CHAPTER cxiii.

An Act to confer further powers on the Plymouth Devonport and South Western Junction Railway Company. A.D. 1891.

[21st July 1891.]

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 the Plymouth Devonport and South Western Junction Railway being a railway from the London and South Western Railway at Plymouth and Devonport to that railway at Lidford with junctions with the Cornwall Railway at St. Budeaux and with the authorised Devon and Cornwall Railway at Calstock and certain diversions and widenings of streets in the parish of Charles (Plymouth) in the county of Devon:

And whereas the Company have proceeded to exercise the powers of the Act of 1883 and have acquired the land required for the purposes of Railways Nos. 2 3 4 and 9 thereby authorised and have constructed those railways except part of No. 9 and Railways Nos. 2 3 and 4 are now open for traffic:

And whereas the powers of the Company for the compulsory purchase of lands for the purposes of the Act of 1883 as regards Railways Nos. 6 and 8 have expired and the period limited for the completion of those railways and works will expire on the twenty-fifth day of August one thousand eight hundred and ninety-one and it is expedient that those powers in respect of the lands in that behalf in this Act specified be revived and that period and the period for the completion of the railways and works extended as by this Act provided:

And whereas by the Devon and Cornwall Central Railway Act 1882 (in this Act called "the Act of 1882") the Devon and

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Cornwall Central Railway Company (in this Act called "the Devon Company") were incorporated and empowered to make and maintain the Devon and Cornwall Central Railway being a railway from the Great Western Railway and the London and South Western Railway respectively at Lidford to the East Cornwall Mineral Railway at Calstock and to Callington and certain other works and to acquire the undertaking of the East Cornwall Mineral Railway Company:

And whereas by the Plymouth Devonport and South Western Junction Railway Act 1884 (herein-after called "the Act of 1884") the powers of the Devon Company were transferred to and vested in the Company and provision was made for the winding up and dissolution of the Devon Company:

And whereas under the provisions of the Act of 1884 so much of the Devon and Cornwall Central Railway as is situate between Lidford and the junction therewith at Calstock of the Railway No. 6 authorised by the Act of 1883 has been abandoned:

And whereas by the Plymouth Devonport and South Western Junction Railway Act 1885 (herein-after called "the Act of 1885") the time limited by the said Act of 1882 for the purchase of lands and the completion of the works for the Railway No. 4 and so much of the Railway No. 3 authorised by the Act of 1882 as lies between the termination thereof and the junction therewith of Railway No. 6 was extended until the eighteenth day of August one thousand eight hundred and eighty-seven and the eighteenth day of August one thousand eight hundred and eighty-eight respectively:

And whereas by the Plymouth Devonport and South Western Junction Railway Act 1888 (herein-after called "the Act of 1888") the time limited by the said Act of 1885 for the purchase of lands for and the completion of the Railways Nos. 6 and 8 of the Act of 1883 and No. 4 and the said part of No. 3 of the Act of 1882 were revived and extended until the eighteenth day of August one thousand eight hundred and ninety and the twenty-fifth day of August one thousand eight hundred and ninety-one respectively and it is expedient that those powers should be revived and further enlarged:

And whereas it is expedient that the Company should be empowered to constitute Railways Nos. 6 and 8 authorised by the Plymouth Devonport and South Western Junction Railway Act 1883 and the part of Railway No. 3 and Railway No. 4 authorised by the Devon and Cornwall Central Railway Act 1882 and not authorised to be abandoned by the Plymouth Devonport and South Western Junction Railway Act 1884 and the East Cornwall Mineral

Railway when altered and improved a separate undertaking with a separate and distinct capital as by this Act provided:

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 for all purposes be cited as the Plymouth Devonport and South Western Junction Railway Act 1891.

Interpretation.

2. In this Act the several words and expressions to which meanings are assigned by the Acts of 1883 and 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 general Acts.

3. The undermentioned enactments are except where expressly varied by this Act incorporated with and form part of this Act:—

The Companies Clauses Consolidation Act 1845 and Part I. (relating to cancellation and surrender of shares) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863.

Renewing and extending time for purchase of lands authorised by Acts of 1883 and 1882.

4. Notwithstanding the expiration of the period limited by the Act of 1883 and by the Act of 1882 as amended by the Act of 1884 as extended by the Act of 1885 and by the Act of 1888 with respect to the compulsory purchase and taking of lands required for the purposes of the Railways Nos. 6 and 8 authorised by the Act of 1883 and the said part of Railway No. 3 and the Railway No. 4 authorised by the Act of 1882 and works by those Acts respectively authorised the Company may exercise such powers for a period of two years from the twenty-fifth day of August one thousand eight hundred and ninety-one.

Extending time for completing railways authorised by Acts of 1883 and 1882.

5. The time limited by the Acts of 1883 and 1882 as amended by the Act of 1884 and extended by the Act of 1885 and by the Act of 1888 for the completion of the Railways Nos. 6 and 8 authorised by the said Act of 1883 and the said part of Railway No. 3 and the Railway No. 4 and the works authorised by the Act of 1882 is hereby extended until the twenty-fifth day of August one thousand eight hundred and ninety-four.

Time limited for the completion of railways.

6. If the respective railways and works shall not be completed within the period limited by this Act then on the expiration of such period the powers by the Acts of 1883 and 1882 and by this Act

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granted to the Company for making and completing such railways or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

Saving the rights of the Duchy of Cornwall.

7. Nothing contained in this Act shall extend to authorise the Company to take use enter upon or interfere with any land soil or water or any rights in respect thereof belonging to Her Majesty Her heirs or successors in right of the Duchy of Cornwall without the consent in writing of some two or more of such of the regular officers of the said duchy or of such other persons as may be duly authorised under the provisions of the Duchy of Cornwall Management Act 1863 section 39 to exercise all or any of the rights powers privileges and authorities by the said Act made exercisable or otherwise for the time being exercisable in relation to the said duchy or belonging to the Duke of Cornwall for the time being without the consent of such Duke testified in writing under the seal of the Duchy of Cornwall first had and obtained for that purpose or to take away diminish alter prejudice or affect any property rights profits privileges powers or authorities vested in or enjoyed by Her Majesty Her heirs or successors in right of the Duchy of Cornwall or in or by the Duke of Cornwall for the time being.

Restrictions on displacing persons of labouring class.

8.—(1) The Company shall not under the powers of 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 last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until the Company—

(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 fifteenth day of December last 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.

(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

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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 the inspectors of the Local Government Board have for the purposes of inquiries directed by that 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.

(12) For the purposes of this section the expression "labouring class" 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 such persons who may be residing with them.

East Cornwall Line constituted separate undertaking.

9. If the Company shall at an extraordinary general meeting of the Company by the votes of the proprietors present personally or by proxy holding at least three fourths of the paid up capital represented at such meeting pass a resolution to the effect that it is expedient that the before-mentioned railways together with the East Cornwall Mineral Railway when altered and improved should be constituted a separate and distinct undertaking then such railways shall be a separate and distinct undertaking of the Company under the name of the East Cornwall Line Undertaking.

East Cornwall Line to be worked in an efficient manner.

10. 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 East Cornwall 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 East Cornwall 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 East Cornwall 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

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in the East Cornwall 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.

11. The Company may out of the share capital which they are now authorised to issue and have not yet issued set apart for the purposes of the East Cornwall Line Undertaking the sum of one hundred and forty thousand pounds which shall be a separate capital of the Company for the East Cornwall Line and shall be the East Cornwall Line capital.

Power to borrow.

12. The Company out of the sums which they are now authorised to borrow and have not yet borrowed may from time to time borrow on mortgage of and for the purposes of the East Cornwall Line Undertaking any sum not exceeding in the whole thirty-five thousand pounds but no part thereof shall be borrowed until shares for the whole of the said East Cornwall Line capital are issued and accepted and one half of such capital is paid up and the Company have proved to the justice who is to certify under the 40th 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 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 that such capital was issued bonâ fide and is held by the persons or corporations to whom the same was issued or their executors administrators successors or assigns and that such persons or corporations 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 his certificate that the proof aforesaid has been given which shall be sufficient evidence thereof.

For appointment of a receiver.

13. The mortgagees of the Company under this Act of the East Cornwall Line Undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver of the East Cornwall Line Undertaking and the tolls and charges arising therefrom 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 three thousand pounds in the whole.

Debenture stock (East Cornwall Line).

14. The Company may subject to the provisions of Part III. (relating to debenture stock) of the Companies Clauses Act 1863 create and issue debenture stock instead of the whole or any part of the sum authorised by this Act to be raised by mortgage of the East Cornwall Line Undertaking but notwithstanding anything in that Act contained the interest of all debenture stock and of all mortgages created and issued or granted by the Company under this or any subsequent Act in respect of the East Cornwall Line Undertaking shall subject to the provisions of any subsequent Act rank pari passu (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Mortgages &c. to be charged on separate undertaking.

15. All mortgages or debenture stock to be granted or issued by the Company in respect of the East Cornwall Line Undertaking under the powers of this Act shall be a charge exclusively upon the East Cornwall Line Undertaking and shall not comprise or affect any other property or undertaking of the Company and no other mortgages or debenture stock granted or issued by the Company shall be a charge upon the East Cornwall Line Undertaking.

Mortgages to show on what undertaking they are charged.

16. The mortgages from time to time granted by the Company in respect of the East Cornwall Line shall on the face thereof distinctly denote that each such mortgage is a mortgage only upon the East Cornwall Line Undertaking.

Expenses of the East Cornwall Line.

17. All expenses of or in connexion with the East Cornwall Line Undertaking shall be borne and paid by the Company out of the capital of that undertaking until the completion of the East Cornwall 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 East Cornwall Line.

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Votes of shareholders &c. in East Cornwall Line.

18. Shares and stock in the East Cornwall 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 East Cornwall 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.

Dividends on shares &c. in East Cornwall Line.

19. Shares and stock in the East Cornwall Line capital shall be entitled to dividends only out of the profits of the East Cornwall 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 East Cornwall Line capital.

20. 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 East Cornwall Line capital.

Company to keep separate accounts.

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

Application of moneys.

22. 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 East Cornwall Line Undertaking shall be applied for the purposes of that undertaking only.

Moneys to be applied to capital purposes only.

23. All moneys raised by the Company under this Act shall be applied only for the purposes of the Acts of 1882 and 1883 and this Act relating to the East Cornwall Line Undertaking to which capital is properly applicable.

Interest not to be paid on calls paid up.

24. 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.

25. 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.

26. Nothing herein contained shall be deemed or construed to exempt the railways of the Company from the provisions of any general Act relating to railways or to 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 and 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 the Company.

Expenses of Act.

27. All the costs charges and expenses of obtaining and passing this Act or incidental thereto shall be paid by the Company.

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