	Public	1 in 15
60	Ermington	Public	1 in 10
82	Ermington	Public	1 in 15
6	Modbury	Public	1 in 9

23. The Company may make the roadway over the bridges by
which the following roads will be carried over the railway of such
width between the fences thereof as the Company think fit not being
less than the width herein-after mentioned in connection therewith
(that is to say):—

Width of
roadway.

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No. on deposited Plan.	Parish.	Description of Road.	Width of Roadway.
60	Plymstock	Public	15 feet
84	Plymstock	Public	15 feet
107	Plymstock	Public	15 feet
7	Brixton	Public	20 feet
45	Brixton	Public	15 feet
34	Yealmpton	Public	15 feet
56	Yealmpton	Public	25 feet
84	Yealmpton	Public	15 feet
12	Ermington	Public	15 feet
40	Ermington	Public	15 feet
60	Ermington	Public	15 feet
105	Ermington	}	20 feet
1	Modbury		
28	Modbury		

Extension to be worked in an efficient manner.

24. After the opening of the railway for public traffic the Company or any company for the time being working the railway shall work the same and convey traffic thereon in a proper manner and so as fairly to accommodate and develop the traffic of the district to be served thereby In case any difference shall arise between the Company and any other company or companies for the time being working the railway or between the Company and any of the holders of South Hams Extension shares issued under the powers of this Act with respect to the working or non-working or insufficient working of the railway or otherwise in relation thereto such difference shall be settled by an arbitrator to be appointed by the Board of Trade on the application of either party and such arbitrator shall have full power to settle and determine any such difference and to order the Company or the company or companies for the time being working the railway to do or to abstain from doing all such acts matters and things as he shall think fit and to make such order with respect to the costs of such arbitration as he shall think just In case the Company or the company or companies for the time being working the railway make default in complying with any of the requirements of any such order within the time thereby prescribed then and in every such case the Company so making default shall for every such default be liable to a penalty not exceeding fifty pounds and to a further penalty not exceeding fifty pounds for every day (after the first) during which such default shall continue.

25. Whereas pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her present Majesty chapter twenty a sum of six thousand three hundred pounds being five per centum upon the amount of the estimate in respect of the railway has been deposited with the Paymaster General for and on behalf of the Supreme Court of Judicature in England in respect of the application to Parliament for this Act (which sum is in this Act referred to as "the deposit fund") Be it enacted that notwithstanding anything contained in the said Act the said deposit fund shall not be paid or 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 (which persons survivors or survivor are or is in this Act referred to as "the depositors") unless the Company shall previously to the expiration of the period limited by this Act for completion of the railway open the same for the public conveyance of passengers Provided that if within such period as aforesaid the Company open any portion of the railway for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of the railway opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the railway so opened bears to the entire length of the railway the High Court of Justice in England shall on the application of the depositors or the majority of them order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein 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.

A.D. 1888.
 Deposit money not to be repaid except so far as railway opened.

26. If the Company do not previously to the expiration of the period limited for the completion of the railway complete the same and open it for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the London Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or any portion thereof or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act and for which injury or loss no compensation or

Application of deposit.

A.D. 1888. — inadequate compensation has been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the High Court of Justice in England may seem fit and if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the court 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 court 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 or 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. Provided that until the deposit fund has been repaid to the depositors or has become otherwise applicable as herein-before mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.

Period for completion of works. **27.** If the railway is 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 executing the railway or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed.

Power to apply funds. **28.** The Company may apply for any of the purposes of the Plymouth and Dartmoor Railway Act 1875 the Plymouth and Dartmoor Railway Act 1882 and of the Plymouth and Dartmoor Railway Act 1883 and of this Act to which capital is properly applicable any moneys which they are authorized to raise by the Act of 1865 whether by shares stock debenture stock or borrowing.

Classification table to be open to inspection and copies to be sold. **29.** The book tables or other documents in use for the time being containing the general classification of goods carried by goods or merchandise train on the railway of the Company shall during all reasonable hours be open to the inspection of any person without the payment of any fee at every station at which goods or merchandise are received for transmission and such book tables or other document as annually revised shall be kept on sale at the principal office of the Company at a price not exceeding one shilling :

The Company shall within one week after application in writing made to the secretary of the Company by any person interested in the carriage of any goods which have been or are intended to be carried over the railway render an account to the person so applying in which the charge made or claimed by the Company for the carriage of such goods shall be divided and the charge for conveyance over the railway shall be distinguished from the terminal charges (if any) and if any terminal charge is included in such account the nature and detail of the terminal expenses in respect of which it is made shall be specified:

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Terminal charges (if any) to be specified on application.

If the Company fail to comply with the provisions of this section they shall for each offence and in the case of a continuing offence for every day during which the offence continues be liable to a penalty not exceeding five pounds which penalty shall be recovered and applied in the same manner as penalties imposed by section fourteen of the Regulation of Railways Act 1873.

Penalty.

30. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved by sections twenty-one and twenty-two of the Crown Lands Act 1866 and belonging to or exercisable on behalf of Her Majesty Her heirs or successors.

Saving rights of Crown under Crown Lands Act.

31. Nothing contained in this Act shall authorize the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exercisable by the Queen's Majesty Her heirs or successors.

Saving rights of the Crown in the fore-shore.

32. If in the course or by means of the execution of any of the works by this Act authorized any part of the shores or bed of the river Yealm belonging to Her Majesty shall be inned gained or reclaimed from the water the said Company shall not have or exercise any right upon the same or in respect thereof and shall not enter upon take use or interfere with the land so inned gained or reclaimed for any purpose whatsoever without the consent in writing of the Board of Trade on behalf of Her Majesty but such inning

Any land reclaimed by the works not to be taken without the consent of the Board of Trade.

A.D. 1888. — gaining or reclamation shall enure absolutely for the benefit of the Queen's Majesty Her heirs and successors.

Interest not
to be paid on
calls paid up.

33. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorized to raise 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.

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

34. The Company shall not out of any money by this Act authorized 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 authorizing the Company to construct any other railway or to execute any other work or undertaking.

Provision as
to general
railway Acts.

35. Nothing in this Act shall exempt the Company or their railway 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 authorized by this Act.

Costs of Act.

36. All costs charges and expenses of and incident to the preparing and applying for and the obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

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