

[39 & 40 VICT.]

*The South-western Railway
(Various Powers) Act, 1876.*

[Ch. ccxiii.]



CHAPTER ccxiii.

An Act to confer further powers upon the London and South-western Railway Company in respect of their undertaking, and of the undertakings of other Companies, and to empower that Company and the London, Brighton, and South Coast Railway Company to purchase additional Lands for the purposes of the Tooting, Merton, and Wimbledon Railway; and for other purposes. [11th August 1876.]

A.D. 1876

WHEREAS it is expedient that the London and South-western Railway Company (in this Act called "the Company") be authorised to purchase additional lands in the several parishes mentioned in that behalf in this Act, and to lay down one or more line or lines of rails upon lands and under a public carriage road in the parish of South Stoneham and county of Southampton, and to deviate their railway in the parishes of Saint Mary, Lambeth, and Saint Mary, Battersea, and county of Surrey:

And whereas the Tooting, Merton, and Wimbledon Railway is vested in the Company and the London, Brighton, and South Coast Railway Company (in this Act called "the Brighton Company") jointly, and it is expedient that the two Companies be authorised to purchase additional lands in the parish of Merton and county of Surrey for the purposes of that railway:

And whereas it is expedient that the Company be empowered to purchase and acquire by agreement with the Great Western Railway Company (in this Act called "the Great Western Company") and that the last-mentioned company be enabled to sell and convey to the Company lands in the parish of Fisherton Anger and county of Wilts, and that the Company and the Great Western Company and the Salisbury and Yeovil Railway Company (in this Act called "the Salisbury Company") be authorised to enter into and carry into effect agreements with reference to those lands, and to other lands and the works of the contracting companies:

A.D. 1876. same, and that the Company be authorised to accept such sale and transfer and to complete those lines :

And whereas the Devon Company and the South-western Company have entered into articles of agreement, a copy whereof is set forth in the schedule to this Act, and it is expedient that those articles of agreement be confirmed :

21 & 22 Vict.
c. lxxxix.

And whereas by "The South-western Railway (Works and Capital) Act, 1858," (in this Act called "the Act of 1858,") it was enacted (section 58), that within twenty years after the opening throughout for traffic of the Salisbury and Yeovil Railway (which was then making and was opened throughout for traffic in the year 1860) the Company and the Salisbury Company should commute the yearly rent payable under the lease by the reciting Act authorised of the Salisbury and Yeovil Railway to the Company (in this Act called "the Salisbury lease") into a fixed yearly payment to be paid in equal half-yearly payments to the shareholders of the Salisbury Company in proportion to their shares therein, and that thereupon the demised premises should be absolutely vested in perpetuity in the Company free from all rent and liabilities under the lease, and that the term granted by the lease should be merged in the freehold; and (section 59), that if the Company and the Salisbury Company should not within the twenty years agree as to the amount of the fixed yearly payment into which the yearly rent payable under the lease should be commuted, the amount thereof should be determined by arbitration as therein provided; and (section 60), the Company were authorised to acquire shares in the Salisbury Company from any persons willing to dispose of the same; and (section 65), that if and when the Company should acquire all the shares in the Salisbury Company, the affairs of that company should be wound up, and that company should be dissolved and cease to exist :

And whereas it is expedient that the yearly rent payable under the Salisbury lease should be commuted, if the two Companies shall so desire, into a sum in gross instead of a yearly payment :

4 & 5 Will. 4.
c. lxxxviii.

And whereas by "The London and South-western Railway Act, 1834," (in this Act called "the Company's original Act,") it was provided (section 106), that when and so often as any of the directors of the Company to be elected by virtue of that Act should die or resign, or become disqualified or incompetent to act as a director, or should cease to be a director by any other means than by going out of office by rotation as therein mentioned, it should be lawful for the remaining directors to elect some other duly qualified proprietor of the Company to be a director, who should

continue in office so long only as the person in whose place or
stead he might be elected would have been entitled to continue in
office if he had lived and remained in office :

A.D. 1876.

And whereas by "The London and South-western Railway
(Deviations) Act, 1837," (in this Act called "the Act of 1837,")
the said 106th section of the Company's original Act was (section 63)
repealed, and it was (section 64) enacted, that when and so often as
any of the directors should die or resign, or become disqualified or
incompetent to act as a director, or should cease to be a director by
any other means than by going out of office by rotation, as by the
Company's original Act is provided, such vacancy should be filled
up from among the duly qualified proprietors for the time being of
the Company at the first general or special general meeting after
such vacancy should have occurred, and that every such pro-
prietor so elected to fill up any such vacancy should continue in
office so long only as the person in whose place or stead he might
be elected would have been entitled to continue in office if he had
lived and remained in office :

7 Will. 4. &
1 Vict. c. lxxi.

And whereas the filling up in manner provided by section 64
of the Act of 1837 of vacancies in the direction arising otherwise
than by going out of office by rotation is inconvenient, and it is
expedient that the section be repealed, and that such vacancies be
in future filled up in accordance with the provisions of "The
Companies Clauses Act, 1845 :

And whereas by "The London and South-western Railway
Company's Amendment Act, 1841," (in this Act referred to as
"the Act of 1841,") it was enacted (section 7), that from and
after the passing of that Act no proprietor should be entitled to be a
candidate for the office of director of the Company unless he should
have signified in writing to the secretary of the Company his inten-
tion to become a candidate thirty days at least before the meeting
of proprietors at which he should propose to be a candidate :

4 & 5 Vict.
c. i.

And whereas it is expedient that the recited provision of section 7
of the Act of 1841 should apply only to those cases in which a
director or directors is or are to be elected at a meeting of the
proprietors of the Company :

And whereas by "The London and South-western (Exeter
Extension) Act, 1856," (in this Act called the Act of 1856,) it
was enacted (section 75), that after the passing of that Act the
qualification of a director of the Company should be or include
his holding in his own right one or more of the descriptions of stock
and shares therein specified to the amount of at least 3,000*l.*, and

19 & 20 Vict.
c. cxx.

A.D. 1876. that such qualifying amount of stock or shares should be held for at least twelve months before the time of his election :

And whereas it is expedient that such provision should be made as is herein-after contained as to the qualification for the office of director :

And whereas the Company are desirous and it is expedient that they be authorised to establish provident institutions and savings banks for the benefit of their officers and servants :

And whereas it is expedient that the Company for all or any of the purposes of this Act, and that the Brighton Company for such of the purposes of this Act as relate to them, shall be respectively authorised to apply their corporate funds and revenues, and that for the purposes of the transfer to the Company by this Act authorised of the undertakings or part of the undertakings of other companies the Company be authorised to raise further moneys by the creation of new shares and stock, ordinary or preferential, and by borrowing :

And whereas plans of the additional lands which by this Act the Company are authorised to purchase and acquire, and plans and sections of the works by this Act authorised, and books of reference to such plans respectively, containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of those lands, were duly deposited with the clerks of the peace for the respective counties within which those lands are situate, and those plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books of reference :

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 :

Short title.

1. This Act may be cited as "The South-western Railway (Various Powers) Act, 1876."

Provisions of certain general Acts incorporated.

2. The provisions following of "The Companies Clauses Consolidation Act, 1845 ;" videlicet,

With respect to the distribution of the capital of the Company into shares ;

With respect to the payment of subscriptions and the means of enforcing the payment of calls ;

With respect to the forfeiture of shares for nonpayment of calls ;

With respect to the remedies of creditors of the Company against the shareholders ;

With respect to the borrowing of money upon mortgage or bond ; A.D. 1876.
With respect to the conversion of the borrowed money into capital ;

With respect to the consolidation of the shares into stock ; and
With respect to the provision to be made for affording access to the special Act by all parties interested :

“The Lands Clauses Consolidation Acts, 1845, 1860, and 1869 ;”

“The Railways Clauses Consolidation Act, 1845 ;” and

Part I. (relating to the construction of a railway) of “The Railways Clauses Act, 1863,” are (except where expressly varied by this Act) incorporated with and form part of this Act.

3. The several words and expressions to which by the Acts in whole or in part incorporated with this Act meanings are assigned have in this Act the same respective meanings, unless there be something in the subject or context repugnant to the construction ; and the expression “superior courts,” or “court of competent jurisdiction,” or any other like expression in this Act or any Act in whole or in part incorporated with this Act, shall for the purposes of this Act 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. Interpretation of terms.

4. Subject to the provisions of this Act, the Company may, for enlarging and extending their station and siding accommodation, and for roads and approaches, and for taking and getting ballast, and for other purposes of their undertaking, enter upon, take, hold, and use the whole or any part or parts of the lands and all or any of the buildings in the parishes next herein-after mentioned shown on the deposited plans and described in the deposited books of reference, or estates, rights, interests, or easements in, over, or affecting those lands or any part or parts of them ; (that is to say,) Power to take lands for general purposes.

(A.) Lands and buildings in the parish of Windlesham and county of Surrey ;

(B.) Lands in the parish of Farnborough and county of Southampton, and the parish of Ash, otherwise Ash and Normandy, and the parish of Frimley and chapelry of Frimley, in the county of Surrey, or some or one of those parishes and places ;

(C.) Lands in the parish of Heavitree and county of Devon and county of the city of Exeter, or one of those counties ;

(D.) Lands in the parish of South Stoneham and county of Southampton ;

(E.) Lands in the parish of Twickenham and county of Middlesex ;

A.D. 1876.

(F.) Lands in the parish of Sutton Mandeville in the county of Wilts.

Power to
make works.

5. 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 works herein-after 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 books of reference as may be required for those purposes. The works herein-before referred to and authorised by this Act are, —

(A.) The laying down on the before-mentioned lands in the parish of South Stoneham and under the main public carriage road from Bishopstoke to Southampton of one or more line or lines of rails; and

(B.) A deviation of the Company's lines of railway or some of them in the parishes of Saint Mary, Lambeth, and Saint Mary, Battersea, in the county of Surrey, or one of them, such deviation to commence at or near the point at which the Company's main line of railway is carried over Wandsworth Road near Her Majesty's private station, and to terminate at or near the point at which the same railway is carried over New Road, Battersea.

Interpreta-
tion of ex-
pression
"parish
clerks."

6. The expressions "parish clerks" and "clerks of the several parishes" in sections 7, 8, and 9 of "The Railways Clauses Consolidation Act, 1845," shall with reference to the Company mean, as regards the parish of Saint Mary, Lambeth, aforesaid the clerk of the vestry of that parish, and as regards the parish of Saint Mary, Battersea, aforesaid the clerk of the district board of works for the district of Wandsworth.

Power to
deviate from
lines and
levels of
works.

7. In executing the works by this Act authorised, the Company may (subject to the provisions of this Act, but notwithstanding anything contained in "The Railways Clauses Consolidation Act, 1845,") deviate from the lines of the respective works as shown on the deposited plans to any extent within, but to no greater extent than, the limits of deviation shown in the case of the respective work on those plans, and may deviate from the levels of the respective works as shown on the deposited sections to any extent not exceeding five feet either upwards or downwards.

Tolls.

8. The Company may from time to time, in respect of the works which they are herein-before authorised to make and maintain, demand and take for all passengers, animals, small parcels, and

goods conveyed thereon or using the same, and for carriages, waggons, and trucks respectively conveying such passengers, animals, small parcels, and goods, and for locomotive engines or other power, and for all services performed by the Company thereon, and for all other matters with respect to traffic thereon, such and the same amount of tolls, rates, and other charges as by the several Acts relating to the Company, or any of those Acts, the Company are authorised to demand and take for like traffic, services, and matters on and with respect to the Company's main line of railway, and in like manner and with and subject to like powers and provisions in all respects as if the additional rails and other works by this Act authorised were part of that main line.

A.D. 1876.

9. For the purpose of affording additional station accommodation in connexion with the Tooting, Merton, and Wimbledon Railway, the Company and the Brighton Company (herein-after referred to as "the two Companies") may enter upon, take, and use all or any part of the lands shown on the deposited plans in the parish of Merton and county of Surrey.

Company and Brighton Company may purchase certain lands for purposes of Tooting, Merton, and Wimbledon Railway. Period for compulsory purchase of lands.

10. The powers of this Act for the compulsory purchase of lands by the Company or by the two Companies, as the case may be, shall not be exercised after the expiration of three years from the passing of this Act.

11. Persons empowered by "The Lands Clauses Consolidation Act, 1845," to sell or 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 or, as the case may be, to the two Companies any easement (not being an easement of water), right, or privilege required for any of the purposes of this Act in, over, or affecting any such lands, and the provisions of the said Act 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.

Easements, &c. may be granted, &c.

12. The Company may purchase and acquire by agreement with the Great Western Company, and the last-mentioned company may sell and convey to the Company, upon such terms, pecuniary and other, and conditions as the Companies may agree upon, any lands of the Great Western Company in the parish of Fisherton Anger and county of Wilts adjoining or near the Salisbury Station on the Wilts and Somerset Railway of the Great Western Company, and the Company on the one hand and the Great Western Company and the Salisbury Company, or either of them, on the other hand, may

As to purchase and user of lands of Great Western Company in parish of Fisherton Anger.

A.D. 1876. enter into and carry into effect agreements with reference to the use by any or either of the contracting companies of the land so to be acquired by the Company, and of any other lands or any works of any of the contracting companies; and with reference to the payments or other consideration to be from time to time made or given by any of the contracting companies to the others or other of them for or in respect of such user and any incidental matters.

On expiration of time limited for completion of works powers to cease.

13. If the works by this Act authorised shall not be completed within five years from the passing of this Act, then on the expiration of that period the powers by this Act granted for making and completing them, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Company may stop up a certain footpath.

14. The Company may stop up the public footpath now crossing their railway in the parish of Chittlehampton and county of Devon at a point about ten chains northward from the north end of the passenger booking office at Umlerleigh, and thereupon all public and private rights of way and all other rights across, over, or along that footpath shall be by this Act extinguished, and the site and soil of so much of the footpath as the Company shall so stop up and as is bounded on both sides by land of the Company shall be by this Act vested in the Company.

Compensation to be made in respect of private rights extinguished.

15. The Company shall make full compensation to all parties interested in respect of all private rights of way, or other private rights (if any), which by the last preceding section are extinguished or interfered with, and such compensation shall be settled in manner provided by "The Lands Clauses Consolidation Act, 1845," with respect to the purchase and taking of lands otherwise than by agreement, and for that purpose any and every right so extinguished or interfered with shall be deemed to be an interest in land.

Extending time for compulsory purchase of certain lands under Company's Act of 1873.

16. The powers of the Company for the compulsory purchase of the lands which by "The South-western (General) Act, 1873," the Company are authorised to purchase and take in the parish of Saint Mary, Lambeth, and county of Surrey, are hereby extended and may be exercised at any time before or on but shall not be exercised after the twenty-first day of July one thousand eight hundred and seventy-eight.

Extending time for compulsory purchase of certain lands

17. The powers of the Company for the compulsory purchase of the lands which by "The South-western Act, 1874," the Company are authorised to purchase and take in the parish of

Saint Mary, Lambeth, are hereby extended, and may be exercised at any time before or on but shall not be exercised after the sixteenth day of July one thousand eight hundred and seventy-eight. A.D. 1876.

under Com-
pany's Act
of 1874.

18. The Company may, notwithstanding anything to the contrary in "The Lands Clauses Consolidation Act, 1845," or in any Act relating to the Company, (whether "The Lands Clauses Consolidation Act, 1845," be incorporated therewith or not,) retain and hold any lands belonging to them which have not yet been applied to the purposes of the Company, or sold or disposed of by them for the periods following; that is to say, as regards such of the lands as are situate near to or adjoining any railway or station of the Company, and which the Company may be of opinion that they may require for the purposes of stations, sidings, or other conveniences for the period of eight years from the passing of this Act, and as regards the other of the said lands for the period of two years from the passing of this Act; but the Company shall, at the expiration of such respective periods of eight years and two years, sell and dispose of all such parts of those lands respectively as shall not then have been applied to or are not then required for the purposes of their undertaking as superfluous lands.

Extending
time for sale
of certain
superfluous
lands belong-
ing to the
Company.

19. The Mid Hants Company and the Sidmouth Company respectively may, with the consent of three fourths of the proprietors of the respective company present in person or by proxy at a meeting of the respective company specially convened for the purpose, sell and transfer to the Company their respective undertakings, property, rights, powers, and interests, and the Company may accept the respective sale and transfer accordingly, and the respective sale and transfer may take effect at such times, and may be for such consideration, and upon such terms (pecuniary or otherwise) and conditions as the contracting companies think fit; provided that nothing in this Act contained shall, unless with the consent in writing of the Sidmouth Company and the Company under their respective common seals, prejudice or affect the agreement set forth in the schedule to "The Sidmouth Act, 1871;" provided also, that no such sale or transfer shall be made by the Mid Hants Company or, as the case may be, the Sidmouth Company, unless and until it shall have been proved to the satisfaction of the Board of Trade, and that Board have certified, that the respective company have paid up one half of the capital which by any Act or Acts already passed and to be passed in the present session of Parliament they are now or may be authorised to raise by means of shares, and

The Mid
Hants and
Sidmouth
Companies
may sell and
transfer their
respective
undertakings
to the
Company.

A.D. 1876. have expended for the purposes of such Act or Acts a sum equal thereto.

Devon and Cornwall Company may sell certain authorised railways to Company.

20. The Devon Company may, after they have completed the railways No. 1 and No. 1A, respectively described in and authorised by section 4 of "The Devon Act, 1873," and being part of the undertaking of the Devon Company authorised by that Act, or either of those railways, sell and transfer to the Company those railways or either of them, or before they have completed those railways or either of them may sell and transfer to the Company all or any land or property which at the time for the sale and transfer to take effect shall have been purchased or acquired by the Devon Company, and all works and buildings which shall have been at that time constructed and erected by the Devon Company for the purposes of those railways or either of them, and all the powers of the Devon Company with respect to those railways or either of them, including the powers for the purchase of land by compulsion or agreement for and for constructing or completing those railways or either of them, and the Company may, either before or after the completion of those railways, accept such sale and transfer, and may exercise the powers of the Devon Company with reference thereto, and the sale and transfer shall take effect on and from such time, and shall be made on the terms and conditions contained in the scheduled agreement, or on such other terms and conditions as the contracting companies think fit.

Company and Salisbury and Yeovil Company may agree for commutation of rent under Salisbury lease into a sum in gross.

21. The Company and the Salisbury Company may agree that the yearly rent payable under the Salisbury lease shall be commuted into a sum in gross instead of the fixed yearly payment provided for by the 58th section of the Act of 1858, and if the Companies agree as aforesaid, the amount of such sum in gross shall, in case of difference as to the amount, be determined by arbitration in manner provided by "The Railway Companies Arbitration Act, 1859," and the provisions of section 64 of the Act of 1858 shall extend and apply to any agreement entered into under this section.

On payment of sum in gross Salisbury Company to transfer their undertaking to Company.

22. Upon payment of the amount agreed or determined as aforesaid, the Salisbury Company shall sell and transfer their undertaking to the Company, and the Company may and shall accept the sale and transfer accordingly, and the sale and transfer shall take effect upon and from the payment of the amount agreed on or determined as aforesaid, or at such other time as the companies agree.

Scheduled agreement confirmed.

23. The scheduled agreement is hereby confirmed and made binding on the Devon Company and the Company, and may and shall be carried into full effect.

24. All the rights, powers, and privileges of any company who by virtue of this Act shall sell and transfer their undertaking or part thereof to the Company, (any such selling or transferring company being herein-after in this Act referred to as and included in the expression "the selling company,") and of the directors, officers, or servants of the selling company, which by virtue of any Acts relating to the selling company and this Act respectively might be exercised and enjoyed by them respectively with respect to the premises agreed to be sold and transferred, and which, in accordance with the terms and conditions of the sale and transfer by this Act authorised, are to be exercised and enjoyed by the Company, and their directors, officers, and servants, with respect to the premises agreed to be sold and transferred, shall be exercised and enjoyed accordingly under and with the same regulations, restrictions, obligations, penalties, and immunities in accordance with those Acts respectively and this Act respectively as by the selling company and their directors, officers, and servants.

A.D. 1876.

Powers as
to premises
sold, &c. to
be exercised
by Company.

25. Every sale and transfer, if any, made under this Act by any company to the Company shall be sufficiently and conclusively evidenced by a deed of conveyance duly stamped, and wherein the full consideration for the deed shall be fully and truly set forth.

Sale and
conveyance
to be by
deed duly
stamped.

26. A receipt or acknowledgment under the hands of three directors of any selling company for any money payable by the Company to the selling company shall be a good and sufficient discharge for the same, and the Company shall not be bound to see to the application or be answerable or accountable for the non-application or mis-application of the said purchase money or any part thereof.

Receipts
of selling
company to
be a dis-
charge to the
Company.

27. In accordance with the terms and conditions agreed upon between the Company and the selling company, the premises comprised in the respective sale and transfer, and the rights, powers, authorities, and privileges to be in accordance with this Act exercised and enjoyed by the Company with respect to the same, shall, at the time for the respective sale and transfer to take effect, and subject to the provisions thereof, and subject to the other provisions, if any, of the deed of conveyance executed in accordance with this Act, and subject also to all obligations, contracts, debts, and liabilities respectively affecting the premises sold by this Act, be transferred to and vested in the Company absolutely and for ever, and (if the sale and transfer be of the whole undertaking of the selling company) be amalgamated with and deemed part of the undertaking of the Company.

Vesting in
Company
premises
agreed to be
transferred.

A.D. 1876.

Company
to perform
duties of
selling com-
pany as to
premises
sold, &c.

28. From and after the time for any such sale and transfer to take effect, the Company, in accordance with the terms and conditions agreed on, but subject to the provisions of this Act, shall be subject to and perform, conform, and be liable to all contracts, agreements, duties, obligations, debts, charges, liabilities, claims, and demands whatsoever to which the selling company, if the sale and transfer did not take effect, would, with respect to the premises comprised in the sale and transfer, be subject or liable, and shall indemnify the selling company and their shareholders, directors, officers, and servants from the same, and all costs, charges, and expenses, claims, and demands with respect to the same, and shall be entitled to all the benefits and advantages of and to enforce all those contracts and agreements.

Actions, &c.
not to abate.

29. No sale or transfer under this Act shall cause the abatement, discontinuance, or determination of or in anywise prejudicially affect any action, suit, or other proceeding at law or in equity commenced by or against any selling company either solely or jointly with any other company or with any person before the time agreed on for the respective sale and transfer to take effect; but any such action, suit, or proceeding may, so far as it relates to the premises comprised in the respective sale and transfer, be continued, prosecuted, or enforced by or against the Company either solely, or, as the case may require, jointly with such other company or with such person.

Selling com-
pany's Acts
to apply to
Company.

30. From and after the time for any such sale and transfer to take effect, the several Acts passed with respect to the selling company (but subject to the provisions of this Act) shall, so far as they relate to the premises comprised in the respective sale and transfer, be read and have effect as if the same had been passed with respect to the Company instead of with respect to the selling company.

Selling com-
pany to wind
up their
affairs.

31. In the case of any sale and transfer under this Act, if the sale and transfer be of the whole of the undertaking of the selling company, such company shall forthwith proceed to wind up their affairs, and if the sale and transfer be of part only of the undertaking of the selling company, such company may at any time after the date of the completion of such sale and transfer proceed to wind up their affairs; and in order thereto, the selling company may sell and convey or otherwise dispose of all such parts, if any, of their lands, property, and effects as are not in accordance with or by this Act vested in the Company, and shall, subject to the payment, satisfaction, or discharge of all the debts, liabilities, and engagements, if any, of the selling company in respect of the undertaking,

or, as the case may be, of the part of the undertaking so sold and transferred, distribute and pay the net moneys to be received from such sale and transfer to and among the several persons who at the date of the completion of such sale and transfer are the respective registered shareholders in the capital of the selling company, or, as the case may be, in the capital of the selling company in respect of that part of their undertaking which consists of or includes the premises comprised in the respective sale and transfer according to their respective priorities and in proportion to their respective shares of such capital, or their respective executors, administrators, successors, or assigns.

A.D. 1876.

32. Where any selling company are for twelve months after the period for the distribution of their net moneys unable after diligent inquiry to ascertain the person to whom any part thereof ought to be paid, or who can give an effectual receipt for the same, the selling company may pay the same into the Chancery Division of the High Court of Justice under any Act from time to time in force for the relief of trustees, and every such payment into court shall conclusively discharge the selling company from all further liability with respect to the net moneys so paid, and for the purposes of this Act shall be deemed payment thereof to a person absolutely entitled thereto, and any person afterwards showing to the satisfaction of the court that he is entitled thereto may obtain payment thereof out of court accordingly.

Payments
into court
by selling
company.

33. When all the debts, liabilities, and engagements of any selling company whose whole undertaking is sold and transferred to the Company as aforesaid are paid, satisfied, or discharged, and their net moneys are distributed in accordance with this Act, they shall be by this Act dissolved and shall wholly cease to exist.

Dissolution
of selling
company.

34. Notwithstanding the dissolution by this Act of any company, or the sale and transfer of any part of its undertaking by any company under the authority of this Act, and except only as is by this Act otherwise provided, everything before the dissolution, or, as the case may be, the sale and transfer of part of its undertaking done, suffered, and confirmed respectively, under or by the Acts relating to the dissolved, or, as the case may be, the selling company, and every right by any of those Acts saved shall be as valid as if the dissolution or sale and transfer had not happened, and the dissolution or the sale and transfer and the operation of this Act respectively shall accordingly be subject and without prejudice to everything so done, suffered, and confirmed, and all rights so saved respectively, and to all rights, liabilities, claims, and demands, both present and

General
saving of
rights under
Acts relating
to selling
company.

A.D. 1876. future, which if the dissolution or the sale and transfer had not happened would be incident to or consequent on everything so done, suffered, and confirmed, and all rights so saved respectively, and with respect to everything so done, suffered, and confirmed, and all rights so saved respectively, and all such rights, liabilities, claims, and demands, the Company shall to all intents represent the dissolved, or, as the case may be, the selling company, provided that the generality of this provision shall not be restricted by any of the other sections and provisions of this Act.

Section 64 of Act of 1837 repealed.

35. The recited section 64 of the Act of 1837 is by this Act repealed.

As to future occasional vacancies in office of director.

36. If at any time after the passing of this Act there shall be a vacancy in the direction of the Company which shall have been occasioned by any director of the Company having died or resigned or become disqualified or incompetent to act as a director, or having ceased to be a director by any other cause than that of going out of office by rotation in manner provided by the Acts relating to the Company, the remaining directors, if they think proper so to do, may elect in his place some other proprietor duly qualified to be a director, and the proprietor so elected to fill up any such vacancy shall continue in office as a director so long only as the person in whose place he shall have been elected would have been entitled to continue if he had remained in office.

Section 7 of Act of 1841 declared to apply only in certain cases.

37. The provisions of section 7 of the Act of 1841 are hereby declared to apply only when and in case a director or directors of the Company is or are to be elected at a meeting of the proprietors of the Company.

Qualification of future directors of Company.

38. The qualification of a director of the Company shall be or include the holding in his own right of ordinary stock of the Company actually paid up to the amount of at least three thousand pounds, and his having held and holding that qualifying amount at and for at least twelve months next before the time of his election.

Company may establish provident institutions and savings banks.

39. The Company may, if they think fit, establish provident institutions and savings banks, and may receive by way of deposit or otherwise from any of the officers, servants, workmen, or apprentices of the Company any money at interest or otherwise, and every such deposit, with the interest (if any) thereon, shall be a charge on the net profits of the Company's undertaking next after any money which the Company may be liable to pay at the passing of this Act under any Acts then in force, and after any debt of the Company then existing, and after money for the time

A.D. 1876.

being borrowed or authorised to be borrowed by them, and the Company may from time to time make such byelaws, rules, and regulations as they think fit for the management of those institutions and savings banks, and respecting the appointment, liability, and discharge of trustees, the rate of interest on withdrawal and repayment of deposits, payments to minors, married women, and personal representatives of deceased depositors, and other incidental matters; provided that all byelaws, rules, and regulations so made shall before they are acted on be transmitted to the central office constituted under "The Friendly Societies Act, 1875," and if not contrary to law shall be certified by that office under its seal; and all byelaws, rules, and regulations so for the time being certified shall be binding on the Company and the depositors and their representatives, and the same or a copy thereof so sealed or certified under the hand of the secretary for the time being of any such institution or savings bank shall be evidence thereof, and any such byelaws, rules, or regulations shall not be removed by certiorari or other like process into Her Majesty's High Court of Justice; and the provisions of sections 9, 30, and 43 to 46 (both inclusive) of the Act of the twenty-sixth and twenty-seventh years of Her Majesty's reign (chapter 87), "to consolidate and amend the laws relating to Savings Banks," shall extend and apply to every institution or savings bank established under this section.

40. The Company and the Brighton Company may respectively from time to time apply to any of the purposes of this Act to be executed by the respective Company any moneys from time to time raised by the respective Company, and which are not by any of the Acts relating to the respective Company made applicable to any special purpose, or which being so made applicable are not required for the special purpose.

Company and Brighton Company may apply their funds for purposes of this Act.

41. The Company may from time to time, for the purposes of any sale or transfer under this Act to the Company of the undertaking of the Mid Hants Company or of the Sidmouth Company, raise by new shares or new stock (whether ordinary or preferential, or both) any sum or sums of money necessary for those purposes, and may apply for the purposes of the respective sale, conveyance, or transfer the money raised for the last-mentioned purposes, and shall not apply for any other purpose any money so raised: Provided always, that the total amount which the Company from time to time may raise by new shares and by borrowing and by debenture stock for the purposes of the respective sale, conveyance, or transfer shall not exceed the total amount of the authorised capital and debt for

Power to Company to raise further money for purposes of undertakings of Mid Hants Company and Sidmouth Company.

A.D. 1876. — the time being of the Mid Hants Company or, as the case may be, of the Sidmouth Company.

Power to Company to raise further money for purchase or completion of Devon Company's Holsworthy lines.

42. The Company may from time to time raise by new shares or new stock (whether ordinary or preferential, or both,) for the purposes of the sale and transfer by this Act authorised to the Company of the Devon Company's Holsworthy lines, or, as the case may be, for the purposes of the sale and transfer by this Act authorised to the Company of the land and property purchased and acquired and the works and buildings constructed and erected by the Devon Company for the purposes of those lines or either of them, and for the construction and completion of those lines, any sum or sums not exceeding in the whole two hundred and forty thousand pounds.

Shares not to issue until one fifth paid up.

43. The Company shall not issue any share created under the authority of this Act, nor shall any such share vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount of such share is paid in respect thereof.

Calls.

44. One fifth of the amount of any such share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and three fifths of the amount of any such share shall be the utmost aggregate amount of the calls made in any year upon any such share.

Provisions of Company's Act of 1862 extend to Company's shares and stock under this Act.

45. The provisions of sections 47 to 70 (both inclusive) of "The South-western Railway (Additional Powers) Act, 1862," with respect to preferential shares and stock, and the cancellation of shares and stock, and the issue of new shares or stock instead of cancelled shares or stock, and with respect to voting for shares or stock, and otherwise respecting shares and stock, shall extend to this Act with respect to the Company and the shares and stock which by this Act they are authorised to create and issue.

Further borrowing powers of the Company.

46. The Company may from time to time (in addition to any sums which they are for the time being authorised to borrow) borrow on mortgage (A) for the purposes of any sale or transfer to the Company of the undertaking of the Mid Hants Company, or of the Sidmouth Company, any sum or sums not exceeding in the whole one third of the amount which the Company are for the time being authorised to raise by shares or stock for the purposes of the respective sale or transfer, and (B) for the purposes of the sale or transfer to the Company of or for other the purposes of this Act in connexion with the Devon Company's Holsworthy lines any sum or sums not exceeding in the whole eighty thousand pounds.

Restrictions on borrowing.

47. Provided always, that no sum of money shall be borrowed by the Company under the powers of this Act unless and until the

respective capital in respect of which it is borrowed is issued and accepted, and one half thereof is paid up, and the Company have proved to the justice who is to certify under section 40 of "The Companies Clauses Consolidation Act, 1845," (before he so certifies) that the whole of the respective capital has been issued and accepted, and that one half thereof has been paid up, and that not less than one fifth part of the amount of each separate share in so much of the respective capital as is to be raised by means of shares has been paid on account of such share before or at the time of the issue or acceptance thereof, and that stock for one half of so much of the respective 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 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 if any part of the respective capital is raised by shares that such persons or corporations, 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.

A.D. 1876.

48. All mortgages granted by the Company in pursuance of any Act passed before the passing of this Act and subsisting at the time of the passing of this Act shall during the continuance thereof respectively have priority over any mortgages to be granted by virtue of this Act; provided that this section does not apply to any mortgage from time to time granted by the Company in accordance with section 21 of "The South-western Railway (General) Act, 1865," or section 60 of "The South-western Railway (General) Act, 1867."

Existing mortgages to have priority.

49. The provisions of all former Acts relating to the Company by which the mortgagees of the Company are empowered to enforce payment of principal or interest due on their mortgages by the appointment of a receiver are by this Act repealed, but without prejudice to any appointment heretofore made or proceedings now pending under those provisions or any of them.

Provisions of Company's Acts as to appointment of receiver repealed.

50. The Company's mortgagees may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver, and in order to authorise the appointment of a receiver in respect of arrears of principal, the amount of principal owing to the mortgagees by whom

For appointment of a receiver.

A.D. 1876. the application for a receiver is made shall not be less in the whole than ten thousand pounds.

Interest not to be paid on calls paid up.

51. The Company shall not, out of any money by this Act authorised to be raised by calls, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him; provided 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 is in conformity with "The Companies Clauses Consolidation Act, 1845."

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

52. 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, is required to be deposited in respect of an 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.

Railways not exempt from provisions of present and future general Acts.

53. Nothing in this Act contained shall exempt the railways of the Company or of any other company from the provisions of any general Act relating to railways, or the better and more impartial audit of the accounts of railway companies, now or hereafter in force, or from any future revision or alteration, under the authority of Parliament, of the maximum rates of fares and charges, or of the rates for small parcels, authorised to be taken by the Company or any such other company.

Expenses of Act.

54. 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.

The SCHEDULE referred to in the foregoing Act.

A.D. 1876.

ARTICLES OF AGREEMENT made the fourth day of May 1876 between the Devon and Cornwall Railway Company (herein-after called the Devon and Cornwall Company) of the one part, and the London and South-western Railway Company (herein-after called the South-western Company) of the other part.

Article 1. These articles are subject to the sanction of Parliament, and the respective Companies declare that these articles are made subject to such alterations as Parliament may think fit to make therein: Provided always, that if a committee of either House of Parliament shall make any material alteration in these articles it shall be competent for either Company to require that the same and any clause confirming the same shall be withdrawn.

Article 2. The railways No. 1 and No. 1A (herein-after called the Holsworthy Railway) authorised by the Devon and Cornwall Railway (Western Extensions) Act, 1873, to be executed by the Devon and Cornwall Company shall be executed and completed by and at the expense of the Devon and Cornwall Company according to plans, drawings, and specifications thereof from time to time approved and signed by the principal engineers of the South-western Company and of the Devon and Cornwall Company, or, as in the event of their disagreement, shall be settled by arbitration as herein-after mentioned; and except and so far as shall be from time to time otherwise agreed or settled, shall comprise a single line of rails throughout (narrow gauge), with land and over-bridges and tunnels for a double line, and with a sufficient extent of double line at the respective stations for passing-places, and sufficient siding accommodation for the working and traffic thereof, and with proper station and gate-houses, station yards, buildings, waiting sheds, goods sheds, engine-sheds, sidings, turntables, water tanks and water-loading banks, signals, interlocking gear, mile posts, inclination posts, telegraph communications, and other works and conveniences so as to render the Holsworthy Railway fit and safe for traffic of all descriptions, and the same shall be executed and completed to the satisfaction of the government inspector and the engineer of the South-western Company.

Article 3. All differences of opinion between the respective engineers of the Companies as to the meaning or fulfilment of the preceding article shall be settled by an umpire to be named by them respectively in writing, or if they fail to name an umpire then in manner mentioned in article 15.

Article 4. When and so soon as the Devon and Cornwall Company shall in conformity with these articles have executed and completed the Holsworthy Railway, and shall have acquired the lands necessary and proper for the purposes thereof, the same railway and lands shall be delivered into the possession of the

A.D. 1876.

South-western Company for the purposes herein next mentioned, and the South-western Company shall in perpetuity, or until the completion of the purchase of the Holsworthy Railway according to these articles, maintain (but with the benefit in that behalf of any contract then in existence between the Devon and Cornwall Company and any contractor or other person for the maintenance of the Holsworthy Railway), man, stock, work, use, and manage that railway as if it were part of their own system of railways, and so as fairly to develop the local and through traffic of the district, and in consideration thereof and of the payments herein-after mentioned shall be entitled to receive and retain for their own benefit all and singular the receipts and earnings whatsoever upon and in respect of that railway.

Article 5. The payments in this article referred to are to be made half-yearly as soon as conveniently may be after the statement, examination, and settlement of accounts up to the 30th day of June and the 31st day of December in each year, and the payments in respect of each year (ending 31st day of December) are to be equal to—

1. One equal moiety or half part of the gross receipts and earnings whatsoever, exclusive of terminals (except terminals appertaining to the Holsworthy Railway which are received in respect of traffic carried between, on the one hand, a station thereon and, on the other hand, a foreign station not situate on any railway owned or worked by the South-western Company), of the South-western Company during that same year upon or in respect of the Holsworthy Railway; that is to say, from all local traffic whatsoever and from an actual mileage proportion of all through traffic;
2. One equal tenth part herein-after called the rebate, of the gross receipts and earnings whatsoever (exclusive of terminals) of the South-western Company during that same year upon or in respect of railways owned by the South-western Company, and situate to the northward, eastward, and westward of Okehampton, viâ Yeoford Junction, from traffic passing over such railways, and also over the Holsworthy Railway or some part or parts thereof (the payment of such rebate to be subject to the proviso last in this article contained);
3. Such an additional sum (if any) as may, under the operation of the proviso next herein-after contained, become payable to the Devon and Cornwall Company:

Provided always, that if in any year ending the 31st day of December the rebate and the Devon and Cornwall Company's share of the gross receipts and all other their receipts in respect of that year shall not be equal to the aggregate of the several sums in the following sub-articles 4 and 5 mentioned, that is to say,

4. A sum equal to the interest (not exceeding the rate of $4\frac{1}{2}$ per cent. per annum) payable by the Devon and Cornwall Company in respect of that part of the actual cash cost of the Holsworthy Railway which shall have been borrowed by the Devon and Cornwall Company, and which part is herein-after called the borrowed part of the actual cash cost, and is, for the purposes of these articles, to be considered as one equal fourth part of the entire cash cost;

5. A sum equal to the rate of $4\frac{1}{2}$ per cent. per annum on or in respect of that part of the actual cash cost of the Holsworthy Railway including the necessary lands which shall have been raised by the Devon and Cornwall Company in shares or stock, and which part is herein-after called the share capital part of the actual cash cost, and is, for the purposes of these articles, to be considered as three equal fourth parts of the entire cash cost, A.D. 1876.

the South-western Company shall, in and for that year make good the deficiency : Provided also, that if in any year ending the 31st day of December the rebate and the Devon and Cornwall Company's share of the gross receipts, and all other their receipts in respect of that year shall exceed the aggregate of the several sums in the following sub-articles 6 and 7 mentioned ; viz.,

6. A sum equal to the interest (not exceeding the rate of $4\frac{1}{2}$ per cent.) payable by the Devon and Cornwall Company in respect of the borrowed part of the actual cash cost ;

7. A sum equal to 6 per cent. on or in respect of the share capital part of the actual cash cost ;

the excess shall belong to the South-western Company and shall not be paid to the Devon and Cornwall Company.

Article 6. The Devon and Cornwall Company shall not, without the consent in writing of the South-western Company, make in respect of the Holsworthy Railway any traffic arrangement of any sort or kind with any other company or person, nor without the like consent arrange to receive or give, nor receive nor give any rebate or other benefit in the nature of a rebate or otherwise from or to any company or person other than the South-western Company.

Article 7. If at any time within two years after the opening of the Holsworthy Railway for traffic either company shall deliver to the other in writing a notice or requirement to that effect the Devon and Cornwall Company shall sell to the South-western Company, and the South-western Company shall buy from the Devon and Cornwall Company in respect of such price or considerations, and upon and subject to such terms and conditions as are respectively in these articles mentioned or referred to,

1. The Holsworthy Railway and all and singular the lands mentioned or referred to in article 4 of these presents.

2. All and singular the rights of the Devon and Cornwall Company to run over and use any railway, or railway stations, or works of any other railway company.

3. All and singular the rights of the Devon and Cornwall Company under any contract or arrangement then in existence for the maintenance and repair of the Holsworthy Railway.

Article 8. The purchase in the last preceding article mentioned shall, subject to these articles, be completed by an absolute transfer of the purchased premises, and by the making good of the consideration in the next article mentioned on or as of the 30th day of June or the 31st day of December happening next after the expiration of three months from the delivery of the notice in that article mentioned, if the Devon and Cornwall

A.D. 1876. Company shall in the meantime have deduced a good title (subject to these articles) to the purchased premises, and there shall be statutory powers enabling the two Companies to complete the purchase, or so soon thereafter as such statutory powers can be obtained.

Article 9. In the event of the service of the notice of purchase mentioned in article 7, the consideration to be made good to the Devon and Cornwall Company on and for the completion of the purchase shall be the creation and issue and delivery to the owning company of such amounts of debenture stock, and of ordinary stock, and of preference stock respectively as are respectively described or mentioned in sub-articles 2, 3, and 4 of this article, and as shall in the aggregate represent and be equal in nominal amounts to the amount described or mentioned in sub-article 1 of this article; that is to say,

1. "The actual cash cost" (which expression both here and elsewhere in these articles means the amounts in the next article mentioned to or by the Devon and Cornwall Company to be ascertained by agreement, or failing agreement by such arbitration as in article 15 mentioned) for, in, and about the railway, together with an allowance or bonus of 10 per cent. on such actual cash cost as last aforesaid (but which actual cash cost is not for calculating such 10 per cent. to include the amount of any interest to be allowed as in this sub-article mentioned by the purchasing company to the owning company) to be taken in satisfaction of all dividend and interest, or other like payment made by the Devon and Cornwall Company in respect of any share capital or stock, or borrowed money raised for the purposes of the works and objects authorised by the Western Extensions Act, 1873.
2. So much of perpetual debenture stock of the South-western Company (to bear interest at the rate of 4 per cent. per annum from the completion of the purchase, and to be subject to all then existing debentures, mortgages, and debenture stock of that Company) not exceeding in nominal amount one equal fourth part of the actual cash cost as shall be equal to, and shall be issued in exchange for, and on the cancellation of, an equal nominal amount of the debentures or debenture stock of the Devon and Cornwall Company. The debenture stock so to be issued by the purchasing company to be in part satisfaction of the purchase money or consideration.
3. So much ordinary stock of the South-western Company as shall be equal in nominal amount to one equal half part of the balance of the purchase money or consideration.
4. So much perpetual preference stock of the South-western Company (to bear interest at the rate of $4\frac{1}{2}$ per cent. per annum, and to be subject to the priority of all then existing preference stock of that Company) as shall be equal in nominal amount to the other one equal half part of the purchase money or consideration.

Article 10. The actual cash cost mentioned in article 9 and elsewhere in these articles means the actual moneys expended by the Devon and Cornwall Company in conformity with these articles, and comprises the incidental,

A.D. 1876.

acquired by or conveyed to the Devon and Cornwall Company under the powers of the Western Extensions Act of 1873, and whether or not necessary for the purposes of that Act; and the South-western Company shall accept as evidence of the title to all such lands conveyances purporting to convey those lands in fee simple and free as aforesaid to the Devon and Cornwall Company in respect of sums in gross annual payments, or other executed considerations, and shall not be entitled to require further evidence of title to any of those lands.

Article 13. In and about the execution by the Devon and Cornwall Company of the Holsworthy Railway, Mr. William Robert Galbraith, or on his death or resignation an engineer approved in writing by the South-western Company, shall be the principal engineer (and they respectively are in these articles intended by the expression principal engineer) of the Devon and Cornwall Company, and in the purchase by the Devon and Cornwall Company of any lands for the purpose of the Holsworthy Railway and its incidental works, Mr. Henry Drew, or on his death or resignation a surveyor approved in writing by the South-western Company, shall be the principal surveyor employed by the Devon and Cornwall Company.

Article 14. In order that the South-western Company may have reasonable and proper control over the amounts to be from time to time expended by the Devon and Cornwall Company in and about the matters which are the subject of these articles, the railway and all its connected works and conveniences shall be made and executed by Mr. Robert Thomas Relf, or by a contractor or contractors to be named by the Devon and Cornwall Company, and to be approved in writing by the South-western Company, and who shall engage to make and execute such railway and works and conveniences according to plans, drawings, and specifications prepared by the principal engineer of the Devon and Cornwall Company, and approved by the South-western Company, and for considerations approved by such engineers and also by the South-western Company, and no such contract shall be entered into by the Devon and Cornwall Company until the expiration of one calendar month after its terms and conditions, and the plans, drawings, and specifications for the purpose of it shall have been submitted to the South-western Company, and the Devon and Cornwall Company shall in respect of the cost of land to be purchased or compensations to be paid, and also in respect of parliamentary, legal, and engineering costs, and all other items of cost afford to the South-western Company all reasonable and proper facilities for ascertaining that all such costs and expenditure are reasonable and proper, and also the actual cash cost properly paid by the Devon and Cornwall Company in respect thereof.

Article 15. In case of any difference arising between the Companies with reference to any of the matters comprised in or referred to by these articles, the same, where not otherwise provided in these articles, shall from time to time be referred to and be settled by a single arbitrator to be appointed by the Companies, or failing agreement to be appointed by the Board of Trade on the application of either of the Companies; and every arbitrator so to be appointed shall have the powers of a single arbitrator under the Railway Companies

[39 & 40 VICT.]

*The South-western Railway
(Various Powers) Act, 1876.*

[Ch. ccxiii.]

Arbitration Act, 1859, and every such arbitration shall be conducted in conformity with the provisions of that Act. A.D. 1876.

In witness whereof the Devon and Cornwall Company and the South-western Company have respectively caused their common seals to be hereto affixed the day and year first above written.

Seal of the Devon and Cornwall Railway Company affixed
in the presence of

GEO. READDY,
Secretary to said Company.



LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1876.

