CHAPTER cxxiii.

An Act to authorise the Bury and Tottington District Railway Company to raise additional capital. A.D. 1882.

[12th July 1882.]

WHEREAS by the Bury and Tottington District Railway Act 1877 (in this Act called "the Act of 1877") the Bury and Tottington District Railway Company (in this Act called "the Company") were incorporated and empowered to make a railway from Bury to Tottington with branches in the county palatine of Lancaster and by that Act the Company were authorised to raise fifty-seven thousand pounds by means of ordinary shares and to borrow nineteen thousand pounds on mortgage: 40 & 41 Vict. c. clvii.

And whereas by the Bury and Tottington District Railway Act 1880 (in this Act called "the Act of 1880") the conversion by the Company of twenty thousand pounds of the share capital authorised by the Act of 1877 into preferred shares was confirmed and the Company were authorised to raise an additional sum of forty thousand pounds by ordinary or preference shares and to borrow thirteen thousand three hundred pounds on mortgage: 43 & 44 Vict. c. iv.

And whereas the railway is far advanced towards completion but unexpected difficulties have been met with in the formation thereof and the estimated cost of the works has been largely exceeded and it is therefore expedient that the Company be authorised to raise further capital for the purpose of completing and opening the railway for public traffic and paying their debts and liabilities.

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; -

1. This Act may be cited for all purposes as the Bury and Tottington District Railway Act 1882. Short title.

A.D. 1882.

Incorporation of general Acts. 8 & 9 Vict. c. 16.

2. The clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (that is to say):

The distribution of the capital of the Company into shares.

The transfer or transmission of shares.

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

The forfeiture of shares for nonpayment of calls.

The remedies of creditors of the Company against the shareholders.

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

The conversion of borrowed money into capital.

The consolidation of shares into stock.

The general meetings of the Company and the exercise of the right of voting by the shareholders.

The giving of notices and

The provision to be made for affording access to the special Act and Part I (relating to cancellation and surrender of shares) Part II (relating to additional capital) and Part III (relating to debenture stock) of the Companies Clauses Act 1863 are (except where expressly varied by this Act) incorporated with and form part of this Act.

26 & 27 Vict. c. 118.

Interpretation.

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 And for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partially incorporated herewith shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Company may raise additional capital.

4. The Company may subject to the provisions of Part II of the Companies Clauses Act 1863 from time to time raise for the general purposes of their undertaking to which capital is properly applicable any additional capital not exceeding in the whole the sum of forty thousand pounds by the issue at their option of new ordinary shares or new preference shares of ten pounds each or wholly or partly by either of those methods.

Shares not to vest until one-fifth part paid up.

5. 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 part of the amount of such share shall have been paid in respect thereof.

Receipt clause in case of persons not sui juris.

6. If any money is payable to a shareholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

As to votes of proprietors of new shares.

7. The proprietors of any shares whether ordinary or preference to be issued under the authority of this Act shall be entitled to such number of votes in respect thereof as the nominal amount represented thereby would have entitled them to if the same had been original shares of the Company.

New shares issued under this Act and Act of 1880 may be of same class.

8. Subject to the provisions of the Act of 1880 and this Act the Company may if they think fit raise by the creation and issue of new shares of one and the same class all or any part of the capital which they are by the Act of 1880 and this Act respectively authorised to raise by means of new shares.

Power to borrow on mortgage.

9. The Company may in respect of the additional share capital of forty 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 thirteen thousand three hundred pounds and of that sum they may from time to time borrow not exceeding three thousand three hundred and twenty-five pounds in respect of every ten thousand pounds of such additional share capital but no part of any such sum of three thousand three hundred and twenty-five pounds shall be borrowed until the whole of the respective ten thousand pounds of additional share capital in respect of which it is to be 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 the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for the whole of the respective ten thousand pounds of such additional capital have 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 such ten thousand pounds has been paid on account thereof before or at the time of the issue or acceptance thereof and that shares for the respective ten thousand pounds of additional capital 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 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 shall be sufficient evidence thereof.

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Priority of existing mortgages.

10. The principal moneys secured by all mortgages granted by the Company in pursuance of the powers of any Act before the passing of this Act 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.

Appointment of a receiver.

11. The provisions in the Acts of 1877 and 1880 relating to the appointment of a receiver are hereby repealed but without prejudice to any appointment heretofore made or any proceedings now pending. The mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their respective 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 owing to the mortgagees by whom the application for a receiver is made shall not be less than four thousand pounds in the whole.

Power to create and issue debenture stock. 32 & 33 Vict. c. 48.

12. The Company may create and issue debenture stock subject to the provisions of Part III of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 but notwithstanding anything therein contained the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company and shall have priority over all principal moneys secured by such mortgages.

Application of moneys.

13. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied for the purposes of the undertaking of the Company to which capital is properly applicable and to no other purpose whatever.

Classification table of goods to be open to inspection and copies kept for sale.

14. The book tables or other document in use for the time being containing the general classification of goods carried by goods or merchandise train on the railway shall during all reasonable hours be open to the inspection of any person without the payment of any fee at every station at which goods or merchandise are received for transmission and such book tables or other document as annually revised shall be kept on sale at the principal office of the Company at a price not exceeding one shilling.

Terminal charges (if any) to be specified on application.

The Company shall within one week after application in writing made to the secretary of the Company by any person interested in the carriage of any goods which have been or are intended to be carried over the railway render an account to the person so applying in which the charge made or claimed by the Company for the carriage of such goods shall be divided and the charge for con-

veyance over the railway shall be distinguished from the terminal charges if any and if any terminal charge is included in such account the nature and detail of the terminal expenses in respect of which it is made shall be specified.

If the Company fail to comply with the provisions of this section they shall for each offence and in the case of a continuing offence for every day during which the offence continues be liable to a penalty not exceeding five pounds which penalty may be recovered and applied in the same manner as penalties imposed by section 14 of the Regulation of Railways Act 1873. 36 & 37 Vict. c. 48.

Interest not to be paid on calls paid up.

15. 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 calls made in respect of the shares held by him but nothing herein contained shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of 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 any money by this Act authorised to be raised pay or deposit any sum of money which by any standing order of either House of Parliament now in force or hereafter to be 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 execute any other work or undertaking.

Provisions as to general Railway Acts.

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

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.

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