CHAPTER lxxxvii.

An Act to confer further powers on the Charnwood Forest Railway Company, and to authorise a diversion of part of their authorised line; and for other purposes. A.D. 1881.

[27th June 1881.]

WHEREAS by the Charnwood Forest Railway Act, 1874 (in this Act referred to as the Act of 1874), the Charnwood Forest Railway Company (herein-after called "the Company") were incorporated with power to make a railway from Coalville to Loughborough in the county of Leicester: 37 & 38 Vict. c. cxxvii.

And whereas by the Charnwood Forest Railway Act 1876 (in this Act referred to as the Act of 1876) the Company were authorised to make two short branch railways, and by the Charnwood Forest Railway Act 1878 (in this Act referred to as "the Act of 1878") the Company were authorised to divert portions of their authorised line and their powers for purchasing land and completing the line were revived and extended: 39 & 40 Vict. c. clxviii. 41 & 42 Vict. c. xxiv.

And whereas the time limited by the Act of 1874 for the compulsory purchase of land, as revived and extended by the Act of 1878, expired on the sixteenth day of July 1880, and it is expedient that the same should be again revived and extended:

And whereas it is also expedient to extend the periods limited by the Acts of 1876 and 1878 for the compulsory purchase of land and the construction of the portions of the railway by those Acts authorised:

And whereas only a small portion of the share capital authorised by the Act of 1874 has been issued, and the shares have not been fully paid up, and it would facilitate the raising of the capital required for the construction of the railway if the Company had power to attach a preferential dividend to a portion of their authorised share capital, and to borrow by instalments as herein-after provided the sum authorised by the Act of 1874 to be borrowed on mortgage:

A.D. 1881.

And whereas an agreement has been made under the authority of the Act of 1876 for the working of the railway by the London and North-western Railway Company after the same shall have been completed, and it is expedient that power should be conferred on that company to subscribe for and hold a portion of the authorised share capital of the Company:

And whereas it has been found that a portion of the authorised line near Whitwick would be improved by diverting the same beyond the limits of deviation, and it is therefore expedient that the Company should have power to construct the new or substituted railway herein-after described, and to acquire additional land for the purposes thereof, and also to abandon so much of their authorised line as will be rendered unnecessary by the construction of such new or substituted railway:

And whereas plans and sections describing the line and levels of the railway authorised by this Act, and also books 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 Leicester, and are herein-after referred to as the deposited plans, sections, and books of reference:

And whereas the purposes aforesaid 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):—

Short title.

1. This Act may be cited for all purposes as the Charnwood Forest Railway Act, 1881.

Incorporation of general Acts.
8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.
8 & 9 Vict. c. 20.
26 & 27 Vict. c. 92.

2. The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, the Railways Clauses Consolidation Act 1845, Part I. (relating to construction of a railway) and Part II. (relating to extension of time) of the Railways Clauses Act 1863, are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

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 railway" means the railway by this Act authorised; 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 common simple contract debt, and not a debt or demand created by statute. A.D. 1881.

Power to make railway.

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, 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 that purpose.

The railway herein-before referred to and authorised by this Act will be situated in the county of Leicester, viz.:

A railway one mile three furlongs one chain and twenty links in length, commencing in the township of Hugglescote and Donington, in the parish of Ibstock, by a junction with the Company's authorised line at a point in the field numbered 19 on the plans of that authorised line deposited with the clerk of the peace of the county of Leicester in the month of November, 1875, and terminating in the township and parish of Whitwick by a junction with the same authorised line at a point in the field numbered 60 on the plans thereof deposited with the said clerk of the peace in the month of November, 1873.

Subject to the provisions of this Act, and in addition to the other lands and property which the Company are by this Act authorised to acquire, the Company may from time to time enter upon, take, use, and appropriate for sidings, wharfage, and other accommodation of the Company, the lands and property herein-after described or referred to delineated on the deposited plans and described in the deposited books of reference (that is to say):

Certain lands and other property situate partly in the township of Swannington and partly in the township of Whitwick, in the said parish of Whitwick, and extending in a south-westerly direction from the junction in the last-mentioned parish of the public roads leading to or from Coalville, Whitwick, and Swannington respectively, on each side of the boundary between the said townships to or near to the Midland Brick Works and the Snibstone Colliery.

Period for compulsory purchase of lands.

5. 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 two years from the sixteenth day of April, one thousand eight hundred and eighty-one.

A.D. 1881.

Span of bridge.

6. The Company may make the arch of the bridge for carrying the railway over the road numbered 32 on the deposited plans, in the township and parish of Whitwick, of any span not being less than twenty feet.

Width of roadway over bridge.

7. The Company may make the roadway over the bridge by which the road numbered four on the deposited plans in the township and parish of Whitwick will be carried over the railway of such width between the fences or parapets as the Company think fit, not being less than twenty feet.

Power to take easements &c., by agreement.

8. Persons empowered by the Lands Clauses Consolidation Act 1845, to sell and 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 any easement, right, or privilege, not being an easement of water, required for the purposes of this Act, in, over, or affecting any such lands; and the provisions of the said Acts 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.

Period for completion of works.

9. If the railway by this Act authorised is not completed within three years from the sixteenth day of April, one thousand eight hundred and eighty-one, then, on the expiration of that period, the powers by this Act granted to the Company for making and completing the railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Railway to be part of Company's undertaking.

10. The railway by this Act authorised shall, for the purposes of tolls and charges and all other purposes whatsoever, be part of the undertaking of the Company.

Company to abandon portion of authorised line.

11. The Company shall abandon so much of their authorised line as was intended to be situated between the commencement and termination of the railway by this Act authorised, as the same will be rendered unnecessary by the construction of the last-mentioned railway.

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

12. The abandonment by the Company under the authority of this Act of any portion of railway or works, 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 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 tem-

porary 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 Acts of 1874, 1876 or 1878.

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

13. 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 any portion of railway or works authorised to be abandoned by this Act, the Company shall be released from all liability to purchase or to complete the 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.

Preference may be attached to part of capital authorised by recited Acts.

14. The Company may attach to a portion not exceeding a moiety of the share capital which they are authorised to create under the powers contained in the Acts of 1874 and 1876 any preferential dividend or other advantage and the shares to which such preferential dividend or other advantage is attached shall be called "preference shares": Provided that such preferential dividend shall not exceed the rate of six pounds per centum per annum and the provisions contained in the Companies Clauses Act 1863, with respect to preference shares or stock shall apply to any preference assigned to any shares by virtue of this Act as if such shares were shares in "additional capital" instead of part of the capital which the Company have already power to raise: Provided also that the terms and conditions on which such preference shares respectively are issued shall be stated on the certificates thereof.

26 & 27 Vict. c. 118.

Power to borrow.

15. Section ten of the Act of 1874 shall be and the same is hereby repealed, and the Company may in respect of the share capital of one hundred and thirty-five thousand pounds, which they are by that Act authorised to raise, from time to time borrow on mortgage any sum not exceeding in the whole forty-five thousand pounds, in manner following (that is to say), in respect of each sum of sixty-seven thousand five hundred pounds of such capital of one hundred and thirty-five thousand pounds they may borrow any sum not exceeding in the whole twenty-two thousand five hundred pounds;

A.D. 1881.

but no part of either of such sums of twenty-two thousand five hundred pounds shall be borrowed until shares for so much of the respective portion of capital in respect of which each such sum is authorised to be borrowed are 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 such respective portion of capital have been issued and accepted, and that one half thereof has been paid up, and that not less than one fifth of the amount of each separate share in such respective portion of capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and the Company have proved to such justice as aforesaid before he so certifies that such shares 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 that such persons or corporations or their executors, administrators, successors, or assigns are legally liable for the same. 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.

Power to London and North-western Railway Company to subscribe and to apply funds for that purpose.

16. The London and North-western Railway Company may, with the authority of three fourths of the votes of their shareholders present in person or by proxy, at a general meeting of that company specially convened for the purpose, from time to time subscribe any sums which they may think fit towards the undertaking of the Company, not exceeding in the whole fifty thousand pounds, and the London and North-western Railway Company may with the like authority contribute and apply in payment of their subscription any of the moneys which they now have in their hands, or which they have power to raise by virtue of any Act relating to that company, and which may not be required for the purposes to which such moneys are by any such Act made specially applicable.

Rights, &c. of London and North-western Company in undertaking of Company.

17. The London and North-western Railway Company shall, in respect of the sums subscribed and the corresponding shares in the undertaking of the Company held by them, have all the powers, rights, and privileges, except in regard to voting at general meetings, which shall be as herein-after provided, and be subject to all the obligations and liabilities of the proprietors of shares in that undertaking: Provided always that the London and North-western Railway Company shall not sell, transfer, or dispose of any of the shares in the undertaking of the Company for which they may subscribe.

London and North-western Company may appoint person to vote at meetings of Company.

18. The London and North-western Railway Company, while shareholders in the undertaking of the Company, may by writing under their common seal or under the hand of the chairman for the time being of that company, from time to time appoint some person to attend any meetings of the Company and such persons shall have all the privileges and powers attaching to a shareholder in the Company at such meetings, and may vote thereat, in respect of the capital held by the London and North-western Railway Company, and every such appointment by that company of any person to vote on their behalf shall be deposited with the Company and kept with their records, and shall be at all reasonable times open to the inspection and transcription of all parties interested, and every such instrument shall, as between the London and North-western Railway Company and the Company, be sufficient evidence of the facts therein stated.

London and North-western Company may appoint a director.

19. If the London and North-western Railway Company subscribe towards the undertaking of the Company as aforesaid, that company may from time to time, by writing under their common seal, appoint a director of the Company, and no other qualification than being so appointed shall be requisite, and that company may at pleasure, by any such writing revoke any such appointment, and the person so from time to time appointed by them shall accordingly be a director of the Company, and shall have the same powers and be subject to the same regulations and provisions as the other directors of the Company, except as to retiring from office by rotation, and voting at general meetings of the Company unless specially appointed for that purpose as in this Act mentioned. Provided always that all such appointments and revocations shall be deposited with the Company, and kept with their records, and an entry of every such appointment and revocation shall be made in the minutes of their proceedings.

Revival and extension of powers for purchase of lands.

20. The powers of the Act of 1874 with respect to the compulsory purchase or taking of and entry upon the lands delineated on the deposited plans and described in the deposited books of reference referred to in that Act, are hereby revived and extended, and the powers of the Acts of 1876 and 1878 with respect to the compulsory purchase or taking of the lands delineated on the deposited plans and described in the deposited books of reference referred to in those Acts respectively are also hereby extended, and all such powers shall continue in force till the sixteenth day of April, one thousand eight hundred and eighty-three.

Extension of time for completion of railway.

21. The time limited by the Act of 1878 for the completion of the Company's authorised railway shall be and the same is hereby

A.D. 1881.

extended and enlarged until the expiration of three years from the sixteenth day of April, one thousand eight hundred and eighty-one and section 27 of the Act of 1874 and section 23 of the Act of 1876 shall respectively be read and construed as if the extended period by this Act limited for the construction and completion of the railway had been the periods by those Acts limited; but if the railway authorised by the said Acts and this Act 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 the railway or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed.

Company may apply corporate funds to purposes of Act.

22. The Company may apply to the purposes of this Act any of the moneys which they have raised or have power to raise by virtue of the Acts of 1874 and 1876, and which may not be required for the purposes to which they are by such Acts made specially applicable.

Provision as to general Railway Acts.

23. 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.

Expenses of Act.

24. All costs, charges, and expenses of and incident to the obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

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