CHAPTER cxxiii.

An Act for constituting a portion of the Railways authorised by the North Cornwall Railway Act 1882 a separate Undertaking and for other purposes. [21st July 1891.] A.D. 1891.

WHEREAS by the North Cornwall Railway Act 1882 (herein-after referred to as "the Act of 1882") the North Cornwall Railway Company (herein-after referred to as "the Company") were authorised to make and maintain railways from Padstow in Cornwall to Wadebridge and Launceston in the same county and to Halwill in Devon forming junctions with the Bodmin and Wadebridge Railway at Wadebridge the Launceston and South Devon Line of the Great Western Railway Company at Launceston and the Holsworthy Line of the London and South Western Railway Company at Halwill and in connexion therewith the making and maintaining of deviations and improvements in the line of the Bodmin and Wadebridge Railway:

And whereas by the North Cornwall Railway Act 1884 (herein-after referred to as "the Act of 1884") the Company were authorised to constitute the portion of the railway between Halwill and Launceston authorised by the Act of 1882 a separate undertaking under the name of the Launceston and Halwill Line and to raise a separate share capital of one hundred and fifty thousand pounds for that purpose with such borrowing powers as were by the Act given:

And whereas the said capital of the Launceston and Halwill Line has been raised and that line has been constructed and opened for traffic:

And whereas by the Act of 1884 it was provided inter alia that the Company might as each sum of two hundred and fifty-five thousand pounds (or such other sum as should be required for and be set apart to be applied in the construction of the Launceston and

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Delabole or the Delabole and Padstow Line as the case might be) of the capital (other than the Launceston and Halwill Line capital) should be issued and accepted and one half of such capital paid up borrow such sums and in such manner as in the said Act was provided:

And whereas the sum of one hundred and eighty-seven thousand pounds is required for the construction of the Launceston and Delabole Line which consists of so much of Railway No. 2 authorised by and described in the Act of 1882 as lies between the termination of the Launceston and Halwill Line near Launceston and the intended Delabole Station which will be at or near the point marked nine miles six furlongs on the deposited plans of that railway:

And whereas the said sum of one hundred and eighty-seven thousand pounds has been subscribed and set apart to be applied in the construction of the said Launceston and Delabole Line and the construction of that line has been commenced and it is expedient that such line should be constituted a separate undertaking with a separate and distinct capital as by this Act provided:

And whereas by the North Cornwall Railway Act 1885 (herein-after referred to as "the Act of 1885") the time limited by the Act of 1882 for the purchase of lands for and the completion of the railway and works other than the Launceston and Halwill Line were extended until the eighteenth day of August one thousand eight hundred and eighty-eight and the eighteenth day of August one thousand eight hundred and ninety respectively:

And whereas by the North Cornwall Railway Act 1888 (herein-after referred to as "the Act of 1888") the times limited by the Act of 1882 for the purchase of lands for and the completion of the railway and works other than the Launceston and Halwill Line were further extended until the eighteenth day of August one thousand eight hundred and ninety-one and the eighteenth day of August one thousand eight hundred and ninety-three respectively and it is expedient that such periods should be further enlarged and extended as herein-after provided:

And whereas it will be for public and local advantage that the Company should be enabled to make and maintain the deviation railway herein-after described and to abandon that portion of their undertaking which will be rendered unnecessary by the construction of the deviation railway and to construct the diversions of roads herein-after described:

And whereas plans and sections showing the lines and levels of the deviation railway and diversions of roads authorised by this

Act and also books of reference to the plans containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the county of Cornwall and are hereinafter 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 North Cornwall Railway Act 1891.

Interpretation.

2. In this Act the several words and expressions to which meanings are assigned by the Act of 1882 or by the Acts wholly or partially incorporated therewith have the same respective meanings unless there be something in the subject or context repugnant to such construction.

Incorporation of Acts.

3. The Lands Clauses Acts the Railways Clauses Consolidation Act 1845 and Part I. (relating to the construction of a railway) Part II. (relating to extension of time) and Part III. (relating to working agreements) of the Railways Clauses Act 1863 are incorporated with and form part of this Act.

Launceston and Delabole Line constituted a separate undertaking.

4. Subject to the provisions of this Act the Launceston and Delabole Line shall be a separate and distinct undertaking of the Company.

Launceston and Delabole Line to be worked in an efficient manner.

5. Whereas the London and South Western Railway Company (herein-after called "the South Western Company") are working the railways of the Company so far as they are now opened for traffic and are under agreement to work the remainder of the railways of the Company when constructed The Company or the South Western Company after the opening of the railways comprised in the Launceston and Delabole Line undertaking for public traffic shall work the said railways and convey traffic thereon in a proper manner and so as fairly to accommodate and develop the traffic of the district to be served by the Launceston and Delabole Line undertaking In case any difference shall arise between the Company or the South Western Company and any of the holders of shares in the Launceston

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and Delabole Line undertaking with respect to the working or non-working or insufficient working by the Company or the South Western Company of the railways comprised in the Launceston and Delabole Line undertaking or otherwise in relation thereto whereby the holders of shares in the said undertaking deem themselves to be injuriously affected such difference shall be settled by the Railway and Canal Commission and the Commission shall have full power to settle and determine any such difference and to order the Company or the South Western Company to do or to abstain from doing all such acts matters and things as the Commission shall think fit and to make such order with respect to the costs of such arbitration as the Commission shall think just In case the Company or the South Western Company make default in complying with any of the requirements of any such order within the time prescribed then and in every such case the Company so in default shall for every such default be liable to a penalty not exceeding fifty pounds and to a further penalty for every day (after the first) during which such default shall continue.

Capital.

6. Of the capital of six hundred and sixty thousand pounds which by the Act of 1882 the Company are authorised to raise by shares one hundred and eighty-seven thousand pounds part thereof set apart as aforesaid to be applied in the construction of the Launceston and Delabole Line shall be a separate capital of the Company for the Launceston and Delabole Line and shall be distinguished as the Launceston and Delabole Line capital.

Expenses of the Launceston and Delabole Line.

7. All expenses of or in connexion with the Launceston and Delabole Line undertaking shall be borne and paid by the Company out of the capital of that undertaking until the completion of the Launceston and Delabole Line and after such completion the Company shall keep the accounts and bear the expense of keeping such accounts and distributing dividends and all other usual charges for management in consideration of an annual sum of thirty-five pounds to be paid out of the revenue of the Launceston and Delabole Line.

Votes of shareholders in Launceston and Delabole Line.

8. Shares and stock in the Launceston and Delabole Line capital shall not confer on holders thereof any right of voting or interference at any meeting of the Company not relating to matters affecting the Launceston and Delabole Line undertaking except for the election of directors and in any matters affecting the said shareholders or stockholders respectively for both of which matters such shareholders and stockholders shall have the same right of voting as the shareholders and stockholders in the general capital of the Company.

Dividend on shares in Launceston and Delabole Line.

9. Shares and stock in the Launceston and Delabole Line capital shall be entitled to dividends only out of the profits of the Launceston and Delabole Line undertaking applicable for dividends and the certificates of such shares or stock shall distinctly denote that such shares or stock are entitled to dividends only out of those profits.

Shareholders in general capital not to interfere with expenditure of Launceston and Delabole capital.

10. It shall not be lawful for the holders of shares or stock in the general capital of the Company to interfere with the expenditure of the Launceston and Delabole Line capital.

Company to keep separate accounts.

11. The Company shall keep separate and distinct accounts of their receipts credits payments and liabilities with respect to or on account of the Launceston and Delabole Line capital and revenue.

Application of moneys.

12. All moneys from time to time raised or received by the Company on account of capital or of revenue with respect to or on account of the Launceston and Delabole Line undertaking shall be applied for the purposes of that undertaking only Provided that the Launceston and Delabole Line undertaking shall pay the sum of thirty-five pounds per annum for the expenses of the administration of their business by the Company after the Launceston and Delabole Line has been opened for traffic.

Moneys to be applied to capital purposes only.

13. The Launceston and Delabole Line capital shall be applied only for the purposes of the Act of 1882 and this Act relating to the Launceston and Delabole Line undertaking to which capital is properly applicable.

Extending time for the purchase of lands.

14. The powers of the Act of 1882 with respect to the compulsory purchase or taking of lands and buildings for the Railway No. 1 and so much of Railway No. 2 as lies between the commencement thereof in the parish of Saint Breock and the point marked nine miles six furlongs on the plans deposited with respect to such railway which point is in the parish of Saint Teath in the county of Cornwall shall be and the same are hereby extended and shall continue in force until the eighteenth day of August one thousand eight hundred and ninety-four.

Extending time for completing railways.

15. The time limited by the Act of 1882 for the construction and completion of the above-mentioned railways and works shall be and the same is hereby extended and shall continue in force until the eighteenth day of August one thousand eight hundred and ninety-six.

Times limited for completion of railways.

16. If the railways and works above mentioned shall not be completed within the period limited by this Act then on the expiration of such period the powers by the Acts of 1882 1885 and 1888 and this Act granted to the Company for making and completing

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such railways and works or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

Power to make deviation railway &c.

17. 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 relating thereto the deviation railway and the diversions of roads herein-after described with all proper stations sidings approaches roads works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the deposited plans thereof and described in the deposited books of reference relating thereto as may be required for the purpose:—

A railway one mile and 7·70 chains in length wholly in the parish of Saint Teath commencing by a junction with the authorised Railway No. 2 at or near the point marked nine miles six furlongs on the plans deposited in November one thousand eight hundred and eighty-one herein-after called the plans of 1881 in respect of that railway and terminating by a junction with the same railway at or near the point marked eleven miles on the said deposited plans;

A diversion (No. 1) in the parishes of Saint Juliot and Otterham of the road numbered one in the parish of Saint Juliot and thirty-two in the parish of Otterham on the plans of 1881;

A diversion (No. 2) in the parishes of Saint Juliot and Otterham of the road numbered twenty-eight in the parish of Otterham on the plans of 1881;

A diversion (No. 3) in the parishes of Treneglos and Tresmeer of the road numbered seventy-three in the parish of Tresmeer on the plans of 1881;

A diversion (No. 4) in the parishes of Treneglos and Tresmeer of the road numbered sixty-five in the parish of Tresmeer on the plans of 1881.

Inclination of certain road.

18. In altering for the purposes of this Act the road 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 Plans.	Parish.	Description of Road.	Intended Inclination.
17	St. Teath - - -	Public highway	1 in 16 on one side and level on the other.

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Widths of certain roadways.

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

No. on Plan.	Parish.	Description of Road.	Width of Roadway.
17	St. Teath - - -	Public highway	20 feet.
115	Do. - - -	Do. -	15 feet.

For protection of the Old Delabole Slate Company.

20. For the protection of the Old Delabole Slate Company (herein-after called "the Slate Company") the following provisions shall have effect (that is to say):—

In the construction of the deviation railway by this Act authorised no rail shall be laid within sixty-six feet at any point of the edge of the existing quarry of the Slate Company situate in the parish of St. Teath nor shall the Company (save with the consent of the Slate Company) deviate the said railway from the line shown on a plan signed by William Henry Prance on behalf of the Slate Company and by James Ward Burchell on behalf of the Company and dated the 20th day of May 1891 so as to bring the nearest rail within the said sixty-six feet and the Slate Company shall not carry on any open quarrying operations nearer to the said railway at any point that sixty-six feet.

Period for the compulsory purchase of lands.

21. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Power to take easements by agreement.

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

Period for completion of works.

23. If the railway and diversions of roads by this Act authorised are not respectively completed within five years from the passing

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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 and diversions or otherwise in relation thereto shall cease except as to so much thereof respectively as may then be completed.

Part of authorised railway to be abandoned.

24. The Company shall abandon the construction of so much of the Railway No. 2 authorised by the Act of 1882 as lies between the commencement and termination of the intended deviation railway above described and which will be rendered unnecessary by the construction of such deviation railway and on and after the passing of this Act the Company shall abandon the construction of the said portion of railway.

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

25. The abandonment by the Company under the authority of this Act of any portion of any railway or works shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels or probing or boring to ascertain the nature of the soil or setting out of the line of railway and shall not prejudice or affect the right of the owner or occupier of any land which has been temporarily occupied by the Company to receive compensation for such temporary occupation or for any loss damage or injury which has been sustained by such owner or occupier by reason thereof or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation Act 1845 or in the Act of 1882.

Compensation to be made in respect of portion of railway abandoned.

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

Deviation railway to be part of

27. Subject to the provisions of this Act the deviation railway by this Act authorised shall be and be deemed to be in all respects

and for all purposes in substitution for the portion of railway authorised by the Act of 1882 which is by this Act authorised to be abandoned and the deviation railway and works by this Act authorised shall be and be deemed to be part of the railway works and property of the Company as if the Company had by the Act of 1882 been authorised to acquire make and maintain the same. Company's undertaking.

28.—(1) The Company shall not under the powers of this Act or under the powers of any former Act revived or extended by this Act purchase or acquire in any city borough or urban sanitary district or any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December next before the passing of this Act or of the respective former Act by which such purchase or acquisition was originally authorised as the case may be were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until the Company— Restrictions on displacing persons of labouring class.

(A) Shall have obtained the approval of the Local Government Board to a scheme for providing new dwellings for such number of persons as were residing in such houses on the respective fifteenth day of December aforesaid or for such number of persons as the Local Government Board shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such persons and to all the circumstances of the case; and

(B) Shall have given security to the satisfaction of the Local Government Board for the carrying out of the scheme.

(2) The approval of the Local Government Board to any scheme under this section may be given either absolutely or conditionally and after the Local Government Board have approved of any such scheme they may from time to time approve either absolutely or conditionally of any modifications in the scheme.

(3) Every scheme under this section shall contain provisions prescribing the time within which it shall be carried out and shall require the new dwellings proposed to be provided under the scheme to be completed fit for occupation before the persons residing in the houses in respect of which the scheme is made are displaced:

Provided that the Local Government Board may dispense with the last-mentioned requirement subject to such conditions if any as they may see fit.

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(4) Any provisions of any scheme under this section or any conditions subject to which the Local Government Board may have approved of any scheme or of any modifications of any scheme or subject to which they may have dispensed with the above-mentioned requirement shall be enforceable by a writ of mandamus to be obtained by the Local Government Board out of the High Court.

(5) If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court and shall be carried to and form part of the consolidated fund of the United Kingdom :

Provided that the court may if it think fit reduce such penalty.

(6) For the purpose of carrying out any scheme under this section the Company may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require and for the purpose of any such purchase sections 176 and 297 of the Public Health Act 1875 shall be incorporated with this Act and shall apply to the purchase of lands by the Company for the purposes of any scheme under this section in the same manner in all respects as if the Company were a local authority within the meaning of the Public Health Act 1875 and the scheme were one of the purposes of that Act.

(7) The Company may on any lands belonging to them or purchased or acquired under this section or any provisional order issued in pursuance of this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell demise or let or otherwise dispose of such dwellings and any lands purchased or acquired as aforesaid and may apply for the purposes of this section to which capital is properly applicable or any of such purposes any moneys which they may be authorised to raise or apply for the general purposes of their undertaking :

Provided that all lands on which any buildings have been erected or provided by the Company in pursuance of any scheme under this section shall for a period of twenty-five years from the passing of this Act be appropriated for the purpose of such dwellings and

every conveyance demise or lease of such lands and buildings shall be endorsed with notice of this enactment:

Provided also that the Local Government Board may at any time dispense with all or any of the requirements of this sub-section subject to such conditions if any as they may see fit.

(8) So much of section 157 of the Public Health Act 1875 as provides that the provisions of that section and of sections 155 and 156 of the same Act shall not apply to buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament shall not apply to buildings erected or provided by the Company for the purpose of any scheme under this section.

(9) The Local Government Board may direct any inquiries to be held which they may deem necessary in relation to any scheme under this section and may appoint or employ inspectors for the purposes of any such inquiry and the inspectors so appointed or employed shall for the purposes of any such inquiry have all such powers as inspectors of the Local Government Board have for the purposes of inquiries directed by the Local Government Board under the Public Health Act 1875.

(10) The Company shall pay to the Local Government Board a sum to be fixed by that Board in respect of the preparation and issue of any provisional order in pursuance of this section and any expenses incurred by that Board in relation to any inquiries under this section including the expenses of any witnesses summoned by the inspector and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector.

(11) Any houses on any of the lands shown on the deposited plans occupied or which may have been occupied by persons of the labouring class within five years before the passing of this Act which have been acquired by or on behalf of the Company and for which houses no substitutes have been or are directed to be provided by any scheme approved by the Local Government Board under the powers of any previous Act relating to the Company shall for the purposes of this section be deemed to have been acquired under the powers of this Act and to have been occupied on the fifteenth day of December last by the same number of persons belonging to the labouring class as were occupying the said houses at the date of their acquisition Provided that if the Local Government Board is unable to ascertain the number of such persons who were then occupying the said houses the said houses shall be deemed to have been occupied by such number of such persons as in the opinion of the Local Government Board they might have been sufficient to accommodate.

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(12) The expression "labouring class" in this section includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Interest not to be paid on calls paid up.

29. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

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

30. 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.

Provision as to general Railway Acts.

31. 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 by any Act relating to the Company authorised.

Costs of Act.

32. 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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