CHAPTER xcviii.

An Act to authorise the Brewood and Wolverhampton Railway Company to construct a new Junction with the London and North-western Railway; and for other purposes. A.D. 1875.

[29th June 1875.]

WHEREAS by the "Brewood and Wolverhampton Railway Act, 1874," (herein-after called "the Act of 1874,") the Brewood and Wolverhampton Railway Company (in this Act called "the Company") were authorised to construct the railway therein described, commencing by a junction with the Grand Junction Railway of the London and North-western Railway Company about five miles north of Wolverhampton and terminating at Brewood: 37 & 38 Vict. c. xciii.

And whereas it has been found that the said railway can be constructed and worked with greater convenience if the said junction be made at a point nearer to Wolverhampton, and it is expedient that the Company should accordingly be authorised to alter the said point of junction and to construct the railway herein-after described, and to abandon so much of their authorised undertaking as will be rendered unnecessary thereby:

And whereas the Company have not entered into any contract or given any notice for the purchasing of any land for the purposes of or in relation to the portion of railway to be abandoned as aforesaid, nor have they exercised any of the powers conferred on them by the said Act with respect to the same portion of railway:

And whereas plans and sections showing the lines and levels of the railway authorised by this Act, and also a book of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required, or which may be taken for the purposes or under the powers of this Act, were duly deposited with the clerk of the peace for the county of Stafford, and are herein-after respectively referred to as the deposited plans, sections, and book of reference:

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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 Brewood and Wolverhampton Railway Act, 1875."

Act to be read as one with Act of 1874.

2. This Act and the Act of 1874, as amended by this Act, shall be read and have effect together as one Act, and may be cited together as "The Brewood and Wolverhampton Railway Acts, 1874 and 1875."

Provisions of certain general Acts incorporated.

3. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869;"

"The Railways Clauses Consolidation Act, 1845;"

Part I. of "The Railways Clauses Act, 1863" (relating to "construction of a railway");

The clauses and provisions of "The Companies Clauses Consolidation Act, 1845," with respect to—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and means of enforcing the payment of calls;

The forfeiture of shares for nonpayment of calls;

The remedies of the creditors of the Company against shareholders;

The borrowing of money by the Company on mortgage or bond;

The conversion of the borrowed money into capital;

The consolidation of shares into stock;

The making of dividends;

The giving of notices; and

The provision to be made for affording access to the special Act by all parties interested:

And also Parts I., II., and III. of "The Companies Clauses Act, 1863," relating respectively to the cancellation and surrender of shares, to additional capital, and to debenture stock;

are (except where expressly varied by this Act) incorporated with and form part of this Act.

Power to make railway according to deposited plans.

4. Subject to the provisions of this Act, the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the railway herein-after described, with

all proper stations, 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 book of referenee as may be required for that purpose. The railway herein-before referred to and authorised by this Act is wholly in the county of Stafford, and is

So much (but so much only) of the railway shown on the deposited plans as lies between the public road numbered on the said plans and in the deposited book of reference 34, in the parish of Bushbury, and the termination of the said railway by a junction with the authorised Brewood and Wolverhampton Railway, in the township and parish of Brewood. The said portion of railway will be about two miles, four furlongs, and three chains in length, and will commence (subject to the provisions of this Act) by a junction with the said Grand Junction Railway of the London and North-western Railway Company.

Abandonment of part of authorised railway.

5. The Company may and shall abandon the formation of so much of their undertaking as was authorised by the Act of 1874 to be made between the commencement thereof and a point shown on the plans deposited with the clerk of the peace for the county of Stafford in respect of the application to Parliament for the said Act as one mile and two furlongs from the commencement thereby authorised.

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

6. The abandonment by the Company under the authority of this Act of the said portion of their railway shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels or probing or boring to ascertain the nature of the soil or setting out of the line of railway, and shall not prejudice or affect the right of the owner or occupier of any land which may have been temporarily occupied by the Company to receive compensation for such temporary occupation, or for any loss, damage, or injury which may have been sustained by such owner or occupier by reason thereof, or of the exercise, as regards such land, of any of the powers contained in "The Railways Clauses Consolidation Act, 1845," or the Act of 1874.

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

7. Where before the passing of this Act any contract may have been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to the said portion of their railway authorised to be abandoned by this Act, the Company shall be released from all liability to purchase or to complete the

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purchase of any such lands, but notwithstanding full compensation shall be made by the Company to the owners and occupiers or other persons interested in such lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice, and the amount and application of the compensation shall be determined in manner provided by "The Lands Clauses Consolidation Act, 1845," as amended by any subsequent Act for determining the amount and application of compensation paid for lands taken under the provisions thereof.

For protection of London and North-western Railway Company. Method of effecting junction.

8. The following provisions shall be made and have effect for the protection of the London and North-western Railway Company :—

1. The junction of the railway with the said Grand Junction Railway shall be made only at such point within the limits of deviation shown on the deposited plans, and to the north of the said public road numbered 34, in the parish of Bushbury, as the London and North-western Railway Company shall by writing, under their common seal, agree to, and such junction shall be effected by means of a siding of that Company, and not otherwise, and all works required for effecting such junction, or affecting the lands or works of the London and North-western Railway, shall be made according to plans and sections first approved in writing, by and executed under the superintendence and control of the chief engineer of that Company, and in all things at the expense of the Company :

As to interference with property of London and North-western Railway Company.

2. The Company shall not enter upon, take, or use any of the lands or property of the London and North-western Railway Company, or any of the works appertaining thereto, without the previous consent in writing of that company, under their common seal, except only so far as may be necessary for effecting and maintaining such junction in manner aforesaid, and with respect to any such lands or property which the Company may so enter upon, take, or use, that company shall only be required to sell and grant, and the Company may purchase and take, an easement or right of using the same :

As to expense of signals and watchmen at junction.

3. The junction in manner aforesaid of the railway with the railway of the London and North-western Railway Company shall, for all the purposes of section 12 of "The Railways Clauses Act, 1863," be deemed to be a junction within the meaning of that section :

Saving rights of London and North-western Railway Company.

4. Nothing in this Act contained shall extend to prejudice, diminish, alter, or take away any of the rights, privileges, or powers of the London and North-western Railway Company, otherwise than is herein expressly provided.

For protecting the Staffordshire and Worcestershire canal.

9. And whereas the railway is to be carried across the canal belonging to the proprietors of the Staffordshire and Worcestershire Canal Navigation, herein-after referred to as the canal company, at a point in the parish of Busbury, in the county of Stafford; the provisions herein-after contained in reference thereto shall be made and have effect:

Erection and maintenance of bridge.

1. The Company shall at their own expense build at the said point, in a proper manner, and to the satisfaction and approbation of the engineer for the time being of the canal company, a good and substantial bridge or viaduct of brick, stone, or iron over the said canal, and the towing-path thereof, with the requisite guards and proper approaches thereto, upon which bridge or viaduct the said railway shall be made; and the opening or span of the arch of the said bridge or viaduct shall leave thirty feet between the walls or abutments thereof, namely, six feet for the towing-path, and twenty-four feet for the waterway, including timber fender, without slopes, and shall be constructed so as to leave a clear headway of ten feet at least at the centre of the said bridge or viaduct, measured from the surface of the water according to the high-water level thereof; and if any damage or injury shall be done to the said canal or the bed, banks, or towing-path of the same, in the course of the construction of such bridge or viaduct, or if the works shall cause during their construction, or after their completion, the escape of any water, it shall be lawful for the canal company to make good such damage or injury, or to prevent such escape of water, and to charge the expenses thereby incurred to the Company, who shall pay the same to the canal company upon demand:

For keeping the bridge in repair.

2. The Company shall at all times after construction keep the bridge or viaduct in good and complete repair, and in case of any want of repair it shall be lawful for the canal company after seven days notice to the Company to make such repairs; and all the expenses thereof shall be repaid by the company to the canal company upon demand:

Maintenance of waterway, &c. during construction.

3. The Company shall during the progress of constructing such bridge or viaduct or the repairs thereof, at all times leave a free and uninterrupted waterway of twelve feet in width and eight feet in height, and also a free and uninterrupted

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passage along the towing-path, and shall not alter the course, line, or level of the canal nor obstruct or lessen any springs or waters used by the canal:

Bridge not to be commenced till after seven days notice.

4. It shall not be lawful for the Company to commence the said bridge or viaduct without giving to the canal company seven clear days previous notice in writing, and such notice shall specify the day on which it is intended to commence the construction of the said bridge or viaduct:

For preventing obstructions and impediments in the canal.

5. If in the execution of any of the said works, or if by reason of any act or omission of the Company, their agents, servants, or workmen, the said canal or the towing-path or banks thereof shall at any time hereafter be so obstructed that boats shall be obstructed in their passage, then and in any such case the Company shall pay to the canal company as or by way of ascertained damages the sum of one hundred pounds for every twenty-four hours during which such obstruction shall continue, and so in proportion for any less time than twenty-four hours:

Nothing to prevent the canal company from recovering special damages.

6. Nothing herein contained shall extend to prevent the canal company from recovering against the Company any special damage that may be sustained by the canal company for or on account of the acts or defaults of the Company in respect of which the said penalties are imposed beyond the amount of such penalties:

Damage occasioned by letting out water to be made good by Company.

7. If in the execution of any of the said works, or if by reason of any act or omission of the Company, their agents, servants, or workmen, the water of the canal shall be let out of or escape from the canal, all damage or injury which may be occasioned thereby shall be made good by the Company to the person or persons sustaining the same on demand in writing, and no such person or persons shall have any claim or demand on the canal company for or on account thereof, nor shall that company be answerable in any way for the inconvenience, damage, or injury to the traders and others using the said canal which may arise out of any hindrance or interruption of the trade of the said canal by reason or in consequence of any of the causes mentioned in this present section.

Powers for compulsory purchases limited.

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

Deposit money not to be repaid

11. Whereas pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her

present Majesty, chapter twenty, a sum of one thousand two hundred and fifty pounds was deposited with the Court of Chancery in England in respect of the railway authorised by the Act of 1874, and a sum of one thousand pounds, being five per centum upon the amount by which the estimate in respect of the railway hereby authorised exceeds the estimate in respect of the railway by this Act authorised to be abandoned, has been deposited with the said Court in respect of the application to Parliament for this Act: Be it enacted, that notwithstanding anything contained in the said Act, the said sums of money so deposited as aforesaid shall not be paid to or on the application of the person or persons or the majority of the persons named in the warrants or orders issued in pursuance of the said Act in relation to the said sums respectively, or the survivors or survivor of them, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the railway hereby authorised, either open the said railway for the public conveyance of passengers, or prove to the satisfaction of the Board of Trade that the Company have paid up one half of the amount of the capital by this Act authorised to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital, and if the said period shall expire before the Company shall either have opened the said railway for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Board of Trade, the said sums of money deposited as aforesaid shall be applied in the manner herein-after specified; and the certificate of the Board of Trade that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the above-mentioned Act to the contrary notwithstanding.

until line opened, or half the capital paid up and expended.

12. The said sums of money deposited 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 railway, or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, or the Act of 1874, 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 Court of Chancery in

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England may seem fit, and if no such compensation shall be payable, or if a portion of the said sums of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sums of money, or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty, and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer, in such manner as the Court of Chancery in England thinks fit to order, on the application of the solicitor of Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or in the discretion of the Court, if the Company is insolvent, and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver, or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof: Provided that until the said sums of money have been repaid to the depositors, or have become otherwise applicable as herein-before mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, be paid to or on the application of the person or persons, or the majority of the persons named in such warrants or orders respectively as aforesaid, or the survivors or survivor of them.

Period for completion of railway.

13. If the railway hereby authorised is not completed within four 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 said railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Railway to form part of original railway.

14. The Company may demand and take in respect of the railway hereby authorised the same tolls and charges as they are authorised to receive for and in respect of the Brewood and Wolverhampton Railway, and the railway hereby authorised shall in all respects be deemed to be part of the Brewood and Wolverhampton Railway.

Agreements with London and North-western Railway Company.

15. The powers conferred on the Company and the London and North-western Railway Company respectively, by the Act of 1874, shall be deemed to apply to the railway hereby authorised, as if the same had been part of the railway authorised by that Act.

Power to raise additional capital.

16. The Company may, subject to the provisions of Part II. of "The Companies Clauses Act, 1863," raise any additional capital, not exceeding in the whole twenty thousand pounds, by the issue at

their option of new ordinary shares or stock, or new preference shares or stock in their capital, or wholly or partly by any one or more of those modes respectively, but the Company shall not issue any share of less nominal value than ten pounds, nor shall any such share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth part of the amount of such share shall have been paid in respect thereof.

Power to borrow on mortgage.

17. The Company may, in respect of the additional capital of twenty thousand pounds which they are by this Act authorised to raise, from time to time borrow on mortgage any sum not exceeding in the whole six thousand six hundred and sixty-six pounds; but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted, and one half of such capital is paid up, and the Company have proved to the justice who is to certify under the fortieth section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that shares for the whole of such capital have been issued and accepted, and that one half of such capital has been paid up, and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and until stock for one half of so much of the said additional 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 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 the said capital is raised by shares, that such persons or corporations, or their executors, administrators, successors, or assigns are legally liable for the same; and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

Arrears may be enforced by appointment of a receiver.

18. The twelfth section of the Act of 1874 is hereby repealed, (without prejudice to any appointment heretofore made or proceeding now pending by virtue of the said section,) and the mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than three thousand pounds in the whole.

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Debenture stock.

19. The Company may create and issue debenture stock, subject to the provisions of Part III. of "The Companies Clauses Act, 1863," but notwithstanding anything therein contained the interest of all debenture stock at any time created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Priority of principal moneys secured by existing mortgages.

20. The principal moneys secured by all mortgages granted by the Company in pursuance of the powers of the Act of 1874, and subsisting at the passing hereof, shall, during the continuance of such mortgages, have priority over the principal moneys secured by any mortgages granted by virtue of this Act.

Interest not to be paid on calls paid up.

21. The Company shall not, out of any 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.

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

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

23. Nothing in this Act contained shall exempt the Company or the 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.

Expenses of Act.

24. 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.

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