



CHAPTER lxxiii.

An Act to confer further powers upon the Plymouth and Dartmoor Railway Company. A.D. 1891.
[3rd July 1891.]

WHEREAS by the Plymouth and Dartmoor Railway Act 1883 (hereinafter referred to as "the Act of 1883") the Plymouth and Dartmoor Railway Company (hereinafter referred to as "the Company") were authorised inter alia to construct the following railway (that is to say):—

A Railway No. 1 one mile six furlongs five chains and ninety links in length commencing in the parish of Laira Green in the county of Devon by a junction with the existing railway of the Company at a point thereon seventeen chains or thereabouts from and to the north-westward of the western abutments of the Laira Bridge and terminating at Turnchapel in the parish of Plymstock at or near the steamboat waiting-room and landing:

And whereas the Company have constructed a considerable portion of the said Railway No. 1 and have completed the bridge over the Laira but the time limited by the Act of 1883 for the exercise of the powers of compulsory purchase of lands for the purposes of that railway and for the completion of the works thereof expired on the second day of August one thousand eight hundred and eighty-six and, on the second day of August one thousand eight hundred and eighty-eight respectively and it is expedient that the powers of the Company with respect to the incompleted portions of Railway No. 1 so far as the same is not directed to be abandoned under the powers of this Act should be revived and the periods limited by the Act of 1883 be extended as hereinafter provided:

And whereas it is expedient that the Company be authorised to deviate a certain portion of the said Railway No. 1 and to abandon and relinquish the construction of so much of the said railway as will be rendered unnecessary by the construction of the deviation

[Ch. lxxiii.] *Plymouth and Dartmoor Railway* [54 & 55 Vict.]
Act, 1891.

A.D. 1891. railway by this Act authorised and that the deviation railway
— should for all purposes be deemed to be part of the railway of the
Company authorised by the Act of 1883 :

And whereas the sum of three thousand and twenty-five pounds being equal to five per centum upon the amount of the estimate for the railways authorised by the Act of 1883 (hereinafter referred to as "the deposit fund") was deposited with the Chancery Division of the High Court of Justice in respect of the application to Parliament for that Act But subject nevertheless to a proviso in section 19 of the said Act whereby provision was made for the release of a portion of such deposit fund on the opening of a portion of the railway and on the production of the certificate of the Board of Trade as therein mentioned :

And whereas by section 19 of the said Act the portion of the deposit that may in the circumstances therein mentioned be certified by the Board of Trade as the portion to be released is directed to bear the same proportion to the whole amount of the deposit fund as the length of the railway so opened bears to the entire length of the railway authorised but owing to the exceptional cost of the bridge over the Laira it is expedient that such proportion should be varied and that the same should be based upon rateable cost and not upon lineal measure and for that purpose it is expedient that such deposit fund should be apportioned as between the said bridge and completed portion and the incompleted portions of the said authorised undertaking and that the sum of one thousand two hundred and twenty pounds should be considered as the portion of the deposit fund in respect of the said bridge with its approaches and the sum of one thousand eight hundred and five pounds as the portion in respect of the remainder of the said authorised railways remaining to be completed and that the said first mentioned sum of one thousand two hundred and twenty pounds should be released upon the opening for traffic of the said bridge with its approaches and the said sum of one thousand eight hundred and five pounds should continue as a security fund for the completion of the said railways as deviated under the provisions of this Act (which said sum is hereinafter referred to as "the new deposit") :

And whereas by section twenty of the Act of 1883 it was provided that if the Company did not previously to the expiration of the period by that Act limited for the completion of the railways thereby authorised complete and open the same for the public conveyance of passengers then the said deposit fund or so much thereof as should not have been paid to the depositors should in the first instance be applicable toward compensating landowners or other persons whose

A.D. 1891.

property had been interfered with or injuriously affected and for which interference or injury no compensation or inadequate compensation should have been paid and that any surplus remaining over after the satisfaction of the claims of such landowners or other persons should be forfeited to Her Majesty or if the Company were insolvent should be applied for the benefit of the creditors of the Company :

And whereas the bridge across the Laira and its approaches so authorised by the Act of 1883 have been completed but have not as yet been opened for public traffic whereby the said deposit fund has become liable to be forfeited though such forfeiture has not been enforced and having regard to the circumstances under which such liability has been incurred it is expedient that such forfeiture should not be enforced but that the said deposit fund should be dealt with as continuing as hereinafter provided :

And whereas by the Plymouth and Dartmoor Railway Act 1888 (hereinafter referred to as "the Act of 1888") further powers were conferred upon the Company and they were inter alia authorised to construct a new railway to Modbury in the said county of Devon :

And whereas the powers granted by the Act of 1888 for the compulsory purchase of lands will expire on the twenty-eighth day of June one thousand eight hundred and ninety-one and the powers granted by the same Act for the completion of the railway and works thereby authorised will expire on the twenty-eighth day of June one thousand eight hundred and ninety-three and it is expedient that the periods so limited should be extended as hereinafter provided :

And whereas plans and sections showing the lines and levels of the deviation railway and works authorised by this Act 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 and are hereinafter 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 :—

[Ch. lxxiii.] *Plymouth and Dartmoor Railway* [54 & 55 VICT.]
Act, 1891.

A.D. 1891.

Short title.

1. This Act may be cited as the Plymouth and Dartmoor Railway Act 1891.

Incorporation of general Acts.

2. The Lands Clauses Acts the Railways Clauses Consolidation Act 1845 and Parts I. and II. of the Railways Clauses Act 1863 relating respectively to construction of a railway and extension of time are subject to the provisions of this Act incorporated with and form part of this Act.

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 and for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partially incorporated herewith shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Powers of the Act of 1883 revived and contracts &c. extended.

4. All the rights powers and authorities conferred upon the Company by the Act of 1883 for the construction and completion of the Railway No. 1 (except as to such portion as by this Act the Company is authorised to abandon) and the levying of tolls rates and charges thereon the compulsory purchase of such of the lands shown on the plans deposited in respect of the Act of 1883 which the Company require to take and use for the purposes of the Act of 1883 and all other powers in respect of the Railway No. 1 (except as aforesaid) shall be and the same are hereby revived and all contracts obligations and liabilities contracted or incurred by or imposed upon the Company in the exercise of the powers by the Act of 1883 conferred upon them with respect to the Railway No. 1 shall unless inconsistent with the provisions of this Act be and the same are hereby continued and made applicable to the Company.

Power to make deviation railway and works.

5. 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 deviation railway hereinafter described with all proper stations sidings 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 deviation railway hereinbefore referred to and authorised by this Act will be situate in the county of Devon and is as follows:—

A deviation railway six furlongs four chains in length commencing by a junction with the Railway No. 1 authorised by

the Act of 1883 in the parish of Plymstock in the county of Devon at the point four and a half furlongs or thereabouts on the said Railway No. 1 as shown on the plans deposited for and referred to in the Act of 1883 and terminating in the said parish by a junction with the Railway No. 1 at or near the point one mile three furlongs in the said parish as shown upon the said plans. A.D. 1891.

6. The railway by the Act of 1883 and this Act authorised shall be carried over Hooe Lake by a viaduct to be constructed with such opening span not exceeding forty feet and according to such plans as the Board of Trade shall direct or approve. Provisions as to viaduct over the Hooe Lake.

7. The Company may make the arches of the bridges for carrying the deviation railway over the road next hereinafter mentioned of any heights and spans not less than the heights and spans hereinafter mentioned in connection therewith respectively (that is to say) :— Height and span of bridges.

No. on deposited Plan.	Parish.	Description of Road.	Height.	Span.
9	Plymstock	Public road	16 feet -	30 feet.
45	Ditto	Ditto	15 feet -	15 feet.

8. The Company may make the roadway over the bridge by which the following road will be carried over the deviation railway of such width between the fences thereof as the Company think fit not being less than the width hereinafter mentioned in connection therewith (that is to say) :— Width of roadway.

No. on deposited Plan.	Parish.	Description of Road.	Width of Roadway.
72	Plymstock	Public road	15 feet.
86	Ditto	Ditto	15 feet.

9. 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 this Act grant to the Company any easement right or privilege (not being an easement of water) required for the purposes of this Act in over or affecting any such lands and Power to owners to grant easements.

A.D. 1891. — the provisions of the said Acts with respect to lands and rent-charges so far as the same are applicable in this behalf shall extend and apply to such grants easements rights and privileges as aforesaid respectively.

Restriction
on taking
houses of
labouring
class.

10. The Company shall not under the powers of this Act or of the Act of 1883 or of the Act of 1888 as revived or extended by 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 next before the passing of this Act or of the Act of 1883 or of the Act of 1888 as the case may be were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

The expression "labouring class" in this section includes mechanics artizans 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.

Period for
compulsory
purchase of
lands.

11. The powers of the Company for the compulsory purchase of lands for the purposes of the Act of 1883 and of this Act as the case may be shall cease after the expiration of two years from the second day of August one thousand eight hundred and ninety-one.

Extending
period for
completion
of Railway
No. 1 as
deviated.

12. The period limited by the Act of 1883 for the completion of the railways thereby authorised is hereby extended to three years from the second day of August one thousand eight hundred and ninety-one with respect to so much of Railway No. 1 as is not abandoned under the provisions of this Act and that period shall for all purposes be deemed to be the period originally limited for the completion of the said railway and if the same together with the deviation railway by this Act authorised be not then completed then at the expiration of that period the powers granted to the Company for making and completing the same or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

Extension of
powers for
compulsory
purchase of
land under
Act of 1888.

13. The powers of the Company under the Act of 1888 for the compulsory purchase of lands for the purposes of the railway and works thereby authorised are hereby extended and may be exercised at any time within but not after the expiration of two years from

the twenty-eighth day of June one thousand eight hundred and ninety-one. A.D. 1891.

14. The period limited by the Act of 1888 for the completion of the railway and works thereby authorised is hereby extended to three years from the twenty-eighth day of June one thousand eight hundred and ninety-one and that period shall for all purposes be deemed to be the period originally limited for the completion of the said railway and if the same be not then completed then at the expiration of that period the powers granted to the Company for making and completing the same or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

Extending
period for
completion
of railway
authorised
by Act of
1888.

15. Notwithstanding anything in the Act of 1883 contained the deposit fund shall not be forfeited as provided by that Act but shall form a new deposit fund under the powers of this Act and shall remain as a security for the completion of Railway No. 1 as deviated and authorised to be completed under the powers of this Act in accordance with and subject to the provisions of sections nineteen and twenty of the Act of 1883 as varied by this Act as if the said sum had never been liable to forfeiture and the provisions of the said section nineteen of the Act of 1883 as to the payment or transfer of the deposit fund therein mentioned or of a proportionate part or parts thereof upon the railways authorised by the Act of 1883 being completed and opened for the public conveyance of passengers and all other provisions of the said section and of section twenty of the same Act shall except as varied by this Act be applicable in all respects to the aforesaid portion of the deposit fund and to Railway No. 1 as deviated under the provisions of this Act Provided always that for the purposes of the said sections nineteen and twenty the deviation railway hereby authorised shall be deemed to be the equivalent of the portion of Railway No. 1 abandoned under the provisions of this Act Provided also that the sum of one thousand two hundred and twenty pounds shall be considered as the portion of the deposit fund applicable to the bridge over the Laira with its approaches and if within the period by this Act limited the Company shall open such bridge with its approaches for the public conveyance of passengers then on the production of a certificate of the Board of Trade that such bridge and approaches are so open which certificate the Board of Trade are hereby authorised to grant the Chancery Division shall on the application of the depositors or the majority of them order such sum to be paid or transferred to them or as they shall direct as if it were a portion of deposit fund by such section authorised to be released.

As to new
deposit
fund.

[Ch. lxxiii.] *Plymouth and Dartmoor Railway* [54 & 55 Vict.]
Act, 1891.

A.D. 1891.

Application
of new
deposit
fund.

16. 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 new 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 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 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 if the Company is insolvent and has been ordered to be wound up or the undertaking has been abandoned or a receiver has been appointed be paid or transferred to such receiver or to the liquidator or liquidators of the Company or be applied in the discretion of the court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid or retransferred to the depositors. Provided that until the new deposit fund has been repaid to the depositors or has become otherwise applicable as hereinbefore 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.

Deviation
railway to
be part of
the Com-
pany's
undertaking.

17. Subject to the provisions herein contained the lands and property from time to time acquired by the Company under the powers of this Act and the deviation railway and works connected therewith by this Act authorised to be constructed shall for all purposes be part of the lands railway works and property of the Company as if the Company had by the Act of 1883 been authorised to acquire make and maintain the same.

Company
may
abandon
portions of
authorised
line.

18. The Company may and shall abandon the construction of so much of the Railway No. 1 as lies between the points of commencement and termination respectively hereinbefore described of the deviation railway by this Act authorised.

19. The abandonment by the Company under the authority of this Act of the said portion of railway shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels or probing or boring to ascertain the nature of the soil or setting out of the line of railway and shall not prejudice or affect the right of the owner or occupier of any land which has been temporarily occupied by the Company to receive compensation for such temporary occupation or for any loss damage or injury which has been sustained by such owner or occupier by reason thereof or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation Act 1845 or the Act of 1883.

A.D. 1891.
Compensation for damage to land by entry &c. for purposes of portion of railway abandoned.

20. Where before the passing of this Act any contract has been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to the portion of railway by this Act authorised to be abandoned the Company shall be released from all liability to purchase or to complete the purchase of any such lands but notwithstanding full compensation shall be made by the Company to the owners and occupiers or other persons interested in such lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to such contract or notice and the amount and application of the compensation shall be determined in manner provided by the Lands Clauses Consolidation Act 1845 as amended by any subsequent Act for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Compensation for non-completion of contracts in respect of portion of railway abandoned.

21. Nothing contained in this Act shall extend to authorise the Company to take use enter upon or interfere with any land soil or water or any rights in respect thereof belonging to Her Majesty Her heirs or successors in right of the Duchy of Cornwall without the consent in writing of some two or more of such of the regular officers of the said duchy or of such other persons as may be duly authorised under the provisions of the Duchy of Cornwall Management Act 1863 section 39 to exercise all or any of the rights powers privileges and authorities by the said Act made exerciseable or otherwise for the time being exerciseable in relation to the said duchy or belonging to the Duke of Cornwall for the time being without the consent of such duke testified in writing under the seal of the Duchy of Cornwall first had and obtained for that purpose or to take away diminish alter prejudice or affect any property rights profits privileges powers or authorities vested in or enjoyed

Saving the rights of the Duchy of Cornwall.

[Ch. lxxiii.] *Plymouth and Dartmoor Railway* [54 & 55 VICT.]
Act, 1891.

A.D. 1891. — by Her Majesty Her heirs or successors in right of the Duchy of Cornwall or in or by the Duke of Cornwall for the time being.

Saving for
Postmaster-
General.

22. Nothing in any agreement made between the Company and the London and South-Western Railway Company under the authority of any Act relating to the Company shall affect the rights of Her Majesty's Postmaster-General under the Telegraph Act 1878 to place and maintain telegraphic lines in under upon along over or across the railways and works comprised in the undertaking of the Company and from time to time to alter such telegraphic lines and to enter upon the land and works comprised in such undertaking for the purposes in the Telegraph Act 1878 specified and the Postmaster-General shall after the making of any such agreement be at liberty to exercise all the rights aforesaid notwithstanding that the undertaking of the Company or any part thereof is worked by the London and South-Western Railway Company as freely and fully in all respects as he was entitled to do before the making of any such agreement.

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

23. 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 to 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.

Interest not
to be paid
on calls paid
up.

24. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised 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.

Provision
as to general
railway Acts.

25. Nothing in this Act contained shall exempt the Company or the railways of the Company from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised by the Acts of the Company.

[54 & 55 VICT.] *Plymouth and Dartmocr Railway* [Ch. lxxiii.]
Act, 1891.

26. All costs charges and expenses of and incident to the A.D. 1891,
preparing for obtaining and passing of this Act or otherwise in Costs of Act.
relation thereto shall be paid by the Company.

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