CHAPTER cxi.

An Act for conferring further Powers upon the Devon and Cornwall Railway Company for the Construction of Works and the raising of Money, and otherwise in relation to their Undertaking and the Undertakings of other Companies; and for other purposes. [7th July 1873.] A.D. 1873.

WHEREAS the making and maintaining of additional railways at and near Plymouth and Devonport in the county of Devon would be of public and local advantage, and by the Bill deposited for this Act it was proposed that the Devon and Cornwall Railway Company (in this Act called "the Company") should be authorised to construct a railway from the South Devon Railway near Plymouth to the Friary Gardens, Plymouth, and another railway from a point on the said last-mentioned railway near the said Friary Gardens to Devonport:

And whereas by a Bill (herein-after called the South Devon Bill) promoted by the South Devon Railway Company (in this Act called the South Devon Company) it was proposed that that Company should be authorised to construct the railway therein and in this Act called the Friary Station Branch:

And whereas by another Bill (herein-after called the associated companies Bill) promoted by the Great Western Railway Company, the Bristol and Exeter Railway Company, and the South Devon Railway Company (in this Act called the associated companies) it was proposed that the associated companies should be authorised to construct the railway therein and in this Act called the Devonport Branch:

And whereas the construction and maintenance by the Company of the Friary Station Branch and the Devonport Branch, with running powers over portions of the South Devon and Cornwall Railways, and the adaptation of those portions to the passage of engines and carriages on the narrow gauge, with other facilities for

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traffic, and the further powers conferred by this Act, will effectuate the objects originally intended to be accomplished by the Bill for this Act, and it is expedient that the provisions by this Act made with respect to the purposes aforesaid be made, and that the same be substituted for the powers of construction of the said railways to Friary Gardens and to Devonport originally intended to be authorised by the Bill for this Act:

And whereas it is expedient that the Company be authorised to make and maintain the extension of the Devonport Branch and the approach road herein-after respectively described:

And whereas it is expedient that the Company be authorised to raise further moneys for the purposes of this Act:

And whereas it is expedient that the Company and the London and South-western Railway Company be authorised to enter into working and other agreements as by this Act provided:

And whereas it is expedient that the heads of arrangement between the Company and the South Devon Company (a copy of which is set forth in the schedule to this Act) be confirmed:

And whereas it is expedient that other provisions be made with respect to the matters aforesaid as herein-after contained:

And whereas plans and sections of the proposed railways and approach road, showing the lines and levels thereof and the lands which may be taken for the purposes of this Act, and also books of reference to the plans, containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the lands, have been deposited in respect of the Bill for this Act, and of the South Devon Bill and the associated companies Bill respectively, with the clerk of the peace for the county of Devon, and those plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books of reference:

And whereas the objects 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:

Short title.

1. This Act may be cited as "The Devon and Cornwall Railway (Extensions to Plymouth and Devonport) Act, 1873."

Provisions of general Acts herein named incorporated.

2. 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 nonpayment 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, and 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," "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," "The Railways Clauses Consolidation Act, 1845," and Part I. (relating to construction of a railway) and Part III. (relating to working agreements) of "The Railways Clauses Act, 1863," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expressions "the railway" and "the undertaking" mean respectively the railways and the undertaking by this Act authorised; the expression "the Sutton Harbour Branch" means the Sutton Harbour Branch Railway of the South Devon Company as authorised to be extended and improved by "The South Devon Railway Act, 1872;" 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.

Power to make railways and road according to deposited plans.

4. Subject to the provisions of this Act, the Company may make and maintain, in the lines and according to the levels shown on the deposited plans and sections, the railways and road herein-after 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 the purpose. The railways and road herein-before referred to and authorised by this Act are—

A railway, No. 1, Friary Station Branch (being the Friary Station Branch shown on the plans and sections deposited in respect of the South Devon Bill), seven furlongs four chains and

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seventy links in length, commencing by a junction with the Sutton Harbour Branch in the parish of Laira Green, and terminating in the Friary Gardens in the parish of Charles, Plymouth aforesaid, all in the county of Devon:

A railway, No. 2, Devonport Branch (being the Devonport Branch shown on the plans and sections deposited in respect of the associated companies Bill), five furlongs and six chains in length, wholly situate in the parish of Stoke Damerel in the county of Devon, commencing by a junction with the Cornwall Railway, fourteen and a half chains or thereabouts west of the bridge carrying that railway over Deadlake Lane, and terminating in a pasture field on the west side of and adjoining Parsonage Road, and on the south side of and adjoining Lower Stoke Road at Devonport:

A railway, No. 3 (being the railway shown on the plans and sections deposited in respect of the Bill for this Act, and thereon called Railway No. 5), three furlongs nine chains in length, commencing in the parish of Stoke Damerel by a junction with the Devonport Branch, and terminating in the same parish four chains or thereabouts to the southward of the junction of Richmond Walk with Devonport Hill:

An approach road two furlongs seven chains and eighteen yards in length, commencing in the parish of Stoke Damerel, by a junction with the Lower Stoke Road, and terminating in the same parish by a junction with Devonport Hill:

And the railways and works connected therewith executed under the authority of this Act shall, for the purposes of tolls and charges, form part of the undertaking of the Company, and it shall be lawful for the Company to demand and receive such tolls and charges in respect of each and every description of traffic upon the railways as they would have been entitled to demand and receive if the same had originally formed part of the main line of the Company authorised by "The Okehampton Railway Act, 1862."

Power for Company to raise additional capital.

5. The Company may from time to time raise (in addition to the capital which they are now authorised to raise), by the creation and issue of new shares in the undertaking of the Company, any further capital not exceeding one hundred and eighty thousand pounds for the purposes of this Act, and may create and issue such shares as ordinary or preferential shares, or partly as ordinary and partly as preferential shares, as they may think fit.

Shares not to be issued until one fifth part is paid thereon.

6. The Company shall not issue any share created under the authority of this Act of less nominal amount than ten pounds, 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 is paid in respect thereof.

Calls.

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

New shares to confer like qualification as existing shares.

8. Every person who becomes entitled to any new share created by the Company under this Act shall in respect of the same be a shareholder in the Company, and be entitled to the like rights of voting and qualification and privileges as the holders of the other shares of the capital of the Company proportioned to the whole amount from time to time paid on the new shares.

Receipt clause in case of persons not sui juris.

9. 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.

Power to divide shares.

10. Subject to the provisions of this Act, the Company, with the authority of three fouths of the votes of the shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose, may from time to time divide any share in the capital by this Act authorised to be raised into half shares, of which one shall be called "preferred half share," and the other shall be called "deferred half share;" but the Company shall not so divide any share under the authority of this Act unless and until not less than sixty per centum upon such share has been paid up, and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share (being the whole amount payable thereon) and the residue to the credit of the preferred half share.

Dividends on half shares.

11. The dividend which would from time to time be payable on any divided share, if the same had continued an entire share, shall be applied in payment of dividends on the two half shares, in manner following; (that is to say,) first, in payment of dividend after such rate, not exceeding six per centum per annum, as shall be determined once for all at a general meeting of the Company specially convened for the purpose on the amount for the time being paid up on the preferred half share, and the remainder (if any) in payment of dividend on the deferred half share; and the Company shall not pay any greater amount of dividend on the two half shares than would have from time to time been payable on the entire share if the same had not been divided.

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Dividend on preferred shares to be paid out of the profits of the year only.

12. Each preferred half share shall be entitled, out of the profits of each year, to the dividend which may have been attached to it by the Company as aforesaid in priority to the deferred half share bearing the same number, but if in any year ending the thirty-first day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half share for that year, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the Company.

Half shares to be registered and certificates issued.

13. Forthwith after the creation of any half shares, the same shall be registered by the directors, and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued, and the directors shall issue certificates of the half shares accordingly, and shall cause an entry to be made in the register of the entire shares of the conversion thereof; but the directors shall not be bound to issue a certificate of any half share until the certificate of the existing entire share be delivered to them to be cancelled, unless it be shown to their satisfaction that such certificate is destroyed or lost, and on any certificate being so delivered up the directors shall cancel it.

Terms of issue to be stated on certificates.

14. The terms and conditions on which any preferred half share or deferred half share created under this Act is issued shall be stated on the certificate of each such half share.

Forfeiture of preferred shares.

15. The provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the forfeiture of shares for nonpayment of calls, shall apply to all preferred half shares created under the authority of this Act, and every such preferred half share shall for that purpose be considered an entire share, distinct from the corresponding deferred half share; and until any forfeited preferred half share shall be sold by the directors, all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards payment of any expenses attending the declaration of forfeiture thereof, and of the arrears of calls for the time being due thereon with interest.

Preferred shares not to be cancelled, &c.

16. No preferred half share created under the authority of this Act shall be cancelled or be surrendered to the Company.

Half shares to be half shares in capital.

17. The several half shares under this Act shall be half shares in the capital of the Company, and every two half shares, whether preferred or deferred, or one of each, held by the same person, shall confer such right of voting at meetings of the Company, and (subject to the provisions herein-before contained) shall confer and have all

such other rights, qualifications, privileges, liabilities, and incidents as attach and are incident to an entire share.

Power to borrow on mortgage.

18. The Company may from time to time borrow on mortgage, in addition to any sums which they are now authorised to borrow, any sum not exceeding in the whole sixty thousand pounds, but no part thereof shall be borrowed until the whole capital of one hundred and eighty thousand pounds by this Act authorised to be raised 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 the whole of the capital has 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 in the capital 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, 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 his certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof.

Repealing existing provisions as to receiver.

19. Every provision in any Act whereby the Company is authorised to raise by borrowing money for the purposes of their undertaking with respect to the appointment of a receiver for enforcing payment by the Company of arrears of principal money or principal money and interest shall be and the same is hereby repealed, but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under any such provision.

Arrears may be enforced by appointment of a receiver.

20. 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. In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds in the whole.

Power to create debenture stock.

21. The Company may create and issue debenture stock, subject to the provisions of Part III. of "The Companies Clauses Act, 1863;" but notwithstanding anything therein contained, the interest of all debenture stock at any time after the passing of this Act created

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and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Existing mortgages to have priority.

22. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing hereof, shall during the continuance of such mortgages have priority over any mortgage granted by virtue of this Act, but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Application of moneys.

23. All moneys raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act only.

Lands for extraordinary purposes.

24. The quantity of land to be taken by agreement by the Company for the extraordinary purposes mentioned in "The Railways Clauses Consolidation Act, 1845," shall not exceed three acres.

Powers for compulsory purchases limited.

25. 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.

Inclination of roads.

26. 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 connexion therewith respectively; (that is to say,)

No. on deposited Plan.	Parish.	Description of Road.	Intended Inclination.
		DEVONPORT BRANCH.	
50	Stoke Damerel	Public road	1 in 14.
173	Stoke Damerel	Public road	1 in 12.
		RAILWAY No. 3.	
183	Stoke Damerel	Public road	Level on one side, and 1 in 10 and 1 in 15 on the other.

Provision as to junctions.

27. The junction of the Friary Station Branch with the Sutton Harbour Branch, and the junction of the Devonport Branch with the Cornwall Railway, shall be made at the cost of the Company, by or under the directions of the engineer of the South Devon Company and the Cornwall Railway Company respectively, and shall be maintained and worked as provided by "The Railways Clauses Act, 1863."

Gauge of railways.

28. The railways by this Act authorised shall be made and maintained exclusively on the gauge of four feet eight and a half inches.

For protection of the Plymouth, Stonehouse, and Devonport Tramways Company.

29. For the protection of the Plymouth, Stonehouse, and Devonport Tramways Company (herein-after called the "Tramway Company"), be it enacted as follows:

1. The Company, in the construction of the said Railway No. 3, and the approach road and works, shall cause as little detriment or inconvenience to the Tramway Company as circumstances admit:
2. Before the Company commence any work whereby the tramways will be interfered with, or the traffic thereon interrupted, they shall give to the Tramway Company fourteen days notice of their intention to commence such work, specifying the time at which they mean to do so, such notice to be accompanied by a plan and section of the proposed works, and such works shall not be commenced until such plan and section have been approved of in writing under the hand of the principal engineer for the time being of the Tramway Company, or in the event of his failing to approve the same within fourteen days, or in the event of any difference, by an engineer to be appointed by the Board of Trade:
3. Any alteration or interference with the said tramways shall be executed at such times as may be agreed upon, or, failing agreement, at such time as shall be fixed upon by the engineer to be appointed by the Board of Trade, and under the superintendence and to the reasonable satisfaction of the Tramway Company, unless the Tramway Company refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work, and all reasonable expenses of such superintendence shall be paid by the Company.

Saving rights of the Tramway Company.

30. Nothing in this Act contained shall take away or abridge any of the powers vested in the Tramway Company with respect to the construction, maintenance, and working of the several tramways and works authorised by "The Plymouth, Stonehouse, and Devonport Tramways Act, 1870," and the Company shall not take up or otherwise interfere with or injuriously affect the said tramways and works, or any part thereof, except so far as may be necessary in constructing the works by this Act authorised; and if by or by reason or in execution of any of the works by this Act authorised, or by reason of the mode of construction, or of the insufficiency of or the bad state of repair of any such works, or any act or omission of the Company, or of any of their agents or servants, it shall happen

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that the said tramways and works, or any of them, shall be injured, the Company shall immediately thereupon, at their expense in all things, so far as is practicable, make good all such injury, and if in any of the events, or from any of the causes last mentioned, the free use and working of any such tramways shall be impeded or obstructed the Company shall pay to the Tramway Company as ascertained damages the sum of twenty-five pounds for every twenty-four hours during which any such impediment or obstruction shall continue, and so in proportion for any less period than twenty-four hours; and in default of payment of any such sum, or any such losses, liabilities, costs, or expenses, on demand made on the Company, the Tramway Company may recover the same with full costs in any court of competent jurisdiction.

Notice to be given of taking of houses of labouring classes.

31. The Company shall, not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers, make known their intention to take the same by placards, handbills, or other general notice placed in public view upon or within a reasonable distance from such houses, and the Company shall not take any such houses until they have obtained the certificate of a justice that it has been proved to his satisfaction that they have so made known their intention.

Deposit money not to be repaid until line opened or half the capital paid up and expended.

32. 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 sixteen thousand five hundred pounds, being five per centum upon the amount of the estimate in respect of the railways originally proposed to be authorised by the Bill for this Act, has been deposited with the Paymaster General on behalf of the Court of Chancery in England in respect of the application to Parliament for this Act: And whereas certain of the railways originally proposed are not now authorised, and the amount of the estimate of the expense of the undertaking is one hundred and fifty thousand pounds: Be it enacted, that, notwithstanding anything contained in the said Act, the sum of seven thousand five hundred pounds, portion of the said sum of sixteen thousand five hundred pounds so deposited as aforesaid in respect of the application for this Act, 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, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the railway, either open the

railway for the public conveyance of passengers, or prove to the satisfaction of the Board of Trade that the Company have paid up one half of the amount of the capital by this Act authorised to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital; and if the said period shall expire before the Company shall either have opened the railway for the public conveyance of passengers or have given such proof as aforesaid to the satisfaction of the Board of Trade, the said sum of seven thousand five hundred pounds, portion of the said sum of sixteen thousand five hundred pounds so deposited as aforesaid, shall be applied in the manner herein-after specified; and the certificate of the Board of Trade that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the above-mentioned Act to the contrary notwithstanding.

Providing for application of deposit.

33. The said sum of seven thousand five hundred pounds, portion of the said sum of sixteen thousand five hundred pounds deposited 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 railways, or any of them, or any portion thereof, or who may 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 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 said sum of seven thousand five hundred pounds shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of seven thousand five hundred pounds, 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 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

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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 said sum of seven thousand five hundred pounds 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 person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivors or survivor of them.

Court of Chancery may order repayment of surplus of deposit money.

34. The Court of Chancery may and shall at any time after the passing of this Act, on application by the Company or on their behalf by petition in a summary way, order that the sum of nine thousand pounds, being the residue of the deposited sum of sixteen thousand five hundred pounds, and the interest or dividends thereon, may be paid or transferred to the Company or to such person or persons as the Company may appoint in that behalf; and upon such order being made the said sum of nine thousand pounds and the interest or dividends thereon shall be paid or transferred to the Company or to such person or persons as the Company shall appoint.

Period for completion of works.

35. 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 making and completing the railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Arrangements with London and South-western Railway Company.

36. The Company and the London and South-western Railway Company may, subject to the provisions of Part III. of "The Railways Clauses Act, 1863," from time to time enter into and carry into effect agreements with respect to the following purposes or any of them; that is to say,

The maintaining, working, using, and managing by the contracting companies, or either of them, of the railways of the Company, or any parts thereof:

The supply and maintenance by the contracting companies, or either of them, of rolling or working stock, and of machinery, officers, and servants, for any of the purposes of the respective agreement:

The regulation, interchange, accommodation, conveyance, and delivery of the traffic coming from or destined for the respective undertakings of the contracting companies:

The levying, fixing, collection, division, and apportionment of the tolls, rates, fares, charges, receipts, and revenues levied, taken, or arising from such traffic:

The payments, allowances, rebates, and drawbacks to be paid, made, or allowed by either of the contracting companies to the other of them for or on account of any of the matters to which the respective agreement relates.

South Devon Company to lay down narrow gauge on loop line at Plymouth.

37. The South Devon Company may and shall, at or before the completion and opening for traffic of the Devonport Branch, lay down on the loop line at Plymouth of the South Devon Company connecting the South Devon and Cornwall Railways, and shall at all times maintain, an additional rail or additional rails, so as to adapt the same to the passage of engines and carriages on the narrow gauge, on such terms and conditions as, failing agreement, shall be settled by arbitration.

Narrow gauge rails to be laid on part of Cornwall Railway.

38. The associated companies may and shall, at or before the completion and opening for traffic of the Devonport Branch, lay down on so much of the Cornwall Railway as lies between the junction therewith of the said loop line, and a point thereon ten chains to the northward of the junction therewith of the branch railway to Keyham Dockyard, and shall at all times maintain, an additional rail or additional rails, so as to adapt the same to the passage of engines and carriages on the narrow gauge, on such terms and conditions, and in respect of the outlay and maintenance of the same between the said junction of the Devonport Branch and the said point ten chains to the northward of the junction of the branch railway to Keyham Dockyard, subject to such minimum rent as, failing agreement, shall be settled by arbitration.

Power to run over portions of South Devon and Cornwall Railways.

39. The Company, and all companies and persons lawfully using the railways of the Company, or any part or parts thereof, may run over and use with their engines and carriages, waggons and trucks, and their officers and servants, and, except as herein-after otherwise provided, for the purposes of traffic of every description, the following portions of railways respectively; (that is to say,)

The loop line at Plymouth of the South Devon Company connecting the South Devon and Cornwall Railways, and so much and such portion of the Cornwall Railway as is situate between the junction therewith of the said loop line and a point on the Cornwall Railway ten chains to the northward of the junction with that railway of the branch railway to Keyham Dockyard;

together with all tramways, sidings, stations, buildings, offices, warehouses, approaches, water supplies, telegraphs, signals, ma-

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chinery, works, and conveniences on or connected or used with the said portions of railways, and the respective company owning or working the portion of railway so run over and used shall afford all requisite facilities for the purpose: Provided that the running powers by this section conferred upon the Company shall only be exercised upon the Cornwall Railway between the junction therewith of the Devonport Branch and the said point ten chains to the northward of the junction with the Cornwall Railway of the branch railway to Keyham Dockyard, for the purposes of traffic to and from the Government Dockyards.

Terms and conditions of running over.

40. The terms and conditions on which the Company or such other companies as aforesaid shall be entitled to run over and use the said portions of railways, and the works and conveniences connected therewith, shall be such terms and conditions as the companies interested from time to time agree on, or as, failing agreement between them, are from time to time determined by arbitration.

Company not to carry local traffic.

41. The Company shall not carry local traffic between stations at Plymouth or Sutton Harbour and any station or place on the South Devon Railway and the Launceston and South Devon Railway between Plymouth and Launceston inclusive, but the Company may carry local traffic to and from Devonport and Stonehouse Pool respectively, upon such terms and at such rates and fares as, failing agreement, shall be settled by arbitration.

Byelaws to be observed by the Company.

42. The Company, in running over or using the before-mentioned portions of railways, sidings, works, and conveniences in accordance with the powers herein-before contained, shall at all times observe the regulations and byelaws for the time being in force on those portions of railways respectively, so far as those byelaws are applicable to the Company; and in the event of any difference between the Company and the company or companies owning or working such portions of railways respectively as to the reasonableness of any such regulation or byelaws, such difference shall from time to time be determined by arbitration.

Tolls on railways run over under Act by Company.

43. With respect to the portions of railways over which the Company or any company lawfully using the railways of the Company from time to time run, they respectively from time to time may demand and take for all passengers, animals, and things conveyed by them thereon, and for carriages, waggons, and trucks respectively conveying the same, and provided by them, and for locomotive engines or other power provided by them, and for all services performed by them thereon, and for all other matters with respect to traffic thereon, a like amount of tolls, fares, rates, or other

charges as by the several Acts relating to the said portions of railways respectively are authorised to be demanded and taken for like traffic, services, and matters thereon respectively, and in like manner, and with and subject to like powers and provisions, and, where applicable, like limitation of maximum charges in all respects.

Tolls on traffic conveyed partly on railways of Company and partly on other railways.

44. Where, under the provisions of this Act, traffic is conveyed partly on the railways of the Company and partly on the railway of any other company, the railways of the Company and the railway of such other company shall for the purposes of tolls and charges be considered as one railway; and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railways of the Company and partly on the railway of any 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 beyond four miles tolls and charges as for a quarter of a mile only; and no other short-distance charge shall be made for the conveyance of passengers, animals, or goods partly on the railways of the Company and partly on the railway of any other company.

Sect. 35. of the South Devon Railway Act, 1865, to cease to have effect in certain respects.

45. From the passing of this Act the provisions of the thirty-fifth section of "The South Devon Railway Act, 1865," shall cease to have effect, with reference to so much of the Sutton Harbour Branch as lies between the junction therewith of the Friary Station Branch and Sutton Harbour, and with reference to so much of the South Devon Railway as lies between the junction therewith of the said loop line of the South Devon Company and the station at Mill Bay, and with reference to the stations at Sutton Harbour and Mill Bay connected with those portions of railway respectively.

Confirmation of heads of arrangement.

46. The heads of arrangement set forth in the schedule to this Act are hereby confirmed, and the same shall be in all respects, as fully as if they were set forth at length and enacted in the body of this Act, binding on the companies parties thereto, and shall be carried into effect.

As to arbitration.

47. All matters by this Act required to be settled by arbitration shall be settled by arbitration in the manner provided by the heads of arrangement set forth in the schedule to this Act.

Saving rights of Her Majesty's Principal Secretary of State.

48. And whereas it is necessary that the lands, hereditaments, and works belonging to Her Majesty, or vested in Her Majesty's Principal Secretary of State for the War Department for the public service, should be preserved intact and free from all obstruction: Be it therefore enacted, that nothing in this Act contained shall

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authorise the Company to enter upon, use, or interfere with any land, soil, or water, or any right in respect thereof, or to take away, lessen, prejudice, or alter any of the rights, privileges, or powers vested in or exercised by the said Principal Secretary for the time being without his previous consent signified in writing under his hand, and which consent the said Principal Secretary for the time being is hereby authorised to give, subject to such special or other conditions as he shall see fit to impose on the Company; and all the works in connexion with the approach road and the Railway No. 3 by this Act authorised in or abutting upon the land belonging to or vested in Her Majesty's Principal Secretary of State for the War Department shall be executed according to plans and sections approved by the said Principal Secretary for the time being.

Saving rights of the Plymouth Embankment Company.

49. Except as is by this Act otherwise specially provided, nothing in this Act contained shall prejudice, lessen, or defeat any estate, right, title, or interest of the company of proprietors for embanking part of the Laira, near Plymouth, acting under three several Acts of Parliament; one passed in the forty-second year of the reign of His late Majesty King George the Third, intituled "An "Act to enable His Majesty to grant certain parcels of land situate "between Great Prince Rock and the village of Crabtree, called "'Tothill Bay' and 'Lipson Bay,' near to the borough of Plymouth "in the county of Devon, to certain persons therein named, for the "purpose of embanking and preserving the same from the sea;" another passed in the forty-third year of the reign of the same King, intituled "An Act to enable the company of proprietors for embank-"ing part of the Laira, near Plymouth, to make and maintain a road "from a certain place called 'Efford Quay,' in the parish of Egg "Buckland in the county of Devon, to the borough of Plymouth;" and the other passed in the fifth year of the reign of His late Majesty King George the Fourth, intituled "An Act for further extending "the powers of the company of proprietors for embanking part of "the Laira, near Plymouth;" and the said company shall and may from time to time, and at all times hereafter, hold and enjoy all lands, tolls, profits, estates, rights, interests, and privileges in as full, ample, and beneficial a manner, to all intents and purposes, as they have held and enjoyed the same before the passing of this Act.

Interest not to be paid on calls paid up.

50. The Company shall not, out of any money by this Act or any Act relating to the Company 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.

51. The Company shall not, out of any money by this Act or any Act relating to the Company 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.

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

52. Nothing in this Act shall exempt 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, by any Act relating to the Company authorised.

Expenses of Act.

53. 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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SCHEDULE referred to in the foregoing Act.

Heads of Arrangement between the South Devon Railway Company (herein-after called "the South Devon Company") of the one part, and the Devon and Cornwall Railway Company (herein-after called "the Company) of the other part.

1. On or before the completion of the Friary Station Branch, narrow-gauge sidings and land for same to be provided by the South Devon Company at the junction at Laira of the Sutton Harbour Branch with the South Devon Railway, the extent of and payment for such sidings to be, failing agreement, settled by arbitration.

2. On or before the completion of the Friary Station Branch the South Devon Company shall, at their option, either lay a separate narrow-gauge line or double on the mixed gauge the Sutton Harbour Branch from Laira junction to the commencement of the Friary Branch; and the Company shall be entitled to run over and use the same under the provisions of section 35 of "The South Devon Railway Act, 1865."

3. The South Devon Company and the Company shall not use their respective stations at Sutton Harbour and Friary Gardens as passenger stations without their mutual consent, or unless it shall be awarded on reference to arbitration that the station of either company may be so used, and in the event of such award the other Company shall have equal rights to use their station in the same manner.

4. On notice from the Company, the South Devon Company shall provide, on land shown upon their deposited plans north of the North Road, Plymouth, a station on the broad and narrow gauge for coaching traffic, for the joint use of the South Devon Company and the Company; interest upon the cost of and incident to the construction and the maintenance, and other working expenses, to be apportioned between the companies as, failing agreement, shall be settled by arbitration; the plans of station and road approaches to be settled, failing agreement, by arbitration.

5. The South Devon Company to have the control and management of the station, and the Company to have equal rights in all respects with the South Devon Company in the user of the station, and power to appoint their own booking clerks, ticket collectors, and inspectors, who are to be subject to such rules and regulations for the supervision and working of the station as, failing agreement, shall be settled by arbitration.

6. On and after the receipt by the South Devon Company of the notice from the Company referred to in article 4, and on the further request of the Company, the South Devon Company to provide, maintain, and work, at the expense of the Company, a temporary station at or near the site of the intended station

on the north of the North Road, such temporary station to be for the use of the Company until the completion of the intended station. The temporary station to be constructed to the reasonable satisfaction of the engineer of the Company. The Company to have the option of appointing their own booking clerks, ticket collectors, and inspectors at such temporary station, under the regulations provided by article 5.

7. All questions between the companies under "The South Devon Railway Act, 1865," and "The Launceston and South Devon Railway Act, 1866," and these heads, shall be settled by Alexander Clunes Sherriff, Esquire, M.P., and Thomas Elliott Harrison, Esquire, or their umpire, or, in the event of the death or failure of either of them to act, by arbitration, in the manner provided by "The Railway Companies Arbitration Act, 1859."

8. If required by either party, a formal agreement containing all necessary provisions for giving complete effect to these heads, and all incidental matters, to be settled on behalf of all parties by John Horatio Lloyd, Esquire, or, him failing, by some counsel to be nominated by the Attorney-General for the time being.

9. These heads to be subject to the sanction of Parliament, and to be scheduled to and confirmed by the pending Devon and Cornwall Railway (Extensions to Plymouth and Devonport) Bill.

10. The companies shall use their best endeavours to obtain the passing of the Act by which these heads are to be confirmed, without any alteration therein or in these heads.

Dated this twenty-fourth day of March one thousand eight hundred and seventy-three.

Seal of the South Devon Railway Company.

Seal of the Devon and Cornwall Railway Company.

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