CHAPTER cxxv.

An Act to authorise the Plymouth Devonport and South Western Junction Railway Company to abandon a certain portion of their undertaking and to confer on them further powers. A.D. 1889.

[12th August 1889.]

WHEREAS by the Plymouth Devonport and South Western Junction Railway Act 1883 (in this Act called "the Act of 1883") the Plymouth Devonport and South Western Junction Railway Company (in this Act called "the Company") were incorporated and empowered to make and maintain certain railways and works in the Act of 1883 more particularly described:

And whereas under the powers contained in the Act of 1883 the Company and the Devon and Cornwall Central Railway Company and the London and South Western Railway Company (in this Act called "the South Western Company") entered into an agreement dated the twenty-fourth day of October one thousand eight hundred and eighty-three for the working and maintenance by the South Western Company of the railways of the Company and of the portions of the railways of the Devon and Cornwall Central Railway Company which were subsequently by the Plymouth Devonport and South Western Junction Railway Act 1884 transferred to the Company and by the said agreement it was inter alia provided that the Railway No. 1 authorised by the Act of 1883 should not be constructed by the Company without the consent of the South Western Company:

And whereas the Company have commenced the construction of so much of their undertaking as lies between Lidford and the Devonport Station of the South Western Company and the works thereon have made and are making steady and substantial progress:

And whereas the estimated cost of constructing the said Railway No. 1 by the Act of 1883 authorised is upwards of two hundred thousand pounds and it is expedient that the Company should be authorised to abandon the construction of the said Railway No. 1

A.D. 1889.

and that provision should be made for the release and application of the deposit made in pursuance of the standing orders of Parliament with reference to such railway:

And whereas the Company's authorised capital is seven hundred and fifty thousand pounds of which the Company have raised six hundred thousand pounds for the purpose of constructing their railway between Lidford and Devonport and forty-eight thousand two hundred and fifty pounds in part payment of the purchase money for the East Cornwall Mineral Railway and the Company have not sufficient capital power to complete the before mentioned portions of the railways of the Devon and Cornwall Central Railway:

And whereas it is expedient that the Company should be authorised to construct the new railway in this Act mentioned and to raise additional capital for that purpose and for other purposes of their undertaking:

And whereas it is expedient that the Company and all other companies and persons lawfully using the railways of the Company should be authorised to run over and use the railways and portions of railways in that behalf in this Act specified:

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

And whereas plans and sections showing the lines and levels of the railway authorised by this Act and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the county of Devon and are hereinafter referred to as the deposited plans sections and book of reference respectively:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

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

Short title.

1. This Act may be cited as the Plymouth Devonport and South Western Junction Railway Act 1889.

Incorporation of Acts.

2. The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883 the Railways Clauses Consolidation Act 1845 (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.

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 or inconsistent with such construction the expression "the Company" means the Plymouth Devonport and South Western Junction Railway Company the expression "the railway" or "the undertaking" means respectively the railway and the undertaking by this Act authorised together with all lands buildings and property to be purchased for the purposes thereof "the Act of 1883" means the Plymouth Devonport and South Western Junction Railway Act 1883 and for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partially incorporated herewith shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Power to make railway.

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 railway hereinafter described with all proper stations sidings approaches works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the said plans and described in the deposited book of reference as may be required for that purpose The railway hereinbefore referred to and authorised by this Act is—

A railway two furlongs seven chains and ten links in length wholly in the parish of Charles otherwise Charles the Martyr Plymouth in the county of Devon commencing by a junction with the Friary Station Branch Railway of the South Western Company near the junction therewith of the Sutton Harbour Branch of that Company and terminating at a point about seven chains westward of the goods shed in the Friary Goods Station of the South Western Company.

Power to take easements &c. by agreement.

5. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 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

A.D. 1889.

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.

Lands for extraordinary purposes.

6. The Company may take by agreement for the purposes of this Act for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 any quantity of land not exceeding one acre but nothing in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them upon any land taken under the powers of this section.

Period for compulsory purchase of lands.

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

Power to apply corporate funds to purposes of Act.

8. The Company may apply to the purposes of this Act to which capital is properly applicable any moneys which they now have in their hands or which they have power to raise by shares or mortgage by any Act relating to the Company and which may not be required for the purposes to which they are by any such Act made specially applicable.

Power for the Company to raise additional capital.

9. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise any additional capital not exceeding in the whole one hundred and five thousand pounds by the issue at their option of new ordinary shares or stock or wholly or partially by any one or more of these modes respectively but the Company shall not issue any share of less nominal value than ten pounds nor shall any shares vest in the person or corporation accepting the same unless and until a sum not being less than one-fifth of the amount of such shares shall have been paid in respect thereof and 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 non-payment 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 the borrowed money into capital;

The consolidation of the shares into stock;

The general meetings of the Company and the exercise of the right of voting by the shareholders;

The making of dividends;

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) Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 shall subject to the provisions of this Act extend and apply to the Company and to the additional capital which they are by this Act authorised to raise.

New shares or stock to be subject to the same incidents as other shares or stock.

10. Except by this Act otherwise provided the capital in new shares or stock created by the Company under this Act and the new shares or stock therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares or stock were shares or stock in that capital The capital in new shares or stock so created shall form part of the capital of the Company.

Dividends on shares or stock.

11. Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares or to the whole amount of such stock as the case may be.

Receipt clause in case of persons non sui juris.

12. If any money is payable to a shareholder or mortgagee or debenture stockholder 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 borrow.

13. The Company may in respect of the additional capital of one hundred and five thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole thirty-five thousand pounds that is to say in respect of the first thirty thousand pounds of the capital the Company may borrow not exceeding ten thousand pounds and in respect of the remaining seventy-five thousand pounds the Company may borrow not exceeding twenty-five thousand pounds but no part of either of such sums shall be borrowed until the whole additional capital in respect of which the borrowing power is exercised is issued and accepted and one-half of such capital is paid up and the Company have proved.

A.D. 1889.

to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for the whole of such capital have been issued and accepted and that one-half of such capital has been paid up and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one-half of so much of the said additional capital as is to be raised by means of stock is fully paid up and the Company have proved to such justice as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted (and to the extent aforesaid paid up) bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also so far as the said additional capital is raised by shares that such persons or corporations or 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 a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

For appointment of a receiver.

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

Debenture stock.

15. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 and of section 20 of the Act of 1883.

Priority of principal moneys secured by existing mortgages.

16. The principal moneys secured by 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 the principal moneys secured by any mortgages granted by virtue of this Act.

Application of moneys.

17. All moneys raised under this Act whether by shares stock debenture stock or borrowing shall be applied only to the purposes of this Act to which capital is properly applicable.

Deposit money not to be repaid except so far as railway is opened.

18. 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 four thousand four hundred and forty pounds New Consolidated Stock being equal to five per centum upon the amount of the estimate in respect of the railway by this Act authorised and the railway before mentioned proposed to be authorised by the Bill for this Act has been transferred into the name of the Paymaster-General for and on behalf of the Supreme Court of Judicature in England in respect of the application to Parliament for this Act And whereas during the progress of the said Bill through Parliament the power to make the said railway before mentioned as proposed to be authorised was struck out of the Bill And whereas the sum of one thousand three hundred pounds New Consolidated Stock is equal to five per centum upon the amount of the estimate in respect of the railway by this Act authorised which sum is referred to in this Act as the deposit fund Be it enacted that notwithstanding anything contained in the said Act the said deposit fund 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 (which persons survivors or survivor are or is in this Act referred to as the depositors) unless the Company shall previously to the expiration of the period limited by this Act for completion of the railway open the same for the public conveyance of passengers Provided that if within such period as aforesaid the Company open any portion of the railway for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of the railway opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportions as the length of the railway so opened bears to the entire length of the railway the High Court of Justice in England shall on the application of the depositors order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein 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 and at any time after the passing of this Act the Supreme Court of Judicature may and shall order that the sum of three thousand one hundred and forty pounds New

A.D. 1889.

Consolidated Stock and the interest and dividends thereof shall be repaid to the depositors or as they shall direct.

Application of deposit.

19. If the Company do not previously to the expiration of the period limited for the completion of the railway complete the same and open it for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the London Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or any portion thereof or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act and for which injury or loss no compensation or inadequate compensation has been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the High Court of Justice in England may seem fit and if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall 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 thinks fit to order on the application of the Solicitor to Her Majesty's Treasury and shall be carried to and form part of the Consolidated Fund of the United Kingdom or in the discretion of the Court if the Company is insolvent and has been ordered to be wound up or a receiver has been appointed shall wholly or in part be paid or transferred to such receiver or to the liquidator or liquidators of the Company or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof Provided that until the deposit fund has been repaid to the depositors or has become otherwise applicable as hereinbefore mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.

Period for completion of railway.

20. If the railway is not completed within three 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 except as to so much thereof as is then completed.

Railway to be called the Plymouth Section and

21. The railway shall be called and known as the Plymouth Section and shall form a separate undertaking of the Company and

subject to the provisions of this Act with respect thereto shall for the purpose of tolls rates and charges and otherwise be and be deemed part of the undertaking of the Company. to be separate undertaking. Tolls.

22. The capital of the Plymouth Section shall be thirty thousand pounds raised by shares or stock and ten thousand pounds raised by borrowing as hereinbefore provided. Capital of separate undertaking.

23. The directors of the Company shall have the working and management of the affairs of the Plymouth Section and they and any committees appointed by them for the purposes thereof shall have and shall exercise all such and the same powers with respect thereto as they have or might have or exercise with respect to the rest of the undertaking of the Company. Providing for management of separate undertaking.

24. The terms and conditions upon which the Plymouth Section shall be worked and managed by the Company and the dividends or annual or other sums to be paid to or upon the shares or stock constituting the said separate capital out of the gross receipts arising from traffic passing as well upon the Plymouth Section as upon that section and the other railways of the Company and the payment to be made in respect of the use of the Plymouth Section for the traffic of the Company shall be such as shall be defined and settled by an extraordinary general meeting of the Company duly convened with notice of the object and the substance of such terms and conditions shall be endorsed upon the certificates of the shares or stock or debenture stock and upon the mortgages constituting the separate capital of the Plymouth Section upon the creation and issue of the same. Prescribing how terms to be settled.

25. The Plymouth Section and the revenue arising therefrom shall not be liable for any mortgage or debenture debt or other charge upon any other part of the undertaking of the Company or for the payment of interest thereon and no mortgagee or creditor of the Plymouth Section shall have any claim on or against any other part of the undertaking of the Company. Separate undertaking exempt from mortgages on other undertakings.

26. The general undertaking of the Company and the revenue arising therefrom shall not be liable for any mortgage or debenture debt or other charge upon any part of the Plymouth Section undertaking or for the payment of interest thereon and no mortgagee or creditor of the general undertaking shall have any claim on or against any part of the Plymouth Section. General undertaking exempt from mortgages of Plymouth Section.

27. Separate accounts shall be kept of the capital and revenue of the Plymouth Section and of the payments made in respect of the said capital and revenue in the same form as nearly as may be Providing for separate accounts.

A.D. 1889.

and subject to the same conditions as such accounts would be kept if the Plymouth Section belonged to an independent company.

Part of authorised railways to be abandoned.

28. The Company shall abandon the construction of the Railway No. 1 authorised by the Plymouth Devonport and South Western Junction Railway Act 1883 and described in section 5 of that Act And on and after the passing of this Act the Company shall except only as is by this Act otherwise expressly provided be absolutely freed from all obligations with respect to the said railway and works.

Compensation for damage to land by entry &c.

29. 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 1883.

Compensation to be made in respect of railway abandoned.

30. 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 portions 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.

Release and application of deposits.

31. 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 there were transferred into the Chancery Division of the High Court of Justice in England ten thousand pounds of Three per Centum Consolidated Bank Annuities

ten thousand pounds New Three Pounds per Cent. Annuities ten thousand pounds Reduced Three Pounds per Centum Annuities and fourteen thousand six hundred and seventy-seven pounds two shillings and one penny Two Pounds Ten Shillings per Cent. Annuities all which are now represented by forty-seven thousand and seventy-seven pounds two shillings and one penny Two Pounds Ten Shillings per Cent. Annuities in respect to the application to Parliament for the railways authorised by the Act of 1883 of which amount the sum of ten thousand pounds Two Pounds Ten Shillings per Cent. annuities represents five per centum upon the amount of the estimates in respect of the said railway and works which are by this Act authorised to be abandoned Therefore on the application of the depositors mentioned in section 43 of the Act of 1883 at any time after the passing of this Act the High Court of Justice in England may and shall order that the said sum of ten thousand pounds Two Pounds Ten Shillings per Centum Consolidated Bank Annuities and the interest and dividends thereon shall be transferred to the depositors or to any other person or persons whom the depositors may appoint in that behalf.

Power to use certain railways.

32. In addition to all powers now vested in the Company and all companies or persons lawfully working or using their railways for running over and using the railways of other companies the Company and all companies and persons lawfully working and using the railways of the Company may run over and use with their engines carriages and wagons officers and servants of every description and for the purposes of traffic of all kinds the railways herein-after mentioned (that is to say) :—

The railways of the Plymouth and Dartmoor Railway Company :

And the powers by this section granted shall extend to all stations sidings platforms points signals junctions and roads water engines engine sheds standing room for engines booking and other offices warehouses machinery works and conveniences connected with any such railways as aforesaid and the Company to whom such railways and stations belong shall forthwith execute at the expense of the Company all such works if any as the Board of Trade may require to be executed for the safety of the public consequent upon the Company running over the said railways and to enable the Board of Trade to issue a certificate that such railways are fit and may be used for the purposes of traffic and the said Company shall make all necessary arrangements and afford all reasonable facilities and perform all reasonable services for the passage reception delivery and transmission of traffic over their railways to and from the railways of the Company and make provision for the use of booking offices at the stations on such

A.D. 1889.

railways and all other matters necessary for facilitating the traffic of the Company and of such other companies or persons working or using the railways of the Company as aforesaid.

Terms of such use.

33. The terms conditions and regulations to which the Company and such other companies or persons as aforesaid shall be subject in respect of the said use facilities and services and the tolls or other considerations to be paid by them for the same shall if not agreed upon between them and the Company to whom such railways belong be from time to time determined by an arbitrator to be appointed by the Board of Trade on the application of any of the said companies and the decisions of such arbitrator shall be binding and conclusive on all the parties in difference and the costs and expenses of such arbitration shall be defrayed as the arbitrator shall direct And any of the said companies who shall refuse or neglect to perform observe and conform to any decision given or regulation made by any such arbitrator in the premises shall forfeit and pay to such person or company as the arbitrator shall determine any sum not exceeding fifty pounds for every such offence and twenty pounds for every day during which such offence shall continue.

For protecting local traffic.

34. In exercising the powers hereinbefore granted it shall not be lawful for the Company or any other company or persons lawfully using the railways of the Company unless with the consent in writing of the Company to whom the railways belong to take up at any station of the same last-mentioned Company upon any portion of the railways hereinbefore specified any passengers parcels animals goods or minerals and to deliver the same at another station of the same Company And if the Company or any such other companies or persons violate this enactment they shall for every such violation pay to the Company to whom the railways or portion of railway belong fifty pounds by way of penalty.

Tolls on traffic conveyed partly on the railway and partly on the railways of other companies.

35. During the exercise of the running powers hereinbefore granted the railways of the Company and of such other companies shall for the purposes of short-distance tolls and charges be considered as one railway and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railway and partly on the railways of such other companies for a less distance than three miles tolls and charges may only be charged as for three miles and in respect of passengers for every mile or fraction of a mile beyond three miles tolls and charges as for one mile only and in respect of animals and goods for every quarter of a mile or fraction of a quarter of a mile beyond three miles tolls and charges as for a quarter of a mile only and no other short-distance charge shall be

made for the conveyance of passengers animals or goods partly on the railway and partly on the railways of such other companies. A.D. 1889.

Restriction on taking houses of labouring class.

36. The Company shall not under the powers of this Act without the consent of the Local Government Board take ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers For the purposes of this section the expression "labouring class" means and includes mechanics artisans 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 of such persons who may be residing with them.

Defining labouring class.

Interest not to be paid out of capital.

37. The Company shall not out of any money by this Act authorised to be received 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.

Confirming agreement between the Company the Great Western Railway Company and the London and South Western Railway Company.

38. The agreement contained in the schedule to this Act and made between the Company the Great Western Railway Company and the London and South Western Railway Company is hereby confirmed and made binding upon the parties thereto respectively.

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

39. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum which by any standing order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking.

Provision as to general Railway Acts.

40. 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.

Expenses of Act.

41. 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. 1889.

SCHEDULE referred to in the foregoing Act.

ARTICLES OF AGREEMENT made the 13th day of June 1889 between THE GREAT WESTERN RAILWAY COMPANY (hereinafter called "the Great Western Company") of the first part THE LONDON AND SOUTH WESTERN RAILWAY COMPANY (hereinafter called "the South Western Company") of the second part and THE PLYMOUTH DEVONPORT AND SOUTH WESTERN JUNCTION RAILWAY COMPANY (hereinafter called "the Plymouth Company") of the third part.

WHEREAS by the Plymouth Devonport and South Western Junction Railway Act 1883 (hereinafter called "the Act of 1883") the Plymouth Company were incorporated and empowered to make certain railways forming together a railway from Plymouth and Devonport to Lidford all in the county of Devon and of which railway the railway between Plymouth and Devonport in the Act of 1883 described as Railway No. 1 (and hereinafter referred to as "the Railway No. 1 of 1883") forms part:

And whereas the railways of the Plymouth Company as between Devonport and Lidford are in course of construction and will probably be opened for public traffic in the early part of 1890 but the Railway No. 1 of 1883 has not yet been commenced:

And whereas the Plymouth Company have introduced a Bill into Parliament intituled "A Bill to authorise the Plymouth Devonport and South Western Junction Railway Company to abandon a certain portion of their undertaking and to confer on them further powers" by which Bill the Plymouth Company seek to abandon the construction of Railway No. 1 of 1883 and for reasons of economy to construct railways from the main line of the Great Western Company near Mutley Station to the South Western Company's railway near Friary Station (hereinafter referred to as "the Plymouth proposed railways") such railways being proposed in substitution of Railway No. 1 of 1883 against which Bill the Great Western Company have presented a petition:

And whereas the South Western Company are empowered to work the railways of the Plymouth Company authorised by the Act of 1883 but such parts of those railways as are situate to the eastward of the South Western Company's Devonport Station are not to be made without the consent of the South Western Company and the South Western Company are content that Railway No. 1 of 1883 should be abandoned:

And whereas the Great Western Company are promoting a Bill in the present session of Parliament by which they seek powers to construct among other railways a railway in such Bill described as Railway No. 1 being—

A railway 3 furlongs 9 chains in length in the parish of Charles Plymouth from their Sutton Harbour Branch to their South Devon Railway;

and the South Western Company have presented a petition against the powers so sought thereby:

And whereas such railway as proposed to be constructed by the Great Western Company (hereinafter referred to as "the Great Western proposed railway") although in the opinion of the South Western Company and the Plymouth Company not affording so independent a route as would be afforded in the event of construction of Railway No. 1 of 1883 or of the Plymouth proposed railways yet would to some extent meet all or most of the objects sought to be obtained by the Plymouth proposed railways and the South Western Company are content to accept the Great Western proposed railway in substitution for the Railway No. 1 of 1883 and of the Plymouth proposed railways on the terms and conditions as to running powers and payment in respect thereof hereinafter appearing:

And whereas the Great Western Company contend that the running powers which at present the South Western Company are entitled to and do exercise over the Great Western Company's lines between Lidford and the junction near Devonport of the Cornwall Railway with the Great Western Railway would not be available for the purposes of running trains between the Friary Station and Devonport but are limited to the running of trains on the Great Western Company's railway between Lidford and Devonport and are willing to concede running powers over so much of the Great Western Company's lines including the Great Western proposed railway as would enable the South Western Company to run trains between Friary Station and Devonport upon the terms and conditions hereinafter appearing:

And whereas by certain heads of arrangement bearing date the 24th day of March 1873 made between the South Devon Company now represented by the Great Western Company of the one part and the Devon and Cornwall Company therein called the Company now represented by the South Western Company of the other part scheduled to and confirmed by the Devon and Cornwall Railway (Extensions to Plymouth and Devonport) Act 1873 it is among other things provided by Article 3 as follows:—"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":

And whereas on the terms and conditions as hereinafter contained the Plymouth Company are willing with the consent of the South Western Company to proceed with their Bill for the abandonment of Railway No. 1 of 1883 and to withdraw from their Bill the power sought to construct the Railway No. 1 therein described:

Now therefore it is hereby mutually declared and agreed by and between companies parties hereto so far as the several matters are to be done or performed by them respectively as follows (that is to say):—

1. The Great Western Company shall construct and complete and open for public traffic within twelve months from the passing of the Act authorising the same the Railway No. 1 described in clause 4 of the Great Western Company's Bill of the present session.

2. The Great Western Company hereby grant to the South Western Company running powers over the Great Western Company's proposed Railway No. 1 and over so much of any other railways of the Great Western Company as may

A.D. 1889.

be necessary to enable the South Western Company to run their trains from their Friary Station to their Devonport Station and vice versâ together with the use of any intermediate station of the Great Western Company.

3. In the event of the Great Western proposed railway not being completed within the period hereinbefore mentioned or by the time the Friary Station is passed by the Board of Trade as fit for passenger traffic the South Western Company shall be at liberty for the purposes of any traffic between Friary and Devonport and beyond to use the existing lines of the Great Western Company between those points and from the date when such passenger station or the Great Western Company's proposed Railway No. 1 shall be passed by the Board of Trade as fit for passenger traffic whichever shall first happen the Great Western Company shall be entitled to the minimum payment provided by Article 5.

4. The payments to be made by the South Western Company in respect of all through traffic for passengers and goods in the exercise of the running powers hereby granted to them shall be as follows :—

(A) On traffic arising or terminating at North Road Station and destined for or coming from places beyond the station to be constructed at Beer Ferris on the Plymouth Company's line a proportion of 1½ miles ;

(B) On traffic arising or terminating at Mutley Station and destined for or coming from places beyond the station to be constructed at Beer Ferris on the Plymouth Company's line a proportion of 2 miles ;

(C) On traffic arising or terminating at Friary Station and destined for or coming from places beyond the station to be constructed at Beer Ferris on the Plymouth Company's line a proportion of 4 miles;

(D) The receipts from passenger traffic arising and terminating between Friary Station and the station to be constructed at Beer Ferris on the Plymouth Company's line including those stations and all intermediate stations (all which stations inclusive are referred to as local stations) shall be divided by chainage ;

(E) The receipts from goods traffic arising and terminating between local stations shall be divided by chainage after deducting an agreed terminal at each end ;

(F) The mileage proportion shall in every case be subject to an allowance to the South Western Company of 27½ per cent. on such proportions respectively for working expenses and except as herein otherwise provided each Company shall receive the usual Clearing House terminal on goods traffic arising or terminating at their respective stations.

5. The aggregate annual payment to be made by the South Western Company to the Great Western Company for the exercise by the former of the running powers hereby granted over the railways of the Great Western Company shall in no event be less than £1,250.

6. The rates and fares between all local stations where the lines of both Companies are used and also between local stations and all competitive stations shall be agreed between the Great Western and South Western Companies but rates and fares between the local stations and non-competitive stations of the South Western Company shall be fixed by the South Western Company Provided that in the event of the Great Western Company dissenting from rates and fares so made as they affect the receipts on their line they may demand a

reference of the difference to arbitration the disputed rates and fares remaining in force pending a decision.

7. The present arrangements between the South Western and Great Western Companies as regards North Road Station to be continued but in the event of the South Western Company running a service between the local stations a share of the working expenses of Mutley Station calculated in proportion to the number of passengers carried by the Great Western and South Western Companies respectively using that station shall be paid by the South Western Company to the Great Western Company.

8. The South Western Company shall be at liberty to use their Friary Station as a passenger station and to provide all such accommodation as they may consider necessary for the purposes of such user.

9. The Great Western Company shall be at liberty to use their Sutton Harbour Station or any other Station they may construct in that locality as a passenger station and to provide all such accommodation as they may consider necessary for the purposes of such user.

10. The Great Western Company shall at all times afford all proper facilities for the working of South Western trains over their railways and priority shall be given to the train first signalled from the signal box next to the respective junctions.

11. The Plymouth Company shall withdraw from their Bill [the power to construct the Railway No. 1. therein described and shall proceed with their Bill in respect of the abandonment of Railway No. 1 of 1883 and this agreement shall be contingent on such withdrawal and abandonment respectively.

12. Any difference arising between the companies in reference to any of the matters hereinbefore mentioned or referred to shall be referred to and determined by arbitration in accordance with the provisions of the Railway Companies Arbitration Act 1859.

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

J. D. Higgins, Secretary.

The Great Western Railway Company.

The London and South Western Railway Company.

The common seal of the Plymouth Devonport and South Western Junction Railway Company was hereunto affixed in the presence of

Mount Edgcumbe, Chairman.

James Ward Burchell, Secretary.

The Plymouth Devonport and South Western Junction Railway Company.

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