CHAPTER clxxvii.

An Act to provide for the transfer to the Great Western Railway Company of a portion of the authorised undertaking of the Plymouth and Dartmoor Railway Company and for other purposes. [17th August 1894.]

A.D. 1894.

WHEREAS the Great Western Railway Company (in this Act called "the Company") the Plymouth and Dartmoor Railway Company (in this Act called "the Dartmoor Company") and the London and South Western Railway Company have entered into an agreement for the transfer to the Company of the powers of the Dartmoor Company in relation to so much of the Plymouth and Dartmoor Railway (South Hams Extension) Act 1888 (in this Act referred to as "the Act of 1888") as is herein-after described and for other purposes in such agreement mentioned:

And whereas it is expedient that the said agreement as set forth in the schedule to this Act (herein-after referred to as "the scheduled agreement") should be confirmed and that provision should be made for giving effect to such agreement in manner provided by this Act:

And whereas it is expedient that the Company should be authorised to apply their funds to the purposes of this Act:

And whereas the objects aforesaid cannot be attained without the authority of Parliament:

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

Short title.

1. This Act may be cited for all purposes as the Great Western Railway (No. 2) Act 1894.

Interpretation.

2. In this Act the expression "the Yealmpton Railway" means so much of the railway and works authorised by the Act of 1888

A.D. 1894.

as lies between points thereon distant respectively 7·38 chains and 6 miles 4 furlongs and 4·5 chains from the commencement of the said railway as delineated on the deposited plans referred to in the said Act.

Transfer to Company of powers relating to Yealmpton Railway.

3. The scheduled agreement is hereby confirmed and made binding on the parties thereto and on the passing of this Act all the powers rights privileges and authorities which by the Act of 1888 and any other Act relating to the Dartmoor Company including any Act passed or to be passed in the present session of Parliament are conferred upon or vested in the Dartmoor Company for or in respect of the construction and maintenance of the Yealmpton Railway are subject to the contracts obligations debts and liabilities (except as in the scheduled agreement provided) of the Dartmoor Company in relation thereto transferred to the Company who may in their own name and under their own seal or under the hands of their directors secretary officers and servants exercise and enjoy all those powers rights privileges and authorities (except only the powers of raising money) as fully and effectually in all respects as the Dartmoor Company might have exercised and enjoyed the same if this section of this Act had not been passed.

Yealmpton Railway to become after transfer part of undertaking of Company.

4. All provisions in relation to the Yealmpton Railway contained in the Act of 1888 and any other Act relating to the Dartmoor Company including any Act passed or which may during the present session of Parliament be passed extending such provisions except those relating to the share and loan capital of the Dartmoor Company shall so far as applicable and subject to the provisions of this Act have effect as if the Company had been named throughout the same instead of the Dartmoor Company and the undertaking authorised by the Act of 1888 so far as it relates to the Yealmpton Railway shall subject to the provisions of the said Act be executed worked and managed by the Company as part of their undertaking.

Imposing penalty unless railway opened.

5. If the Company fail within the period limited by the Act of 1888 as extended by any Act passed or to be passed in the present session of Parliament to complete the Yealmpton Railway 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 said railway is completed and opened for the public conveyance of passengers or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the said railway :

The said penalty may be applied for by any landowner or other person claiming to be compensated or interested in respect of the

said railway in accordance with the provisions of the next following section of this Act and in the same manner as the penalty provided in section three of the Railway and Canal Traffic Act 1854:

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 of the Paymaster-General for and on behalf of the Supreme Court in the bank and to the credit 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 the said railway by unforeseen accident or circumstances beyond their control Provided that want of sufficient funds shall not be held to be a circumstance beyond their control.

Application of penalty.

6. 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 said railway 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 High Court may seem fit 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 if a receiver has been appointed or the Company is insolvent or the said railway has been abandoned be paid to such receiver or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid to the Company.

Release of deposit in respect of Yealmpton Railway.

7. And whereas the sum of three thousand four hundred and thirty-three pounds part of the deposit fund mentioned in section 25 of the Act of 1888 bears to the whole of the said deposit fund the same proportion as the length of the Yealmpton Railway and the

A.D. 1894.

7·38 chains already constructed bears to the length of the whole of the railway authorised by the Act of 1888 Therefore in consideration of the liability of the Company to the penalty by this Act provided in respect of the Yealmpton Railway and notwithstanding anything contained in sections 25 and 26 of the Act of 1888 the High Court may at any time after the passing of this Act but without requiring the production of a certificate of the passing of the Act of 1888 order (according to the provisions of the Parliamentary Deposits Act 1846) the payment or transfer to the depositors or the person or persons to whom the said deposit fund has been assigned of the said sum of three thousand four hundred and thirty-three pounds part of the said deposit fund now in Court and any interest or dividend payable thereon and sections 25 and 26 of the Act of 1888 so far as they relate to the said portion of the said deposit fund are hereby repealed.

Power to Company to apply surplus moneys to purposes of Act.

8. The Company may from time to time apply to all or any of the purposes of this Act to which capital is properly applicable any moneys from time to time raised by them and which are not by any of the Acts relating to the Company made applicable to any special purpose or which being so made applicable are not required for the special purpose And the Company may from time to time for those purposes and for the general purposes of their undertaking and for the more efficient working of their traffic issue any shares or stocks which under the authority of any Act passed prior to the present session of Parliament the Company may have created or may hereafter create but which are not or may not be required for the special purposes for which such shares or stocks respectively were authorised to be created Provided that all money raised by the issue of such shares or stocks shall be applied only to purposes to which capital is properly applicable.

For protection of Postmaster General.

9. Nothing in this Act shall affect the rights of the 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 Dartmoor 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 passing of this Act be at liberty to exercise all the rights aforesaid notwithstanding that the railways and works of the Dartmoor Company or any portion or portions thereof is or are owned or worked by the Company or have become part of the undertaking of the Company as freely and fully in all respects as he was entitled to do before the passing of this Act.

Saving rights of Postmaster General.

10. Nothing in this Act shall be deemed to impose upon the Postmaster General the obligation of transmitting under the provisions of the Telegraph Act 1868 or any agreement between the Postmaster General and the Company made in pursuance thereof any larger number of telegraphic messages of the Company free of charge than he would have been bound to transmit had this Act not become law.

Provision as to general Railway Acts.

11. Nothing in this Act contained shall exempt any of the companies upon whom powers are conferred by this Act or their railways from the provisions of any general Act relating to railways or the better or 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 to be taken by such companies.

Costs of Act.

12. 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.

A.D. 1894.

The SCHEDULE referred to in the foregoing Act.

AGREEMENT between the GREAT WESTERN RAILWAY COMPANY and the PLYMOUTH AND DARTMOOR RAILWAY COMPANY and the LONDON AND SOUTH WESTERN RAILWAY COMPANY and herein-after referred to as the Great Western Company the Dartmoor Company and the South Western Company respectively.

WHEREAS the Great Western Company by agreement with the Dartmoor Company have withdrawn so much of their Bill No. 2 as provides for the construction of the railway shown on the deposited plans for that Bill and have amended that Bill so as to enable them to construct so much of the railway authorised by the Plymouth and Dartmoor (South Hams Extension) Act 1888 as lies between points thereon distant respectively 7·38 chains and 6 miles 4 furlongs and 4·5 chains from the commencement of the said railway as delineated on the deposited plans referred to in the said Act which portion of the said railway is in the Great Western Railway Bill No. 2 as amended and herein-after called the Yealmpton Railway:

NOW IT IS AGREED by and between the companies parties hereto subject to the passing of the said Bill into law that:—

1. The Great Western Company shall commence the construction of the Yealmpton Railway within twelve months from the passing of their said Bill so amended as aforesaid and shall complete the same within a reasonable time.

2. The Yealmpton Railway shall include a station at Yealmpton which shall be so constructed by the Great Western Company as not to prevent the continuation of the line to Modbury.

3. The Great Western Company shall pay to the Dartmoor Company the sum of £1,600 in part payment of the parliamentary and other expenses of the Dartmoor Company in respect of the Yealmpton Railway but in full discharge of all liability of the Great Western Company in respect of that railway.

4. The Great Western Company may for the purposes of their traffic passing over the Yealmpton Railway run over and use the portions of the railway of the Dartmoor Company authorised by the Plymouth and Dartmoor Railway Act 1883 already constructed from the junction thereof with the Great Western Company's Railway No. 2 authorised by the Great Western Railway Act 1889 to the junction thereof with the Yealmpton Railway including as part of the said portion of railway the station of the Dartmoor Company at Pomphlete.

5. The station at Pomphlete shall be altered by and at the expense of the Dartmoor Company so as to render the same suitable for a crossing-place for

passenger trains and if any question shall arise as to the nature or extent of the alterations necessary the same shall be referred to the decision of a single arbitrator to be agreed upon between the parties or in case of difference nominated as herein-after mentioned.

6. The terms upon which the Great Western Company shall be entitled to run over and use for the purposes of their Yealmpton Railway traffic the said portion of railway referred to in Article 4 shall be the payment to the Dartmoor Company of a mileage proportion of the through rates and fares charged as for two miles in addition to the actual chainage distance that is to say the actual length of the portion run over being 48 chains the mileage proportion which the Great Western Company shall be liable to pay shall be two miles 48 chains after deduction of terminals on goods in accordance with the regulations of the Railway Clearing House for the time being and the government duty on passengers on the basis payable by the railway companies at the time being and an allowance of 20 per cent. on passengers and 25 per cent. on goods for working expenses.

7. The through rates and fares referred to in the last article shall be fixed by the Great Western Company but so that such rates and fares shall be reasonable any difference as to the reasonableness thereof to be settled by a single arbitrator to be agreed upon between the parties or in case of difference to be nominated by the Chairman of the North Eastern Railway Company for the time being at the instance of either Company.

8. Accounts in respect of the traffic carried in exercise of the said running powers shall be rendered by the Great Western Company to the Dartmoor Company within 42 days after the close of each half year and payment made to that Company accordingly within 14 days after the day appointed for rendering such accounts and the Dartmoor Company shall be entitled within six months after the sending of such accounts to have the same audited and for that purpose to inspect all books vouchers and accounts relating thereto.

9. From and after the opening for public traffic of the Railway No. 1 authorised by the Plymouth and Dartmoor Railway Act 1883 the South Western Company may run over and use the Yealmpton Railway.

10. From and after the opening for public traffic of the Yealmpton Railway the Great Western Company may run over and use so much as has already been constructed or which may hereafter be constructed of the Railway No. 1 authorised by the Plymouth and Dartmoor Railway Act 1883 from the junction thereof with Railway No. 2 authorised by the Great Western Railway Act 1889 to Turnchapel including the station at Pomphlete.

11. The terms upon which the running powers specified in the two last preceding articles shall be exercised shall be agreed between the Companies parties hereto or in default of agreement be settled by a single arbitrator to be agreed upon or in case of difference to be nominated as herein before provided.

12. The Dartmoor Company shall proceed with their present Bill to revive their powers for the construction of the railway authorised by the Plymouth and Dartmoor Railway Act 1888 and should they construct the portion of the said railway from the point at which the Yealmpton Railway terminates at Yealmpton to Modbury the Great Western Company shall work

A.D. 1894.

the same upon such reasonable terms due regard being had to the cost of working as may be agreed upon between the Company and the Dartmoor Company or as failing agreement shall be settled by a single arbitrator to be agreed upon between the parties or in case of difference nominated as aforesaid.

13. Neither Company in the exercise of running powers to carry the local traffic of the other that is traffic arising and terminating upon the line run over without agreement to that effect.

14. This agreement to be scheduled to the Great Western Bill No. 2.

In witness whereof the Companies parties hereto have caused their respective common seals to be hereunto affixed this nineteenth day of July one thousand eight hundred and ninety-four.

The common seal of the Great Western Railway Company was hereunto affixed in the presence of

G. K. MILLS
Secy.

L. S. of the Great Western Railway Company.

The common seal of the Plymouth and Dartmoor Railway Company was hereunto affixed in the presence of

DAVID S. DERRY
Secy.

L. S. of the Plymouth and Dartmoor Railway Company.

The common seal of the London and South Western Railway Company was hereunto affixed in the presence of

FRED. J. MACAULAY
Secy.

L. S. of the London & South Western Railway Company.

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