CHAPTER cxc.

An Act to empower the Banbury and Cheltenham Direct Railway Company to raise further Money and to alter the Levels of a portion of their authorised Railway, to extend the Time limited for the Construction of their Railways; and for other purposes. [11th August 1881.] A.D. 1881.

WHEREAS the Banbury and Cheltenham Direct Railway Company (in this Act called "the Company") have completed the portion of their authorised railways between Bourton-on-the-Water and Cheltenham but they have no funds available for the completion of the portion of their authorised railways between Kings Sutton and the Chipping Norton Railway and it is expedient that they should be authorised to raise further moneys for that purpose by the creation and issue of debenture stock as herein-after provided:

And whereas under the Banbury and Cheltenham Direct Railway Acts 1873 1877 and 1879 the revenues of the Company so far as applicable to the payment of interest on the several classes of the debenture stocks of the Company are distributable as follows that is to say:— 36 & 37 Vict. c. clxxii. 40 & 41 Vict. c. cix. 42 & 43 Vict. c. cxxii.

First. In payment of interest at the rate of £5 per centum per annum on the debenture stock to the amount of £60,000 authorised by the Banbury and Cheltenham Direct Railway Act 1879 (herein-after called the 1879 debenture stock);

Secondly. In payment of interest at the rate of £4 per centum per annum on the debenture stock to the amount of £200,000 authorised by the Banbury and Cheltenham Direct Railway Act 1873 (herein-after called the 1873 debenture stock);

Thirdly. In payment of interest at the rate of £4 per centum per annum on the debenture stock to the amount of £400,000 authorised by the Banbury and Cheltenham Direct Railway Act 1877 (herein-after called the 1877 debenture stock);

Fourthly. In payment of further interest at the rate of £1 per centum per annum on the 1873 debenture stock; and

A.D. 1881.

Fifthly. In payment of further interest at the rate of £1 per centum per annum on the 1877 debenture stock:

And whereas the holders of more than three fourths in value of the 1873 debenture stock and of so much of the 1877 debenture stock as has been taken up have consented in writing that the interest on the debenture stock created under the authority of this Act at the rate of not exceeding £5 per centum per annum shall rank next in priority after the interest at the rate of £4 per centum per annum payable as aforesaid on the 1873 debenture stock and have also consented to the other provisions of this Act relating to the 1873 debenture stock and the holders thereof:

41 & 42 Vict. c. ccxxiii.

And whereas by the Banbury and Cheltenham Direct Railway Act 1878 the holders of the 1877 debenture stock were empowered to vote and to exercise other rights in respect thereof and it is expedient that similar powers should be conferred upon the holders of the 1873 debenture stock and of the debenture stock created under the authority of this Act:

And whereas it is expedient that the time now limited for the construction of so much of the Company's railways as have not been already completed or authorised to be abandoned should be further extended as herein-after provided:

And whereas it is expedient that the Company should be empowered to alter the levels and works of the portions herein-after described of their said authorised railway between Kings Sutton and the Chipping Norton Railway and sections showing such levels as proposed to be altered have been deposited with the clerk of the peace for the county of Oxford:

And whereas by section 3 of the Banbury and Cheltenham Direct Railway Act 1879 the 1879 debenture stock of the Company authorised by that Act and the interest thereon is made a first charge upon the sum payable in respect of debenture interest by the Great Western Railway Company under the Agreement between that Company and the Company referred to in the said section and by section 6 of the same Act it is enacted that nothing in the said Act should unless otherwise agreed between the Company and the Great Western Railway Company affect the right or liability of the Great Western Railway Company under the same agreement:

And whereas it is expedient that further provision in respect of such interest should be made as herein-after contained:

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

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal

and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say):— A.D. 1881.

1. This Act may be cited for all purposes as the Banbury and Cheltenham Direct Railway Act 1881. Short title.

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

Part II. (relating to extension of time) of the Railways Clauses Act 1863; 26 & 27 Vict. c. 92.

The provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (namely):—The giving of notices and the provision to be made for affording access to the special Act by all parties interested; and 8 & 9 Vict. c. 16.

Part III. (relating to debenture stock) of the Companies Clauses Act 1863. 26 & 27 Vict. c. 118.

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 "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. Interpretation.

4. The period limited by the Banbury and Cheltenham Direct Railway Act 1873 for the construction and completion of the railways by that Act authorised and the period limited by the Banbury and Cheltenham Direct Railway Act 1877 for the construction and completion of the deviation and new railways by that Act authorised are hereby as regards so much of the said railways respectively as have not been completed or authorised to be abandoned extended to the twenty-first day of July one thousand eight hundred and eighty-four and section 10 of the said Act of 1877 shall be read and construed as if the period by this Act limited for the construction and completion of the new railway authorised by the said Act of 1877 had been the period limited by that Act. If the said railways shall not be completed within the extended period by this Act limited then on the expiration of that extended period the powers by this Act granted for making and completing those railways or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed. Extension of time for completion of railways.

A.D. 1881.

Power to alter levels of part of authorised railway.

5. Subject to the provisions of this Act the Company may make and maintain so much of the Railway No. 1 authorised by the Banbury and Cheltenham Direct Railway Act 1873 as is situate between the points on the sections deposited with reference to that Act indicating 8 miles 6 furlongs and 10 miles 4 furlongs according to the levels shown upon the sections deposited with reference to this Act in lieu of making the same according to the levels shown upon the sections deposited with reference to the said Act of 1873: Provided always that any increased cost of working the railways of the Company by the Great Western Railway Company which may arise in consequence of or from the construction of the said portion of railway according to the sections deposited with reference to this Act as compared with the cost of working the railways if constructed according to the sections deposited with reference to the said Act of 1873 shall unless otherwise agreed be paid half yearly by the Company to the Great Western Railway Company or may be deducted by that Company half yearly from the moneys payable by them to the Company under the said agreement between the Company and the Great Western Railway Company and in the event of any difference as to the amount of such increased cost the same shall from time to time be determined by arbitration in the manner provided by the Railway Companies Arbitration Act 1859.

22 & 23 Vict. c. 59.

Repealing part of section 18 of Act of 1877.

6. So much of section 18 of the Banbury and Cheltenham Direct Railway Act 1877 as empowers the Company in the construction of the said authorised Railway No. 1 to substitute viaduct for embankment between the points on the deposited plans referred to in that section indicating 9 miles 9 chains and 9 miles 1 furlong and 6 chains is hereby repealed: Provided always that if by reason of such repeal the Company fail to afford to William Horwood the right to use the arch of the said viaduct referred to in section 19 of the said Act and to deviate the existing roadway as by that section provided they shall construct the accommodation bridge in the same section referred to as agreed to be constructed on lands of the said William Horwood and in all respects in accordance with such agreement.

Amending section 6 of the Act of 1879.

7. Notwithstanding anything contained in section 6 of the Banbury and Cheltenham Direct Railway Act 1879 (saving existing Agreement between the Company and the Great Western Railway Company) the amount of the interest on the Banbury and Cheltenham debenture debt payable half yearly by the Great Western Railway Company from their head office under the said Agreement shall be paid direct to the Company and the receipt of

the Company for such amount shall be a valid and sufficient discharge to the Great Western Railway Company and the amount of interest so received by the Company shall be applied by the Company in the first instance in paying in accordance with section 3 of the said Act of 1879 the interest upon the 1879 debenture stock of the Company created under that Act and the balance may in the absence of any other funds available for the purpose be applied (to the extent of but not exceeding five per centum per annum on the amount from time to time received by the Company and applicable to the payment of interest on their debenture stocks) in discharging the necessary expenses of administering and carrying on the business of the Company and subject thereto shall be applied in paying the interests according to their priorities upon the other debenture stocks of the Company: Provided always that notwithstanding this Act the first payment or allowance to be made out of the Banbury and Cheltenham per-centage as defined in the said Agreement shall be the allowance to the Great Western Railway Company of a sum or sums equal to the amount which may have been from time to time paid by them under articles 18 and 21 of the said Agreement.

Power to raise further money by debenture stock.

8. In addition to the sums which the Company are already authorised to raise by debenture stock they may from time to time create and issue debenture stock to the amount of two hundred and fifty thousand pounds subject to the provisions of Part III. of the Companies Clauses Act 1863 and such debenture stock shall be distinguished and is herein-after referred to as 1881 debenture stock and shall bear interest at the rate of not exceeding five pounds per centum per annum and the said interest shall rank in priority next after the interest at the rate of four pounds per centum per annum on the 1873 debenture stock now payable as aforesaid.

Priorities of interest on debenture stocks.

9. From and after the passing of this Act the revenues of the Company so far as applicable to the payment of interest on the debenture stocks of the Company shall notwithstanding anything contained in the existing Acts of the Company be applied as follows:—

First. In payment of interest at the rate of five pounds per centum per annum on the 1879 debenture stock;

Secondly. In payment of interest at the rate of four pounds per centum per annum on the 1873 debenture stock;

Thirdly. In payment of interest at the rate of five pounds per centum per annum on the 1881 debenture stock;

A.D. 1881.

Fourthly. In payment of interest at the rate of four pounds per centum per annum on the 1877 debenture stock;

Fifthly. In payment of further interest at the rate of one pound per centum per annum on the 1873 debenture stock; and

Sixthly. In payment of further interest at the rate of one pound per centum per annum on the 1877 debenture stock.

Power to holders of 1873 and 1881 debenture stocks to vote at meetings of Company.

10. The holders of 1873 debenture stock and of the 1881 debenture stock shall be entitled to attend speak and vote at every general meeting of the Company in the like way and to the like extent and in the like proportion with respect to the number of votes as the holders of shares in the Company and shall have the same rights as such holders to require the directors of the Company to call extraordinary meetings of the Company which rights they may exercise irrespective of and in addition to any rights of voting or otherwise to which they may be entitled in respect of any shares in the Company which may be held by them respectively and the rights by this Act conferred upon them may be exercised either jointly with the holders of shares or not:

For the purpose of determining the number of votes to which the holders of 1873 debenture stock and of the 1881 debenture stock are entitled every twenty pounds of that debenture stock shall be deemed to be equivalent to one share.

1873 and 1881 debenture holders may be directors of Company.

11. Any holder in his own right of 1873 debenture stock or of 1881 debenture stock to the amount of five hundred pounds or upwards may be elected and act as a director as fully and effectually as if he were the possessor in his own right of twenty-five shares.

Application of moneys.

12. All moneys raised by the Company under this Act shall be applied only to the purposes of this Act and to the general purposes of their undertaking.

Saving existing Agreement between Company and Great Western Railway Company.

13. Nothing in this Act shall affect the rights or liabilities of the Great Western Railway Company under the said Agreement between the Company and the Great Western Railway Company other than that the amount as limited of interest on the Banbury and Cheltenham debenture debt payable half yearly by the Great Western Railway Company shall be paid to the Company direct as in this Act provided and nothing in this Act shall render the Great Western Railway Company liable to pay out of the gross receipts any greater sum or sums in respect of interest from time to time payable on the debenture stock of the Company than they would have been liable to pay if this Act had not passed.

Saving rights of Annie Terry and others.

14. Nothing herein contained shall alter prejudice lessen or affect the rights if any of Annie Terry widow of Alfred Terry deceased

formerly a contractor of the Company or of any person or persons claiming under or through her in respect of his her or their claim against the Company of five thousand one hundred and thirty-five pounds and five pence.

Interest not to be paid on calls paid up.

15. The Company shall not out of the money by this Act authorised to be raised pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

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

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

Provision as to general railway Acts.

17. 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 and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised to be taken by the Company.

Costs of Act.

18. 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 out of any moneys belonging to them or which they are by any Act authorised to raise.

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