CHAPTER lv.

An Act to extend the time limited for the construction of works authorised by the Dearne Valley Railway Act 1897 to authorise alterations in such works to confer further powers upon the Dearne Valley Railway Company and for other purposes. [30th June 1905.] A.D. 1905.

WHEREAS by the Dearne Valley Railway Act 1897 (hereinafter called "the Act of 1897") the Dearne Valley Railway Company (hereinafter called "the Company") were incorporated for the purpose of constructing and maintaining railways and other works in the west riding of the county of York:

And whereas the period for the completion of the works thereby authorised was limited as regards the railways thereby authorised to five years from the passing of that Act which received the Royal Assent on the sixth day of August one thousand eight hundred and ninety-seven:

And whereas by the Dearne Valley Railway Act 1900 (hereinafter called "the Act of 1900") the Railways 2B and 2C authorised by the Act of 1897 were authorised to be abandoned and the periods limited for the completion of such of the railways and works authorised by the Act of 1897 as were not authorised to be abandoned were extended as regards the railways for a period of three years from the sixth day of August one thousand nine hundred and two:

And whereas it is expedient that the period for the completion of such railways should be further extended:

And whereas it is expedient that the Company should be authorised to make certain alterations in the construction of

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the Railway No. 6 as authorised by the Act of 1897 and should also be empowered to make certain further works hereinafter described in connection with the railways authorised by the Act of 1897:

And whereas by section 51 of the Act of 1897 after reciting that stock certificates to bearer representing twenty-five thousand nine hundred pounds two and three-quarters per centum consolidated stock being at the price at which the same was purchased equal to the aggregate of (A) five per centum upon the amount of the estimate for the railways originally proposed to be authorised by that Act and (B) four per centum upon the amount of the estimate for the other works by that Act authorised (hereinafter referred to as "the dock deposit fund") had been deposited with the Paymaster-General for and on behalf of the Supreme Court in respect of the application to Parliament for that Act and that the railways originally proposed to be authorised by the said Act included a railway on the plans and sections deposited for and referred to in the said Act called Railway No. 5 the powers for constructing which were struck out of the Bill for the said Act during its progress through Parliament and that the estimate for the said Railway No. 5 amounted to the sum of thirty thousand six hundred and ninety-five pounds and that of the above-mentioned certificates to bearer certificates representing one thousand three hundred and seventy-seven pounds were equal at the price at which the same were purchased to five per centum upon the said sum of thirty thousand six hundred and ninety-five pounds and that the remainder of the said certificates to bearer after deducting therefrom the dock deposit fund were equal at the price at which the same were purchased to five per centum upon the amount of the estimate for the railways authorised by the Act of 1897 (hereinafter referred to as "the railway deposit fund") it was enacted that the railway deposit fund should not be paid or transferred to or on the application of the depositors thereof unless the Company should previously to the expiration of the period limited by the said Act for the completion of the railway open the railway for the public conveyance of passengers:

And whereas the railways originally proposed to be authorised by the Act of 1897 included not only the Railway No. 5 referred to in section 51 of that Act but also a railway on the deposited plans and sections deposited for and referred to in that Act called

Railway No. 1A the estimates for which amounted to six thousand and eighty-three pounds and the powers for constructing which were also struck out of the Bill for the said Act during its progress through Parliament:

And whereas by the Act of 1900 after reciting that certificates representing two hundred and seventy-two pounds and eleven shillings were equal at the price at which the same were purchased to five per centum upon the said sum of six thousand and eighty-three pounds and that it was expedient that provision should be made for the return to the depositors of the last-mentioned certificates it was enacted that on the application of the depositors mentioned in section 51 of the Act of 1897 (hereinafter in this Act called "the depositors") at any time after the passing of that Act the High Court might order that certificates to bearer representing two hundred and seventy-two pounds and eleven shillings part of the railway deposit fund and the interest and dividends thereon should be transferred to the depositors or any other person or persons whom the depositors might appoint in that behalf and that the balance of the railway deposit fund after deducting therefrom the certificates to bearer by that Act authorised to be transferred to the depositors should remain as security for the completion not only of the railways authorised by the Act of 1897 and not authorised to be abandoned by the Act of 1900 but also of the railways by the last-mentioned Act authorised and that sections 51 and 52 of the Act of 1897 should be read and have effect accordingly:

And whereas the railway deposit fund after deducting the certificates to bearer representing two hundred and seventy-two pounds and eleven shillings which are authorised to be transferred to the depositors by the Act of 1900 as lastly hereinbefore recited consists of certificates to bearer representing twenty-three thousand six hundred and ten pounds ten shillings and elevenpence two and a half per centum consolidated stock:

And whereas the amount of the estimate for the substituted works by this Act authorised in respect of the Railway No. 6 authorised by the Act of 1897 is less than the estimate of the original works connected with such railway as authorised by such Act by the sum of twenty-six thousand two hundred pounds:

And whereas of the stock certificates mentioned in section 51 of the Act of 1897 certificates representing one thousand one hundred and seventy-two pounds were equal at the price at

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which the same were purchased to five per centum upon the said sum of twenty-six thousand two hundred pounds and it is expedient that provision be made for the return to the depositors of the last-mentioned certificates and the interest and dividends thereon:

And whereas it is expedient that the Company be authorised to apply their existing funds and revenues for the purposes of this Act:

And whereas by section 35 of the Act of 1897 the Company are authorised to borrow on mortgage of the undertaking by that Act authorised any sum not exceeding in the whole the sum of two hundred thousand pounds and of that sum to borrow not exceeding in the whole fifty thousand pounds in respect of each one hundred and fifty thousand pounds of their capital but it is inter alia provided in such section that no part of any such sum of fifty thousand pounds should be borrowed until Railways Nos. 1 and 6 by that Act authorised had been constructed to formation level nor until the whole of the sum of one hundred and fifty thousand pounds of capital has been issued and accepted in manner provided by the said section:

And whereas three hundred and thirty-two thousand pounds of capital has already been issued and accepted and one-half thereof has been paid up:

And whereas it is expedient that the said section 35 should be repealed and that in lieu of such section other provisions should be enacted as by this Act provided:

And whereas it is expedient that the Company be authorised to issue part of its unissued capital by the creation and issue of preference shares or stock:

And whereas plans and sections showing the lines and levels of the alteration of railway and other works 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 west riding of the county of York and are hereinafter respectively referred to as the deposited plans sections and book of reference:

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

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May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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 Dearne Valley Railway Act 1905.

Incorporation of general Acts.

2. The following enactments (as far as they are applicable for the purposes of and are not inconsistent with or expressly varied by this Act) are hereby incorporated with and shall be part of this Act (that is to say) :—

The Lands Clauses Acts ;

The Railways Clauses Consolidation Act 1845 ; and

Parts I. and II. of the Railways Clauses Act 1863 (relating respectively to construction of a railway and to extension of time) and Part II. (relating to additional capital) of the Companies Clauses Act 1863 and the provisions of Part II. of the Companies Clauses Act 1863 shall for the purposes of this Act be read and have effect as if the sum which the Company are by this Act authorised to raise by preference shares were an additional sum which by this Act the Company were authorised to raise by the issue of new preference shares.

Interpretation.

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

Extending period limited for completion of works.

4. The period limited by the Act of 1900 for the completion of so much of the railways and works authorised by the Act of 1897 as were not by the Act of 1900 required to be abandoned is hereby further extended as regards the railways for the period of four years from the sixth day of August one thousand nine hundred and five and sections 51 and 52 of the Act of 1897 shall be read and have effect as if the period limited for the completion and opening of the railway referred to in such sections had reference to the period so extended as aforesaid.

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Conversion and alteration of works authorised by Act of 1897.

5. Notwithstanding anything in the Act of 1897 or shown on the deposited plans and sections referred to therein (hereinafter referred to as "the plans and sections of 1897") the Company may make and maintain so much of Railway No. 6 authorised by that Act as lies between a point in the parish of Conisborough in the rural district of Doncaster in the west riding of the county of York at or about the distance of one mile seven furlongs and 1·50 chains or thereabouts from the authorised commencement of the said railway as shown on the plans and sections of 1897 and a point in the adjoining parish of Edlington in the said rural district and riding at or about the distance of two miles two furlongs and 6·05 chains or thereabouts from the said authorised commencement of the said railway as shown on the said plans and sections in open cutting instead of in tunnel and the Company may construct the said Railway No. 6 in the said parishes between the distance of two miles and six chains and two miles and four furlongs measured from the commencement of the said railway as shown on the plans and sections of 1897 in the line and according to the levels shown upon the deposited plans and sections and the Company may enter upon take and use such of the lands shown on the deposited plans and described in the deposited book of reference as may be required for the purposes of such altered portion of railway.

Power to construct further works.

6. Subject to the provisions of this Act the Company may execute the works described in this section and so far as such works are shown upon the deposited plans or sections in accordance with those plans and sections respectively together with all necessary and proper works and conveniences connected therewith and may execute the following powers and may enter upon take and use such of the lands delineated upon the deposited plans and described in the deposited book of reference as may be required for those purposes.

The works hereinbefore referred to and authorised by this Act are all situate in the west riding of the county of York and are the following (that is to say):—

(A) In the parish of Warmsworth and rural district of Doncaster the diversion of the road leading from Warmsworth to Broomhouse Lane known as Common Lane which forms a junction with Broomhouse Lane at a point about thirty chains north-east of the junction of Lord Head Lane with Broomhouse Lane commencing at a point in the said road so to be

diverted six chains or thereabouts measured in a north-westerly direction from the junction of such road so to be diverted with Broomhouse Lane and terminating at a point in Broomhouse Lane 37·50 chains or thereabouts measured in a north-easterly direction from the junction of Lord Head Lane with Broomhouse Lane:

(B) In the parish of Bolton-upon-Dearne in the urban district of Bolton-upon-Dearne the diversion of the public footpath leading from Goldthorpe Lane to the Barnsley and Doncaster road commencing at a point in the said footpath seven chains or thereabouts measured in a northerly direction from the junction of such footpath with Goldthorpe Lane and terminating at a point in the said footpath about 3·25 chains measured in a southerly direction from the junction of the said footpath with the Barnsley and Doncaster road:

And upon the completion of such diversions respectively the Company may stop up and discontinue for traffic of every description so much of the road and footpath respectively as will be rendered unnecessary by the said diversions and as are respectively shown on the deposited plans as intended to be stopped up.

The Company may also in the parish of Bolton-upon-Dearne in the urban district of Bolton-upon-Dearne in the said west riding stop up and discontinue for traffic of all descriptions so much of the bridle road and footpath leading from Goldthorpe Lane to the Barnsley and Doncaster road as lies between the Barnsley and Doncaster road and a point in such bridle road and footpath seven chains measured in a southerly direction from the junction of such bridle road and footpath with the Barnsley and Doncaster road.

As to extinguishment of rights of way.

7.—(1) Where this Act authorises the diversion of a road or footpath and the stopping up of the portion of road or footpath which will be rendered unnecessary by such diversion such stopping up shall not take place until two justices shall have certified that the new road or footpath has been completed to their satisfaction and is open for public use and before applying to the justices for their certificate the Company shall give to the road authority of the district in which such portion of existing road or footpath is situate seven days' notice in writing of their intention to apply for the same and as from the date of such

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certificate all rights of way over or along such portion of existing road or footpath shall be extinguished.

(2) Upon the stopping up of the portion of the bridle road and footpath described in the section of this Act of which the marginal note is "Power to construct further works" all rights of way over such portion of the bridle road and footpath shall be extinguished.

(3) The Company shall make full compensation to all parties interested in respect of any private rights of way extinguished by virtue of this section and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Repair of new road and footpath.

8. The new or diverted portions of road and footpath to be made under the authority of this Act shall unless otherwise agreed when made and completed respectively be repaired and maintained by and at the expense of the parties on whom the expense of maintaining the adjoining portions of the same road and footpath now devolves.

Vesting sites of roads &c. stopped up and extinguishing rights over same.

9. The sites and soil of so much as under the powers of this Act the Company shall stop up and discontinue for public traffic of any road or highway are by this Act vested (as to so much thereof as is bounded on both sides by land of the Company) in the Company and (as to so much thereof as is bounded on both sides by land of any other person) in such other person and (as to so much thereof as is bounded on opposite sides by lands belonging to different persons) in such owners respectively to the centre of the respective roads or highways in proportion to the respective frontages of their lands thereto The provisions of the Railways Clauses Consolidation Act 1845 with respect to mines lying under or near the railway shall apply to the lands so vested in the Company as if such lands had been purchased by the Company but the mines had not been expressly purchased.

Limits of deviation.

10. In constructing the Railway No. 6 authorised by the Act of 1897 as authorised to be altered in accordance with this Act and the diversion of road by this Act authorised the Company may deviate laterally from the lines thereof respectively as shown on the deposited plans to any extent not exceeding the limits of deviation shown on those plans and may deviate vertically from the levels thereof respectively as shown on the deposited sections to any extent not exceeding five feet Provided

that nothing in this section shall authorise the Company to deviate from the lines or levels of the altered portion of the said Railway No. 6 by this Act authorised beyond the limits prescribed by the Railways Clauses Consolidation Act 1845.

Power to take easements &c. by agreement.

11. 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 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 compulsory purchase of lands.

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

As to bridge carrying Goldthorpe Lane over railway.

13. Notwithstanding anything contained in the Act of 1897 the Company shall carry the lane known as Goldthorpe Lane in the parish of Bolton-upon-Dearne in the urban district of Bolton-upon-Dearne over the Railway No. 4 authorised by the Act of 1897 by means of a bridge with proper approaches thereto of a width between the parapets of the bridge and fences of the road of not less than thirty feet.

As to bridge carrying Straight Lane over railway.

14. Notwithstanding anything contained in the Act of 1897 or in the Railways Clauses Consolidation Act 1845 incorporated herewith the Company may construct the bridge to carry the lane known as Straight Lane in the parish of Bolton-upon-Dearne in the urban district of Bolton-upon-Dearne over the Railway No. 4 authorised by the Act of 1897 together with the approaches thereto of a width between the parapets of the bridge and fences of the road of not less than fifteen feet and notwithstanding anything in such Act the Company shall not be liable to construct or maintain any approaches to the said bridge on either side thereof beyond the boundary of the property of the Company.

For protection of West Riding County Council.

15. For the protection of the county council of the west riding of the county of York (in this section called "the county council") the following provisions shall have effect unless

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otherwise agreed in writing between the county council and the Company (that is to say):—

(1) In the construction of the bridge for carrying the Doncaster and Tinsley main road (numbered 5 on the deposited plans in the parish of Conisborough) over the railway the existing width of such road between the fences thereof shall not be diminished:

(2) Subsections 2 to 9 both inclusive of section 6 (For protection of county council of west riding of Yorkshire) of the Act of 1897 shall apply mutatis mutandis to the works authorised by this Act and to the road hereinbefore mentioned.

Power to borrow.

16. Section 35 of the Act of 1897 is hereby repealed and in lieu thereof it is hereby enacted as follows:—

The Company may from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole two hundred thousand pounds and of that sum they may borrow not exceeding in the whole ten thousand pounds in respect of each thirty thousand pounds of their capital but no part of any such sum of ten thousand pounds shall be borrowed until the whole thirty thousand pounds of 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 the whole of such portion of capital has 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 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 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.

Power to raise part of authorised capital by preference shares.

17. Subject to the provisions incorporated with this Act of Part II. of the Companies Clauses Act 1863 the Company may raise any sum or sums not exceeding one hundred thousand pounds of their capital by the creation and issue of preference shares with a preferential dividend or interest at a rate not exceeding five per centum per annum Provided always that notwithstanding anything contained in this Act the holders for the time being of preference shares created under this Act shall not be entitled to participate in any profits of the Company except in respect of the preferential dividend or interest which may be attached to such shares unless the Company at the time of the creation of such shares shall otherwise determine and then only to the extent determined Provided that the amount of preference capital to be issued by the Company under the powers of this Act shall not exceed the amount of ordinary capital of the Company for the time being issued and accepted and fully paid up.

Shares not to be issued until one fifth paid.

18. The Company shall not issue any such preference shares 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 of the amount of such share is paid in respect thereof.

As to votes &c. in respect of shares.

19. The Company may attach to any such shares such conditions as to voting qualifications or otherwise as they think fit to declare before issuing the same but except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of such shares.

Power to apply existing funds.

20. The Company may raise and apply for or towards any of the purposes of this Act to which capital is properly applicable any money which by the Act of 1897 they are authorised to raise.

Release of further portion of railway deposit fund of 1897.

21. On the application of the depositors at any time after the passing of this Act the High Court may order that certificates to bearer representing one thousand one hundred and seventy-two pounds part of the railway deposit fund and the interest and dividends thereon shall be transferred to the depositors or any other person or persons whom the depositors may appoint in that behalf.

Provision as to general Railway Acts.

22. Nothing in this Act contained shall exempt the Company or their undertaking from the provisions of any general Act relating to railways or to the better and more impartial audit

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of the accounts of railway companies passed before or after the commencement of this Act 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 by any Act relating to the Company.

Expenses of Act.

23. The costs charges and expenses preliminary to and of and incidental to the preparing and applying for and the obtaining and passing of this Act shall be paid by the Company.

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