CHAPTER cxci.

An Act for enabling the Bodmin and Wadebridge Railway Company to exercise the powers of altering and improving the Bodmin and Wadebridge Railway contained in "The Bodmin and Wadebridge and Delabole Railway Act, 1873;" and for other purposes. [7th August 1874.] A.D. 1874.

WHEREAS by "The Bodmin and Wadebridge and Delabole Railway Act, 1873," (in this Act called "the Delabole Act,") "The Bodmin and Wadebridge and Delabole Railway Company" (in this Act called "the Delabole Company") were incorporated, and were authorised, amongst other works, to make and maintain ten railways, therein respectively described as deviation railways Nos. 1 to 10, which were in fact deviations of the existing railway of the Bodmin and Wadebridge Railway Company (in this Act called "the Company"), and were authorised to raise a share capital of one hundred and eighty thousand pounds, and to borrow on mortgage sixty thousand pounds: 36 & 37 Vict. c. ccxlix.

And whereas the Company are desirous and it is expedient that they be authorised to make and maintain the said deviation railways (which are in this Act referred to as "the deviation railways") instead of the Delabole Company:

And whereas it is expedient that the powers of the Delabole Act with respect to the deviation railways be transferred to and vested in the Company upon and subject to the conditions in this Act contained in that behalf:

And whereas it appears from the estimate of expense deposited in the Private Bill Office of the House of Commons, as required by the standing orders of that honourable House, with reference to the application to Parliament for the Delabole Act, that the estimated cost of the deviation railways amounted in the whole to eighty-seven thousand seven hundred and eight pounds thirteen shillings and fivepence:

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And whereas the Delabole Company have not raised any portion of their authorised capital and have not borrowed any money on mortgage:

28 & 29 Vict. c. cccIxx.

And whereas by "The Bodmin and Wadebridge Railway Act, 1865," (in this Act called "the Act of 1865,") the Company were authorised to construct deviation railways identical or nearly identical with those authorised by the Delabole Act, and to raise for that purpose seventy-five thousand pounds by shares and twenty-five thousand pounds by borrowing, but the Company have not raised any money under the Act of 1865, and it is expedient that for the purposes of this Act they be empowered to raise, borrow, and apply the moneys which by the Act of 1865 they were authorised to raise and borrow:

And whereas it is expedient that the share capital and borrowing powers of the Delabole Company be reduced:

And whereas it is expedient that the Company be authorised to abandon and relinquish so much of their existing railway as may be rendered unnecessary by the construction of the deviation railways:

36 & 37 Vict. c. ccl.

And whereas by "The Cornwall Mineral and Bodmin and Wadebridge Junction Railway Act, 1873," (in this Act called "the Cornwall Company's Act,") the Cornwall Mineral and Bodmin and Wadebridge Junction Railway Company (in this Act called "the Cornwall Company") were incorporated, and were authorised to construct railways to communicate with the existing railway of the Company:

And whereas it is expedient that the Company and the London and South-western Railway Company (in this Act called "the South-western Company") be respectively authorised, when the deviation railways are completed and opened for traffic, to run over, work, and use the railways of the Delabole Company and the Cornwall Company respectively, and that such provision be made as is in that behalf contained in this Act for the user of the railways of the Company by the Delabole Company and the Cornwall Company:

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:

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Short title.

1. This Act may be cited as "The Bodmin and Wadebridge Railway (Deviations) Act, 1874."

Powers of Delabole Company with reference to deviation railways vested in Company.

2. On the passing of this Act, all the rights, powers, and authorities of the Delabole Company under or by virtue of the Delabole Act with reference to the deviation railways and each of them, and every part thereof respectively, are by this Act transferred to and vested in the Company, and may thenceforth be exercised and enjoyed by the Company accordingly.

Lands and works previously acquired and executed vested in Company.

3. All lands, tenements, and hereditaments which may have been acquired and all works which may have been executed by the Delabole Company for the purposes of the deviation railways, or any of them, or any part or parts thereof respectively, previously to the vesting, are upon the vesting by this Act transferred to and vested in the Company for all the estate and interest of the Delabole Company therein respectively.

Saving conveyances, contracts, &c.

4. All deeds, conveyances, grants, assignments, leases, purchases, and sales, mortgages and bonds (not being mortgages or bonds granted by the Delabole Company), covenants, agreements, contracts, and securities which before the passing of this Act have been executed, made, or entered into for the purposes of or with reference to the deviation railways by, with, to, or in relation to the Delabole Company, or the directors thereof, and which are in force at the time of the passing of this Act, and all obligations and liabilities which before the passing of this Act have been incurred for the purposes of or with reference to the deviation railways by or to, or which but for the passing of this Act might or would have arisen in relation to the Delabole Company, or the directors thereof, shall, after the passing of this Act, be as valid and of as full force and effect in favour of, against, or in relation to the Company as if the same had been executed, made, or entered into by, with, or to, or in relation to, or had been incurred by or to, or had arisen in relation to, the Company by name.

Causes and rights of action reserved.

5. All causes and rights of action or suit accrued before the passing of this Act in relation to the deviation railways, and then in any manner enforceable by, for, or against the Delabole Company, shall, after the passing of this Act, be and remain as good, valid, and effectual for or against the Company as they would or might have been for or against the Delabole Company affected thereby if this Act had not been passed.

Actions not to abate.

6. Nothing in this Act shall cause the abatement, discontinuance, or determination of or in anywise prejudicially affect any action, suit,

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or other proceeding at law or in equity commenced by or against the Delabole Company, either solely or jointly with any other company or with any person, before the passing of this Act, and then pending, but the same, so far as they relate to the deviation railways, may, after the passing of this Act, be continued, prosecuted, or enforced by or against the Company either solely or, as the case may require, jointly with such other company or with such person.

Saving submissions and awards.

7. No submission to arbitration of any matter in dispute in relation to the deviation railways between the Delabole Company and any other company or any person, under which any reference is pending and incomplete at the time of the passing of this Act, and no award theretofore made and then remaining in force, shall be revoked or prejudicially affected by anything in this Act contained, but every such submission and award shall after the passing of this Act be as valid and effectual for or against the Company as it would have been for or against the Delabole Company.

Contracts for land entered into to be executed.

8. Where the Delabole Company has, under the Delabole Act, for the purposes of the deviation railways entered into any contract for the purchase of, or taken or used any lands which at the time of the passing of this Act have not been effectually conveyed to the Delabole Company, or the purchase money in respect of which has not been duly paid by them, then and in every such case the contract, if in force at the time of the passing of this Act, shall thereafter be completed by and such lands shall be conveyed to the Company, or as they direct, and the purchase money shall be paid and applied pursuant to the Delabole Act, and that Act shall, in relation to the completion of the contract and the purchase and conveyance of the lands, and the payment and application of the purchase money in respect thereof, be read and construed as if the Company were the company named in the Act and contract.

Application of moneys paid into Bank or to trustees.

9. Where any money has, before the passing of this Act, been paid by the Delabole Company, or is thereafter paid by the Company under the Delabole Act or this Act in relation to the deviation railways, into the Bank of England, or to any trustee or trustees on account of the purchase of any lands or any interests therein, or for any compensation or satisfaction, or on any other account relating to the deviation railways, such moneys, or the stocks, funds, or securities in or upon which the same then is or thereafter may be invested by order of any court or otherwise, and the interest, dividends, and annual produce thereof, shall be applied and disposed of pursuant to the Delabole Act, and that and every other Act shall,

in relation to such money, stocks, funds, or securities, or the interest, dividends, or annual produce thereof, be, after the passing of this Act, read and construed as if the Company were the company therein named with reference to the same money, stocks, funds, securities, interest, dividends, or annual produce. A.D. 1874.

General saving of rights and claims.

10. Notwithstanding the transfer and vesting, everything before the time of the transfer and vesting done, suffered, and confirmed respectively under or by virtue of any Act relating to the Delabole Company shall be as valid as if this Act had not been passed, and the transfer and vesting and this Act respectively shall accordingly be subject and without prejudice to everything so done, suffered, and confirmed respectively, and to all rights, liabilities, claims, and demands, present or future, which, if the transfer and vesting had not taken place, and this Act had not been passed, would be incident to or consequent on anything so done, suffered, and confirmed respectively; and with respect to all things so done, suffered, and confirmed respectively, and to all such rights, liabilities, claims, and demands, the Company shall to all intents represent the Delabole Company; and the generality of this present provision shall not be deemed to be restricted by any other of the provisions of this Act.

Share capital of Delabole Company reduced.

11. The capital which by the Delabole Act the Delabole Company are authorised to raise by means of shares is by this Act reduced to the sum of one hundred and twenty thousand pounds.

Borrowing powers of Delabole Company reduced.

12. The amount which the Delabole Company may borrow on mortgage is by this Act reduced from the sum of sixty thousand pounds to the sum of forty thousand pounds, and section 18 of the Delabole Act shall thenceforth be read and have effect as if the said sum of forty thousand pounds had been mentioned therein instead of the said sum of sixty thousand pounds, and as if the said sum of one hundred and twenty thousand pounds had been mentioned therein instead of the sum of one hundred and eighty thousand pounds.

Abandonment of portions of railway rendered unnecessary by deviations.

13. When and as the several deviation railways are completed and opened for public traffic, the Company shall abandon and discontinue the user of the several portions of their main line and branch railways respectively which are by the making of the several deviation railways rendered unnecessary as portions of the line of their main and branch railways respectively: Provided that the Company from time to time may adapt for the purposes of and use as sidings or otherwise, for the purposes of their railway, such parts as they think fit of the portions of railway so abandoned.

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Deviation railways substituted for portions of railway abandoned.

14. For all purposes of the Company's undertaking the several deviation railways, when completed and opened for public use, shall be by this Act substituted for the several portions of railways by this Act authorised to be abandoned, and shall be part of the Company's main and branch lines of railway, as if those several railways respectively had been part of the Company's main and branch lines of railway respectively, as originally authorised, and the Company may from time to time demand and take in respect of their said main and branch lines of railway, including the deviation railways, any tolls, rates, and charges not exceeding those specified in the Act of 1865.

Power for Company to use sites of portions of railway abandoned.

15. The sites of the portions of railway so abandoned shall continue vested in the Company until they dispose of the same, and they from time to time may appropriate and use for the purposes of their undertaking such parts thereof as they think fit, and may discontinue the appropriation and user thereof.

Power for Company to sell the sites.

16. The Company from time to time, as and when they think fit, may sell and absolutely dispose of all such parts as they think fit of the sites of the portions of railway so abandoned, and which they from time to time do not so appropriate and use, or the appropriation and user of which they from time to time discontinue, and the provisions of the sections of "The Lands Clauses Consolidation Act, 1845," numbered one hundred and twenty-seven to one hundred and thirty-two (both numbers inclusive), with respect to the sale of superfluous land, shall apply to the sales so to be made by the Company.

Application of moneys raised by sales.

17. The net moneys produced by those sales shall be applied as if the same were moneys raised under this Act by the Company by the creation and issue of new shares: Provided that no purchaser paying his purchase money to the Company and taking the receipt of their treasurer for the same shall be bound or at liberty to inquire as to the application thereof.

Power to Company to apply and raise moneys.

18. For the purposes of this Act the Company may raise, borrow, and apply any moneys which they are already authorised to raise and borrow (including the sums which by the Act of 1865 the Company were authorised to borrow), and which may not be required by them for the purposes of their undertaking.

Penalty imposed unless the deviation railways are opened within the

19. If the Company fail within the period limited by the Delabole Act in that behalf to complete the deviation railways, the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railway is

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completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per centum on eighty-seven thousand seven hundred and eight pounds thirteen shillings and fivepence, the estimated cost of the works as aforesaid, and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act, or by the Solicitor of Her Majesty's Treasury, 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 that section, to an account opened or to be opened in the name and with the privity of Her Majesty's Paymaster General, on behalf of the Court of Chancery in England, in the bank specified in such warrant or 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 such line by unforeseen accident or circumstances beyond their control, provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

time limited by the Delabole Act.

Application of penalty.

20. 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 rendered less valuable by the commencement, construction, or abandonment of the deviation railways, or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property transferred to the Company by this Act, 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 Court of Chancery in England 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 or transferred to or for the account of Her Majesty's Exchequer in such manner as the Court of Chancery in England thinks fit to order on the application of the Solicitor

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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 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.

Release of part of money deposited under Delabole Act.

21. On the application of the persons named in the warrant or order issued in pursuance of the Act of the ninth year of Her present Majesty, chapter twenty, in respect of the application to Parliament for the Delabole Act, or of the survivors or survivor of them, or of the majority of such persons or survivors, or of the executors or administrators of the last survivor, by petition in a summary way, at any time after the passing of this Act, the High Court of Chancery may and shall order that so much of the sum of nine thousand seven hundred and thirty pounds Three per Centum Consolidated Bank Annuities mentioned in the 38th section of the Delabole Act, and the interest and dividends thereof, as bears to the whole of the said sum, interest, and dividends the same proportion as the sum of eighty-seven thousand seven hundred and eight pounds thirteen shillings and fivepence (the estimated expense of the deviation railways) bears to the sum of one hundred and seventy-nine thousand and forty-five pounds six shillings and threepence (the estimated expense of the whole of the works authorised by the Delabole Act), shall be transferred and paid to the persons or person so applying, or to any other person or persons whom they or he may appoint in that behalf, and the 38th and 39th sections of the Delabole Act shall operate and have effect with reference only to the balance of the said sum of nine thousand seven hundred and thirty pounds annuities and the interest and dividends thereof.

Power to use portion of Delabole Railway.

22. When and so soon as the deviation railways are completed and opened for traffic, and after one calendar month's notice shall have been given (either before or after the opening of the deviation railways) to the Delabole Company and the Cornwall Company, or to either of those companies, by the Company and the South-western Railway Company (in this Act called the South-western Company), or either of them, of the intention of the companies or company giving the notice to exercise the powers conferred upon them by this section, then the Company and the South-western Company, and each of them, may run over, work, and use, with their engines and carriages and their officers and servants, whether in charge of engines or trains or for any other purpose whatsoever,

and for traffic of every description, the railways of the Delabole Company and the Cornwall Company respectively if the notice was given to both of the companies, or the railways of the Delabole Company if the notice was given to that company alone, or the railways of the Cornwall Company if the notice was given to the Cornwall Company alone, and the stations, roads, platforms, warehouses, goods sheds, water, water engines, engine sheds, standing room for engines, junctions, points, signals, sidings, machinery, works, and conveniences of or connected with those railways respectively; and as regards traffic conveyed by them thereon, the Company or, as the case may be, the South-western Company may demand and take the same tolls and charges upon and in respect of the said railways and stations as the Delabole Company or, as the case may be, the Cornwall Company are authorised to take thereon.

Terms of such user.

23. The terms, conditions, and regulations to be observed and fulfilled, and the tolls, charges, rent, or other consideration to be paid by the Company or, as the case may be, the South-western Company for and in respect of the use of the said railways, stations, works, and conveniences, shall be such as are from time to time agreed upon between the companies interested, or, failing such agreement, as may from time to time be determined by an arbitrator to be appointed by the Board of Trade on the application of either of the companies interested, and the costs of the arbitration shall be in his discretion, and the decisions of the arbitrator shall be final and binding on all parties.

Conditional running powers over Company's railways to Delabole Company and Cornwall Company.

24. If the Company and the South-western Company, or either of them; shall give notice as aforesaid of their intention to run over, work, and use the railways of the Delabole Company and the Cornwall Company, or of either of those companies, the companies or the company, as the case may be, to whom the notice shall have been so given may run over, work, and use, with their engines and carriages and their officers and servants, whether in charge of engines or trains, or for any other purpose whatever, and for traffic of every description, the railways of the Company (including the deviation railways if constructed by the Company), and the stations, roads, platforms, warehouses, goods sheds, water, water engines, engine sheds, standing room for engines, junctions, points, signals, sidings, machinery, works, and conveniences of or connected with those railways; and as regards traffic conveyed by them thereon, the Delabole Company or (as the case may be) the Cornwall Company may demand and take the same tolls and charges upon and in respect of the said railways and stations as the Company are autho-

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rised to take thereon: Provided (first) that the Delabole Company shall not exercise the powers conferred upon them by this section unless nor until they shall have completed and opened for traffic their authorised railway other than the deviation railways; and (secondly) that the Cornwall Company shall not exercise the powers conferred upon them by this section unless nor until they shall have completed and opened for traffic their authorised railways; and (thirdly) that the powers by this section conferred upon the Delabole Company and the Cornwall Company shall be exercised by one only of those companies at any one time, and by that one of them only whom they shall from time to time agree and shall from time to time specify in writing to the Company.

Terms of such user.

25. The terms, conditions, and regulations to be observed and fulfilled, and the tolls, charges, rent, or other consideration to be paid by the Delabole Company or (as the case may be) the Cornwall Company for and in respect of the use of the railways, stations, works, and conveniences of the Company, shall be such as are from time to time agreed between the companies interested, or, failing such agreement, as may from time to time be determined by an arbitrator to be appointed by the Board of Trade on the application of either of the companies interested, and the costs of the arbitration shall be in his discretion, and the decisions of the arbitrator shall be final and binding on all parties.

Tolls on traffic conveyed partly on the railway of one company and partly on the railways of another company.

26. Whilst and so long as under the provisions of this Act any railway company mentioned in this Act run over, work, or use the railways or any part of the railways of any other company mentioned in this Act, the railways of the two companies 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 railway of the one company and partly on the railway of the other 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 railway of the one company and partly on the railway of the other company.

Interest not to be paid on calls paid up.

27. 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."

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

28. 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.

Company or railway not exempt from provisions of present and future general Acts.

29. Nothing in this Act contained shall exempt the Company or the 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, authorised by this Act.

Expenses of Act.

30. 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.

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