



CHAPTER xii.

An Act to empower the Great Western Railway Company to make new railways in the county of Cornwall and for other purposes. A.D. 1897.
[3rd June 1897.]

WHEREAS it is expedient that the Great Western Railway Company (in this Act called "the Company") should be empowered to execute make and maintain the railways in the county of Cornwall in this Act described or referred to :

And whereas plans and sections showing the lines and levels of the railways by this Act authorised to be constructed and plans of the lands by this Act authorised to be acquired and also a book of reference 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 clerk of the peace for the county of Cornwall and are herein-after respectively referred to as the deposited plans sections and book of reference :

And whereas it is expedient that the Company should be authorised to apply their funds to the purposes of this Act :

And whereas the objects aforesaid cannot be attained 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 :—

1. This Act may be cited for all purposes as the Great Western Railway (Truro and Newquay Railway) Act 1897. Short title.

[Price 9d.]

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Incorpora-
tion of
general
Acts.

2. The following Acts and parts of Acts are except where expressly varied by this Act incorporated with and form part of this Act (that is to say) :—

The Lands Clauses Acts ;

The Railways Clauses Consolidation Act 1845 ; and

Part I. (relating to the construction of a railway) of the Railways Clauses Act 1863.

Interpreta-
tion.

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

The expression "the railways" means the new railways by this Act authorised :

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 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 simple contract debt and not a debt or demand created by statute.

Power to
make rail-
ways.

4. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the railways herein-after described with all proper stations sidings approaches roads works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for those purposes The railways herein-before referred to and authorised by this Act are situate in the county of Cornwall and are—

A Railway No. 1 11 miles 7 furlongs and 8·7 chains in length commencing in the parish of Kenwyn by a junction with the Company's West Cornwall Railway and terminating in the parish of Newlyn by a junction with the East Wheal Rose Branch of the Company's Cornwall Minerals Railway :

A Railway No. 2 1 furlong and 7·7 chains in length commencing in the parish of Kenwyn by a junction with Railway No. 1 and terminating in the same parish by a junction with the Company's West Cornwall Railway.

Rates and
charges.

5. The railways shall for the purposes of maximum rates and charges for merchandise traffic (including perishable merchandise by

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passenger train) and for all other purposes be deemed to be part of the Company's railways as if the same had been part of the Great Western Railway at the date of the passing of the Great Western Railway Company (Rates and Charges) Order Confirmation Act 1891 and Scale II. of Part I. in the Appendix to the said Order shall be applicable to the railways Provided always that as respects passenger traffic and parcels by passenger train the tolls fares rates and charges to be demanded and recovered shall not exceed the tolls fares rates and charges prescribed by the West Cornwall Railway Act 1846.

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6. In altering for the purposes of this Act the public road numbered on the deposited plans 190 in the parish of Perranzabuloe the Company may make the same on the south side thereof of any inclination not steeper than one in fifteen.

Inclination of a certain road.

7. The Company may make the arches of the bridges for carrying the railway over the roads next herein-after mentioned of any heights and spans not less than the heights and spans herein-after mentioned in connexion therewith respectively (that is to say):—

Height and span of bridges.

Number on deposited Plan.	Parish.	Description of Road.	Height.	Span.
	Railway No. 1.			
86	Saint Agnes	- - Public	14 feet	12 feet.
118	Saint Agnes	- - Public	14 feet	15 feet.
176	Saint Agnes	- - Public	14 feet	12 feet.
181	Saint Agnes	- - Public	14 feet	12 feet.
199	Saint Agnes	- - Public	14 feet	12 feet.
6	Perranzabuloe	- - Public	14 feet	12 feet.
77	Perranzabuloe	- - Public	14 feet	15 feet.
190	Perranzabuloe	- - Public	14 feet	15 feet.
233	Perranzabuloe	- - Public	14 feet	15 feet.
257	Perranzabuloe	- - Public	14 feet	15 feet.
322	Perranzabuloe	- - Public	14 feet	15 feet.

And the Company shall notwithstanding anything shown on the deposited plans and sections make the arch of the bridge for carrying Railway No. 1 over the road numbered on the said plans 18 in the parish of Kenwyn and 1 in the parish of Saint Agnes of a height of not less than 16 feet and a span of not less than 30 feet.

8. The Company may make the roadway over the bridges by which the following roads will be carried over the railway of such width between the fences thereof as the Company think fit not being

Widths of certain roadways.

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A.D. 1897. less than the respective widths herein-after mentioned in connexion therewith respectively (that is to say):—

Number on deposited Plan.	Parish.	Description of Roadway.	Width of Roadway.
52	Saint Agnes - - -	Public -	15 feet.
73	Saint Agnes - - -	Public -	15 feet.
109	Saint Agnes - - -	Public -	15 feet.
151	Saint Agnes - - -	Public -	20 feet.
201	Saint Agnes - - -	Public -	15 feet.
213	Saint Agnes - - -	Public -	15 feet.
29	Perranzabuloe - - -	Public -	15 feet.
46	Perranzabuloe - - -	Public -	15 feet.
66	Perranzabuloe - - -	Public -	15 feet.
101	Perranzabuloe - - -	Public -	15 feet.
351	Perranzabuloe - - -	Public -	20 feet.
371	Perranzabuloe - - -	Public -	15 feet.
393	Perranzabuloe - - -	Public -	20 feet.
25	Saint Allen - - -	Public -	20 feet.

Power to divert roads as shown on deposited plans.

9. The Company may divert the public highways referred to in the next following table in the manner shown upon the deposited plans and sections and when and as in each case the new portion of any road is made to the satisfaction of two justices and is open for public use may stop up and cause to be discontinued as a road so much of the existing road as will be rendered unnecessary by the new portion of road but the Company shall not be required to make any road diverted under this section of a greater width than the respective widths herein-after mentioned in connexion therewith respectively (that is to say):—

Railway.	Parish.	No. of Road on Plan.	Width of Road when diverted.
No. 1	Saint Agnes - - -	150	20 feet
	Perranzabuloe - - -	123	12 feet
	Perranzabuloe - - -	160	20 feet
	Saint Allen - - -	22	12 feet

And when and so soon as such portion of each of the said roads is so stopped up all rights of way over the same shall cease and the Company may subject to the provisions of the Railways Clauses Consolidation Act 1845 with respect to mines lying under or near to the railway appropriate and use for the purposes of their undertaking the site of the road stopped up as far as the same is bounded on both sides by lands of the Company.

10. Notwithstanding anything contained in section 46 of the Railways Clauses Consolidation Act 1845 the Company shall not be liable to maintain the surface of any road or public highway which shall be carried over the railways by a bridge or the immediate approaches thereto except so far as the level of such road highway or approaches is permanently altered.

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Company not liable to repair surface of road level of which is not permanently altered.

11. If the railways be not completed within five years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for making and completing the railways or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Period for completion of railways.

12. If the Company fail within the period limited by this Act to complete the railways the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railways are completed and opened for the public conveyance of passengers or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the uncompleted railway or railways :

Imposing penalty unless railways opened.

The said penalty may be applied for by any landowner or other person claiming to be compensated or interested in accordance with the provisions of the next following section of this Act and in the same manner as the penalty provided in section 3 of the Railway and Canal Traffic Act 1854 :

Every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in that section to an account opened or to be opened in the name of the Paymaster-General for and on behalf of the Supreme Court in the bank and to the credit specified in such warrant or order and shall not be paid thereout except as herein-after provided :

But no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company was prevented from completing or opening the railways by unforeseen accident or circumstances beyond their control Provided that want of sufficient funds shall not be held to be a circumstance beyond their control.

13. Every sum of money so recovered by way of penalty as aforesaid shall be applicable and after due notice in the London Gazette shall be applied towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railways or any portion thereof or who may

Application of penalty.

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A.D. 1897. have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act and for which injury or loss no compensation or inadequate compensation shall have been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the High Court may seem fit :

If no such compensation shall be payable or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation then the said sum or sums of money recovered by way of penalty or such portion thereof as may not be required as aforesaid shall if a receiver has been appointed or the Company is insolvent or the railways have been abandoned be paid to such receiver or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid to the Company.

Period for compulsory purchase of lands.

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

Power to owners to grant easements &c.

15. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes or under the powers of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges as 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.

Owners may be required to sell parts only of certain properties.

16. And whereas in the construction of the railways and works by this Act-authorized or otherwise in the exercise by the Company of the powers of this Act it may happen that portions only of certain properties shown or partly shown on the deposited plans will be sufficient for the purposes of the Company and that such portions or some other portions less than the whole can be severed from the remainder of the said properties without material detriment thereto Therefore the following provisions shall have effect:—

- (1) The owners of and persons interested in any of the properties whereof the whole or part is described in the schedule to this Act and whereof a portion only is required for the purposes of the Company each or any of them are herein-after included in

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from the remainder without material detriment thereto (and whether or not they shall determine that any other portion can be so severed) the Company may withdraw their notice to treat and thereupon they shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice :

- (7) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without material detriment thereto but that any such other portion as aforesaid can be so severed the Company in case they shall not withdraw the notice to treat shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice or such portion thereof as the tribunal shall having regard to the circumstances of the case and their final determination think fit :

The provisions of this section shall be in force notwithstanding anything in the Lands Clauses Consolidation Act 1845 contained and nothing contained in or done under this section shall be held as determining or as being or implying an admission that the scheduled property or any part thereof is or is not or but for this section would or would not be subject to the provisions of section 92 of the Lands Clauses Consolidation Act 1845 :

The provisions of this section shall be stated in every notice given thereunder to sell and convey any premises :

Provided always that as regards the properties mentioned in the said schedule and herein-after referred to the provisions of this section shall not apply in the events herein-after respectively mentioned (that is to say) :—

As regards the properties numbered 162 and 163 in the parish of Perranzabuloe in the event of the Company requiring to take otherwise than by agreement any part of the said properties lying to the south of the “diversion of road” intersecting those properties as shown on the deposited plans ;

As regards the properties numbered 350 and 359 in the same parish in the event of the Company requiring to take otherwise than by agreement any part of the said properties lying more than 16 yards southwards and 22 yards northwards respectively of the centre line of the railway as shown on the deposited plans.

Restrictions
on displacing
persons of
labouring
class.

17.—(1.) The Company shall not under the powers of this Act purchase or acquire in any city borough or urban district or any parish or part of a parish not being within an urban district ten or more houses which on the fifteenth day of December last were or

the term "the owner" and the said properties are herein-after referred to as "the scheduled properties": A.D. 1897.

- (2) If for twenty-one days after the service of notice to treat in respect of a specified portion of any of the scheduled properties the owner shall fail to notify in writing to the Company that he alleges that such portion cannot be severed from the remainder of the property without material detriment thereto he may be required to sell and convey to the Company such portion only without the Company being obliged or compellable to purchase the whole the Company paying for the portion so taken and making compensation for any damage sustained by the owner by severance or otherwise:
- (3) If within such twenty-one days the owner shall by notice in writing to the Company allege that such portion cannot be so severed the jury arbitrators or other authority to whom the question of disputed compensation shall be submitted (herein-after referred to as "the tribunal") shall in addition to the other questions required to be determined by it determine whether the portion of the scheduled property specified in the notice to treat can be severed from the remainder without material detriment thereto and if not whether any and what other portion less than the whole (but not exceeding the portion over which the Company have compulsory powers of purchase) can be so severed:
- (4) If the tribunal determine that the portion of the scheduled property specified in the notice to treat or any such other portion as aforesaid can be severed from the remainder without material detriment thereto the owner may be required to sell and convey to the Company the portion which the tribunal shall have determined to be so severable without the Company being obliged or compellable to purchase the whole the Company paying such sum for the portion taken by them including compensation for any damage sustained by the owner by severance or otherwise as shall be awarded by the tribunal:
- (5) If the tribunal determine that the portion of the scheduled property specified in the notice to treat can notwithstanding the allegation of the owner be severed from the remainder without material detriment thereto the tribunal may in its absolute discretion determine and order that the costs charges and expenses incurred by such owner incident to the arbitration or inquiry shall be borne and paid by such owner:
- (6) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed

at any time since that day have been or hereafter shall be 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

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

Provided that all lands on which any buildings have been erected or provided by the Company in pursuance of any scheme under this section shall for a period of twenty-five years from the date of the scheme 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 subsection 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 by their inspectors which they may deem necessary in relation

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to any scheme under this section and for giving effect to any of the provisions of this section and the inspectors of the Local Government Board shall for the purposes of any such inquiry have all such powers as they 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" means and includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

18. The Company may apply to all or any of the purposes of this Act to which capital is properly applicable any moneys raised by them and which are not by any of the Acts relating to the Company made applicable to any special purpose or which being so made applicable are not required for the special purpose And the Company may for the general purposes of their undertaking and for the more efficient working of their traffic issue any shares or stocks

Power to
Company to
apply surplus
moneys to
purposes of
Act.

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which under the authority of any Act passed prior to the present session of Parliament the Company may have created or may hereafter create but which are not or may not be required for the special purposes for which such shares or stocks respectively were authorised to be created. Provided that all money raised by the issue of such shares or stocks shall be applied only to purposes to which capital is properly applicable.

Provision as
to general
Railway
Acts.

19. Nothing in this Act contained shall exempt the Company or their railways from the provisions of any general Act relating to railways or 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 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.

Costs 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.

The SCHEDULE referred to in the foregoing Act.

Describing properties whereof parts only are required to be taken.

Parish.	Number on deposited Plans.	Description of Property.
Saint Agnes - -	8	House garden fowlhouses farm buildings cut-buildings and approach.
Perranzabuloe -	162	House garden and outbuildings.
	163	Cottage.
	350	House stables cowshed barn pigstyes rickyard garden yard pond outbuildings and approach.
	359	House garden yard farm buildings pond and well.
	367	House shop garden yard and outbuildings.
	375	House garden yard and farm buildings.

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