

**CHAP. xxxiii.**

An Act to enable the East Cornwall Mineral Railway Company to divert a portion of their Railway; and for other purposes. A.D. 1871.
[25th May 1871.]

WHEREAS the East Cornwall Mineral Railway Company (in this Act called "the Company") were incorporated by the "Callington & Calstock Railway Act, 1869," and authorised to construct a railway from Callington to Calstock in the county of Cornwall: 32 & 33 Vict.
c. clii.

And whereas it is expedient that the Company should be authorised to divert a portion of their railway:

And whereas for the purposes of this Act plans and sections of the railway and works by this Act authorised, showing the line and levels thereof, together with a book of reference to the said plan, containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands and property which may be required for the purposes thereof, have been deposited with the clerk of the peace for the county of Cornwall, and those plans, sections, and book of reference are herein-after referred to as the deposited plans, sections, and book of reference:

And whereas it is expedient that the Company should be authorised to attach a preferential dividend to a portion of their unissued ordinary share capital:

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,)

1. This Act may be cited for all purposes as "East Cornwall Mineral Railway (Deviation) Act, 1871." Short title.

A.D. 1871.

Provisions
of general
Acts herein
named in-
corporated.

2. "The Companies Clauses Consolidation Act, 1845;" Part I., relating to the cancellation and surrender of shares, of "The Companies Clauses Act, 1863;" "The Lands Clauses Consolidation Act, 1845;" "The Lands Clauses Consolidation Acts Amendment Act, 1860;" "The Railways Clauses Consolidation Act, 1845;" and Part I., relating to the construction of a railway, of "The Railway Clauses Act, 1863," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpreta-
tion of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Company" shall mean the Company incorporated by the recited Act; the expressions "the railway," or "the undertaking," respectively, shall mean the railway and the undertaking of the Company by the recited Act and by this Act authorised; and 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 common simple contract debt, and not a debt or demand created by statute.

Power to
make railway
and works
according to
deposited
plans.

4. Subject to the provisions of this Act, the Company may make and maintain, in the line and according to the levels shown on the deposited plans and sections, the railway herein-after described, with all proper stations, 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 herein-before referred to and authorised by this Act will be wholly situated in the county of Cornwall, and is:—

1. A deviation railway one mile three furlongs and four chains in length, commencing from and out of the Company's authorised line in the parish of Stokeclimsland in the field numbered 53a on the plans of the said line deposited with the clerk of the peace for the county of Cornwall in the month of November one thousand eight hundred and sixty-eight, and terminating in the same parish in a piece of waste land numbered 3 on the said deposited plans.

Preference
may be at-
tached to
unissued
shares.

5. The Company may attach to a portion, not exceeding in amount thirty thousand pounds, of the unissued ordinary shares in their capital a preferential dividend not exceeding six per centum per annum, and the provisions in Part II. of "The Companies

Clauses Act, 1863," relating to "preference shares or stock," shall apply to the said shares as though they were "additional capital." A.D. 1871.

6. The proprietors of any shares to be issued under the authority of this Act shall be entitled to such number of votes in respect thereof as the nominal amount represented by such shares would have entitled them to if the same had been original shares of the Company. As to votes of proprietors of such shares.

7. Notwithstanding the provisions in Part II. of "The Companies Clauses Act, 1863," contained, relating to additional capital, if at the time of the issue of any shares to which any preference may be attached or assigned, by virtue of this Act, the ordinary shares or ordinary stock of the Company are or is at a premium or not, such shares shall be offered to the then respective holders of the ordinary shares or ordinary stock of the Company, in proportion, as nearly as conveniently may be, to the ordinary shares or ordinary stock held by them respectively; and, save as is in this enactment otherwise provided, the provisions contained in Part II. of "The Companies Clauses Act, 1863," relating to additional capital, shall, where applicable, apply to any such shares to which any preference may be so attached or assigned. Shares or stock to which preference assigned to be offered to existing ordinary shareholders.

8. The Company may apply towards the construction of the works authorised by this Act any of the moneys which they are already authorised to raise, as if those works had been authorised by the recited Act. Application of moneys.

9. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act. Powers for compulsory purchases limited.

10. The railway shall be completed within five years from the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for executing the railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed. Period for completion of works.

11. The railway and works by this Act authorised shall, for all purposes of tolls, rates, and charges, and for all other purposes whatsoever, be part of the undertaking, railway, works, and property of the Company, as if the Company had by the recited Act been authorised to make and maintain the same. New railway to form part of Company's undertaking.

12. Subject to the provisions in "The Railways Clauses Consolidation Act, 1845," and in Part I. (relating to construction of a railway) of "The Railways Clauses Act, 1863," contained, in reference to the crossings of roads on the level, the Company may Level crossings.

A.D. 1871. in the construction of the railway carry the same with a single line of railway only whilst the railway shall consist of a single line, and afterwards with a double line of railway only, across and on the level of the road next herein-after mentioned ; (that is to say,)

No. on Deposited Plan.	Parish.	Description of Road.
39	Stokeclimland.	Parish Road.

Company may abandon portion of authorised line.

13. The Company shall abandon the construction of so much of the railway authorised by the recited Act as lies between its commencement in the parish of Callington and the commencement of the deviation railway herein-before described.

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

14. 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, in accordance with the provisions in that behalf of "The Lands Clauses Consolidation Act, 1845," 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 the line of railway, and shall not prejudice or affect the right of the owner or occupier of any land which may have been temporarily occupied by the Company to receive compensation, in accordance with the provisions in that behalf of "The Railways Clauses Consolidation Act, 1845," for such temporary occupation, or for any loss, damage, or injury which may have 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 last-mentioned Act, or "The Callington and Calstock Railway Act, 1869."

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

15. Where before the passing of this Act any contract may have 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, and which shall not be required for the purposes of any of the works by this Act authorised, 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," for determining the amount and applica-

tion of compensation paid for lands taken under the provisions thereof. A.D. 1871.

16. Nothing contained in this Act, or in any Act or Acts incorporated herewith or herein mentioned or referred to, 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 thirty-nine, to exercise all or any of the rights, powers, privileges, and authorities by the said Act made exerciseable, or otherwise for the time be exerciseable in relation to the said Duchy, or belonging to the Duke of Cornwall for the time being, without the consent of the 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.

Saving
rights of the
Duchy of
Cornwall.

17. The Company shall not, out of any money raised by calls or by borrowing, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always, that this Act shall not prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as in conformity with "The Companies Clauses Consolidation Act, 1845."

Interest not
to be paid on
calls paid up.

18. The Company shall not, out of any money raised by them, 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.

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

19. Nothing herein contained shall be deemed or construed to exempt the railway by this Act authorised to be made 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

Railway not
exempt
from pro-
visions of
present or
future
general
Acts.

A.D. 1871. authority of Parliament, of the maximum rates of fares and charges,
or of the rates for small parcels, authorised by this Act.

Expenses of
Act.

20. 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.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1871.