CHAPTER cliv.

An Act for incorporating the Dudley and Oldbury Junction Railway Company, and authorising them to make and maintain Railways from Oldbury, in the county of Worcester, communicating with the South Staffordshire and Stour Valley Branches of the Railways of the London and North-western Railway Company; and for other purposes. A.D. 1873.

[21st July 1873.]

WHEREAS the making and maintaining of railways from the town of Oldbury, in the county of Worcester, and forming junctions with the South Staffordshire and Stour Valley branches of the railways of the London and North-western Railway, would afford a new and improved means of communication between the said town of Oldbury and the town of Dudley, in the same county, and would be of great public and local advantage:

And whereas the persons in that behalf in this Act named, with others, are willing at their own expense to construct the proposed railways if authorised by Parliament so to do, and are desirous of being incorporated into a company for the purpose:

And whereas it is expedient that the Company and the London and North-western Railway Company, and the Company of Proprietors of the Birmingham Canal Navigations respectively, be authorised to enter into and carry into effect the agreements and arrangements by this Act authorised:

And whereas plans and sections of the proposed railways, showing the line and levels thereof respectively, and the lands which may be taken for the purposes of this Act, and also books of reference to the plans, containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the lands, have been deposited with the clerk of the peace for the counties of Worcester and Stafford respectively, and those plans, sections, and books of

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reference are in this Act referred to as the deposited plans, sections, and books of reference:

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:

Short title.

1. This Act may be cited for all purposes as "The Dudley and Oldbury Junction Railway Act, 1873."

Provisions of general Acts herein named incorporated.

2. "The Companies Clauses Consolidation Act, 1845;" Part I. (relating to cancellation and surrender of shares) and Part III. (relating to debenture stock) of "The Companies Clauses Act, 1863," as amended by "The Railway Companies Act, 1867;" "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 III. (relating to working agreements) 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 Company" means the Company incorporated by this Act; the expressions "the railway" and "the undertaking" mean respectively the railways and undertaking by this Act authorised; and 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.

Incorporation of Company.

4. Arthur Albright, Sampson Samuel Lloyd, Samuel Minton, and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a Company for the purpose of making and maintaining the railways, and for other the purposes of this Act, and for those purposes shall be incorporated by the name of "The

Dudley and Oldbury Junction Railway Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

Power to construct railways according to deposited plans.

5. 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 railways and works herein-after described, with all proper stations, approaches, works, and conveniences connected therewith respectively, 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 railways herein-before referred to and authorised by this Act are :—

Railway (No. 1).—A railway five furlongs and six chains in length, commencing in an enclosure in the township of Oldbury, in the parish of Halesowen, in the county of Worcester, near the south side of Trinity Street, and terminating in the same township by a junction with the Stour Valley branch of the London and North-western Railway Company :

Railway (No. 2).—A railway three miles and two chains and the tenth part of a chain in length, commencing in the parish of Dudley, in the county of Worcester, by a junction with the South Staffordshire branch of the London and North-western Railway, and terminating in the parish of Halesowen by a junction with Railway No. 1 :

Railway (No. 3).—A railway one furlong and three chains and the tenth part of a chain in length, commencing in the parish of Halesowen by a junction with Railway No. 2, and terminating in the same parish in land belonging or reputed to belong to Messrs. Chance Brothers and Company, about ten yards southward of the Birmingham Canal.

As to junctions with railways of the London and North-western Railway Company.

6. The junctions by this Act authorised with the railways of the London and North-western Railway Company (herein-after called the North-western Company) shall be effected and in accordance with the following provisions ; (that is to say,)

(1.) The junctions shall be effected at the several points shown on the deposited plans, or at such other points within the limits of deviation as may be agreed upon between the Company and the North-western Company, and in all respects in such manner as shall have been previously approved of by the engineer for the time being of the North-western Company, and the junction and the works connected therewith respectively, including so

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much of Railway No. 1 and Railway No. 2 as may be situated within or upon the property of the North-western Company, shall be executed by the Company to the reasonable satisfaction of the engineer of the North-western Company, and the Company shall defray the cost thereof; and if any difference of opinion shall arise between the two companies as to the mode of giving effect to this subsection, the same shall be determined by a referee to be appointed by the Board of Trade, on the application of either of the two companies, at the cost of the Company:

(2.) The Company shall not, except by agreement, use, enter upon, or interfere with or acquire any right, title, or interest to or in any lands or property belonging to the North-western Company, except such as may be required for the purposes of constructing Railway No. 1 and Railway No. 2 and effecting the said junctions respectively; nor shall the Company, with respect to such lands or property of the North-western Company as may be so required, purchase and take the same, but the Company may purchase and take, and the North-western Company may and shall sell and grant accordingly, an easement or right of using the same for the purposes of the said railways and junctions:

(3.) The North-western Company may from time to time erect such signals and conveniences incident to the said junctions, or either of them, either on their own lands or upon the lands of the Company, and may from time to time appoint and remove such watchmen, switchmen, and other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the said junctions respectively, and the working and management of such signals and conveniences shall be under the exclusive regulation of the North-western Company, and all the expenses of erecting and maintaining such signals and conveniences, and of employing such watchmen, switchmen, and other persons, and all incidental current expenses, shall at the end of every half year be repaid by the Company, and in default thereof may be recovered from them in any court of competent jurisdiction.

Restricting interference with the lands of the Birmingham and Staffordshire Gaslight Company.

7. The Company shall not, without in every case the previous consent of the Birmingham and Staffordshire Gaslight Company (herein-after called the Gas Company) in writing under their common seal, take, use, enter upon, or interfere with any of the lands from time to time belonging to or in the possession or under the power of that company.

As to alterations of gas mains for purposes of works.

8. All alterations in the position or otherwise of the mains or pipes of the Gas Company which may be required for the purpose of any works by this Act authorised shall be made and executed by and at the cost of the Company, but under the superintendence and to the reasonable satisfaction of the engineer for the time being of the Gas Company, and no such alteration shall be commenced until after three days notice in writing shall have been given to the Gas Company, and any difference as to the manner of carrying out this enactment, or any matter or thing arising thereunder, shall be settled by an engineer to be appointed by the Board of Trade.

Saving rights of the Gas Company.

9. Except as is expressly enacted by this Act, nothing in this Act contained shall extend to prejudice, diminish, alter, or take away any of the rights, privileges, or powers of the Gas Company.

Provision for the protection of the South Staffordshire Waterworks Company.

10. Where the railways or any of the works connected therewith will cross or otherwise interfere with the mains, pipes, or conduits of the South Staffordshire Waterworks Company (herein-after called the Waterworks Company), or any of them, the Company shall make and for ever afterwards maintain (either on the present site of such mains, pipes, or conduits, or on such other site within the limits of deviation marked on the deposited plans as such mains, pipes, or conduits, or any of them, may for the purposes of this Act be removed to) all necessary works to protect such mains, pipes, or conduits, and every part thereof, from injury by reason of the construction of the railways and works, including a cover of earth or other materials over the upper surface of such mains, pipes, or conduits of not less than two feet, and to enable the Waterworks Company, their officers and servants, to have free access thereto at all times for the purpose of repair and replacement; and where it shall be necessary to move any part of the said mains, pipes, or conduits for the purpose of making or executing any such deviation or works as aforesaid, the same shall be done by the Waterworks Company at the expense of the Company, and the Company shall not at any time interfere with the said mains, pipes, or conduits, or any part thereof, or execute any work whatsoever under, over, or adjoining the same, until after they shall have delivered to the Waterworks Company a plan and drawing of so much of the works proposed to be executed as affect the before-mentioned mains, pipes, or conduits, or any deviation thereof, with a specification in writing describing the proposed manner of executing the same works, and shall have obtained from the principal engineer of the Waterworks Company a certificate under his hand approving of such plan,

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specification, and proposed manner of executing the said works, or deviation of works, and the same shall be executed accordingly under the superintendence and to the reasonable satisfaction of such principal engineer, and in no other manner: Provided also, that such engineer shall within fourteen days next after the delivery of such plan and specification signify his approval or disapproval thereof, and if disapproved, the matter in question may be referred to and settled by arbitration in manner herein-after mentioned: Provided also, that if such engineer shall not within fourteen days next after the delivery of such plan signify his approval or disapproval thereof in writing, as herein-before required, he shall be deemed to have approved thereof, and the Company may thereupon proceed with the works in the same way as if they had obtained the certificate of approval.

If Halesowen Street diverted, subway to be made.

11. Before diverting or otherwise interfering with Halesowen Street, in Oldbury, the Company shall make and for ever afterwards maintain a culvert or subway of sufficient length and dimensions under the railway and the land on each side thereof, and in a line with the proposed diverted street, for the purpose of enabling the Waterworks Company to lay down and maintain a main pipe or aqueduct not exceeding eighteen inches in diameter in and through such culvert or subway, and the Waterworks Company and their officers and servants shall at all times have free access to such culvert or subway.

Penalty for interrupting the supply of water.

12. If any interruption in the supply of water by the Waterworks Company shall be occasioned by the acts, neglect, or default of the Company, or by the acts, neglect, or default of any of their contractors, agents, workmen, or servants, or any person in the employ of them, or any or either of them, the Company shall forfeit and pay to the Waterworks Company, for the benefit of the Waterworks Company, a sum equal to and after the rate of twenty pounds for every day such interruption shall continue, and shall save harmless the Waterworks Company from all damages and costs in respect of such interruption, and shall make good all damage done by them to property belonging to and controlled by the Waterworks Company, and shall make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with such property or with the private service pipes of any person supplied by the Waterworks Company with water.

Arbitration in case of difference.

13. If any difference shall arise between the Company and the Waterworks Company, or their respective engineers, as to the

execution of any works affecting the said mains, pipes, or conduits, or any matter arising out of any of the provisions herein-before contained for the protection or benefit of the Waterworks Company, such difference shall be settled by a competent engineer, to be appointed on the application of either party by the Board of Trade.

Saving rights of Waterworks Company.

14. Except as herein expressly provided, nothing contained in this Act shall extend or be construed to extend to prejudice, diminish, alter, or take away any of the rights, powers, privileges, or authorities of, or belonging to, or vested in the Waterworks Company.

Company to construct bridges over the Birmingham Canals in manner prescribed by the engineer of Canal Company.

15. And whereas the railways hereby authorised and described in section 5 of this Act are intended to be carried over certain of the canals, lands, and works of the Company of Proprietors of the Birmingham Canal Navigations (which company is herein-after referred to as the Birmingham Canal Company) in the respective places and in manner herein-after mentioned; (that is to say,) the Railway No. 1 over a canal called the Wolverhampton Level, at a place near to its junction with the Titford Canal in Oldbury, in the parish of Halesowen, in the county of Worcester, and over a watercourse, known as the Shenstone Weir Watercourse, in Oldbury aforesaid; the Railway No. 2 over the Netherton Tunnel, and a tramway formed thereon at Tividale, in the parish of Rowley Regis, in the county of Stafford, and over the said canal called the Wolverhampton Level, at four places in Oldbury aforesaid—that is to say, at three places near to the Brades Steel Works, and at another place near to Oldbury Green; and the Railway No. 3 over the said canal called the Wolverhampton Level, at a place near to the Seven Stars Bridge, in Oldbury aforesaid, as respectively shown upon the plans so deposited as aforesaid: Therefore the Company shall at their own expense construct, in a proper manner and to the reasonable satisfaction of the engineer for the time being of the Birmingham Canal Company, a good and substantial bridge over the said canal, and the towing-paths, banks, and other works thereof, at each of the points where each of the said railways is intended to be carried over the same canal, as shown upon the said plans so deposited as aforesaid, and the clear opening or span of the arch of each such bridge between the walls or abutments thereof shall be of such width on the square as shall be equal to and sufficient to clear and leave unobstructed at the point of crossing the whole navigable waterway of the canal, and a space of not less than eight feet wide on one side thereof for a towing-path, and of not less than three feet wide on the other side thereof, and every such bridge shall have close fences not less than five feet high above the level of the rails, and the spring of the arch or soffit of the girders shall at each

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of the aforesaid points of crossing commence at a point not being less than eight feet above the present surface of the towing-paths of the said canal, and the underside of the middle of the arch shall not, except as herein-after provided, be less than ten feet above the top-water level of the said canal, and the extreme width of each such bridge shall not exceed thirty feet: Provided always, that where the Railway No. 2 crosses the canals numbered respectively on the deposited plans 26 and 123, in the parish of Halesowen, the underside of the middle of the arch shall not be less than nine feet above the top-water level of the said last-mentioned canals.

Company to keep bridges, &c. in repair.

16. The Company shall, at their own expense, at all times for ever after the said several bridges shall have been completed, keep the same and all future bridges to be erected or made respectively in lieu thereof (and which shall be at the same respective places, in the like respective directions, and of the like dimensions and capacity as are herein-before severally mentioned), together with all works belonging to or connected therewith respectively, in good and complete repair to the reasonable satisfaction of the engineer for the time being of the Birmingham Canal Company, and in case of any want of repair to such bridges, or either of them, or any work belonging thereto or connected therewith, and whether such want of repair shall arise from the sinking of such bridges or either of them, or any part thereof respectively, or from any other cause whatsoever, and upon notice in writing thereof being given by the Birmingham Canal Company or their clerk to the Company, then the Company shall within the space of ten days after such notice commence the repairs, or, as the case may require, the raising, or rebuilding, or reconstruction of the said bridges which shall be out of repair, or such part or parts thereof as it shall for the time being be requisite to repair, raise, or rebuild, or reconstruct, and proceed therein with all reasonable expedition until such repairing, raising, or rebuilding, or reconstruction shall be wholly completed; and if the Company shall fail to commence the same within the said space of ten days, or proceed therein with all reasonable expedition as aforesaid, it shall be lawful for the Birmingham Canal Company to make all such repairs to any such bridges or works, and to raise, or rebuild, or reconstruct the same, or such part thereof respectively as shall be necessary, in such manner as they may think proper, and all the expenses thereof shall be repaid by the Company to the Birmingham Canal Company upon demand, and in default of such payment any two of Her Majesty's justices of the peace for the county of Worcester or Stafford shall, on application by the Birmingham Canal Company or their clerk, or any other person authorised

by them, by warrant under the hands and seals of the said justices, cause the amount of such expenses (which amount shall be settled and allowed by such justices) to be levied by distress and sale of the goods and chattels of the Company and to be paid to the Birmingham Canal Company, their agents or clerk, rendering the overplus (if any) on demand, after deducting the reasonable charges of making such distress and sale, to the Company, or otherwise the Birmingham Canal Company may sue for and recover such expenses as aforesaid against the Company in any of the superior courts: Provided always, that during the progress of reconstructing any such bridges, and at all future times during any repairs, raising, rebuilding, or reconstruction thereof, the engineer for the time being of the Birmingham Canal Company, with the requisite assistants and workmen, shall have free access to such bridges, and full permission to inspect the workmanship and materials thereof.

Company not to interfere with the Netherton Tunnel of the Birmingham Canal Company.

17. In constructing or maintaining the Railway No. 2 over the Netherton Tunnel the Company shall not in any way interfere with or cause any damage to the said tunnel or the canal passing through the same, or the said tramway or any of the works connected therewith respectively, but shall at their own expense construct and do in a proper manner and to the reasonable satisfaction of the engineer for the time being of the Birmingham Canal Company all such works and acts as may be necessary for the protection of the said tunnel, canal, tramway, and works from damage.

Company not to alter the course or obstruct the navigation of the Birmingham Canals.

18. It shall not be lawful for the Company or any person in execution of this Act, without the consent in writing of the Birmingham Canal Company under their common seal first obtained, to alter the course of the said canal, or to contract the width of the same or the towing-paths thereof, or of any space reserved or intended as a towing path or paths thereof, or to obstruct the course or supply of the water in or to the said canal or any other of the canals of the Birmingham Canal Company, or in any manner to impede the navigation thereof or the access thereto, or to any wharf or wharves adjoining, or to injure any of the banks or other works of or belonging to the said canals, or any of them; and it shall not be lawful for the Company (except for the purpose of crossing the said canal) to take or interfere with the said canals or any of them, or any of the lands of the Birmingham Canal Company, without the consent of the said Canal Company, or to make any lateral deviation from the course or direction of the said railways hereby authorised, or either of them, as delineated on the said plans so deposited as aforesaid, by which deviation any of the

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lands, wharves, warehouses, buildings, locks, side ponds, towing-paths, bridges, reservoirs, feeders, or other works of any kind of the Birmingham Canal Company shall be taken, used, or damaged, without the like consent in writing of the Birmingham Canal Company.

In case of obstruction to navigation, Railway Company liable to damages for same.

19. If by, or by reason, or in execution of any of the works by this Act authorised, or by reason of the mode of construction or of the bad state of repair of any such bridge as aforesaid, or any of the slopes, banks, or works of the said railways, or either of them, near the said canals, or any of them, or of any other works by this Act authorised to be constructed, or by any act or omission of the Company or any of their agents or servants, it shall happen that the said canals, or any of them, or the towing-paths thereof, or any of them, or any of the works connected therewith, shall be so injured or obstructed that boats or other vessels using the same with their usual and accustomed loads shall be obstructed, impeded, or delayed in their passage along the said canals, or any of them, or shall not be able to pass freely along the same, then and in such case the Company shall pay to the Birmingham Canal Company, as or by way of ascertained damages, the sum of three hundred pounds for every twenty-four hours during which any such obstruction or impediment shall continue, and so in proportion for any less period than twenty-four hours, and in default of payment of any such sum on demand made on the Company the Birmingham Canal Company may sue for and recover the same, together with full costs of suit against the Company, in any of the superior courts.

Nothing to prevent other persons suing for damages.

20. Provided always, that nothing herein contained shall extend to prevent the Birmingham Canal Company, or any other company or person, from recovering against the Company any special further or other damages that may be sustained by the Birmingham Canal Company, or any other company or person, on account of any act or default of the Company, in respect of which any sum or sums in the nature of liquidated damages is or are hereby imposed or made payable beyond the amount thereof.

The springs, &c. of the Birmingham Canal Company to be preserved.

21. Nothing herein contained shall authorise or empower the Company to take away, obstruct, or lessen any springs, brooks, streams, feeders, drains, waters, or watercourses which now are or heretofore have been taken for the use of the Birmingham Canal Navigations, or which the Birmingham Canal Company are by law empowered to take and make use of for the purposes of the said canals, or any of them, or to prevent or interfere with any of such waters flowing into the said canals, or any of them, or into any

feeder or reservoir of the Birmingham Canal Company, or to take away, or obstruct, or in any manner impede the free use of any communication already made between the water of the said canals, or any of them, and any steam engine, or to take away or prejudice the right of any person to make such communication pursuant to the provisions of the Acts of Parliament relating to the Birmingham Canal Navigations, or any of them.

Company not to obstruct the formation of branches communicating with the Birmingham Canals.

22. And whereas, under and by virtue of the Acts relating to the canals belonging to the Birmingham Canal Company, or some of them, certain powers are reserved to the owners of mines, works, and lands adjoining to the said canals, or some of them, or for the Birmingham Canal Company at the request of such owners to form cuts, canals, railways, tramways, or roads, not exceeding a certain length therein specified, in order to communicate with the said canals: And whereas the railways by this Act authorised, or one of them, may intervene between the said canals and some of the mines, works, or lands of persons to whom such powers are reserved as aforesaid, and additional expense would be occasioned by the construction of bridges, viaducts, or aqueducts for the purposes of carrying such cuts, canals, railways, tramways, or roads over, under, or across the said railways, or one of them: Therefore in the event of any such person being desirous to make or procure to be made any such cuts, canals, railways, tramways, or roads as aforesaid, to communicate with the said canals, or any of them, the Company shall afford all requisite and proper facilities for the formation thereof where necessary, either over, under, across, or by the side of the said railways or railway, and if any difference shall arise between the Company and any person so desirous to make or procure to be made any such cut, canal, railway, tramway, or road as aforesaid, or between the Company and the Birmingham Canal Company, either as to the mode of carrying the same over, under, across, or by the side of the said railways or railway, or as to the place where the same should be so carried, or as to the facilities to be afforded by the Company for the purposes thereof, or as to the proportion of the costs, if any, of making and maintaining the same to be borne by the Company, or as to the use thereof at any time thereafter by the owners, lessees, or other persons in the occupation thereof, such difference shall be settled by arbitration under "The Railways Clauses Consolidation Act, 1845," but so that no arbitrator or umpire under any such arbitration shall have authority to award or order any work the formation whereof may interfere with the free passage along the railway.

Communication between the canals

23. And whereas the said railways, or one of them, may also intervene between the said canals, or some of them, and lands on

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and certain lands not to be obstructed.

which steam engines may hereafter be erected, between which and the said canals, or some or one of them, communications for the passage or supply of water may require to be made: Therefore, if any such communications are hereafter so required to be made, the Company shall afford all requisite facilities for the purposes thereof by constructing at the expense of the party applying for the same, or permitting to be constructed, through, under, or over the said railways or railway, such culverts, arches, pipes, tunnels, or other works as may be necessary; and in the event of any difference arising between the Company and the Birmingham Canal Company, or any person, as to the nature and amount of the facilities so to be afforded by them, such difference shall in like manner be settled by arbitration under "The Railways Clauses Consolidation Act, 1845."

Company not to interfere with the rights, &c. of the Canal Company.

24. Nothing in this Act contained shall extend to prejudice, diminish, alter, or take away any of the rights, privileges, powers, or authorities vested in the Birmingham Canal Company in and by all or any of the several Acts of Parliament now in force relating to the said canals, except as is expressly enacted by this Act.

Capital.

25. The capital of the Company shall be one hundred thousand pounds, in ten thousand shares of ten pounds each.

Shares not to be issued till one fifth part thereof is paid up.

26. The Company shall not issue any share created under the authority of this Act, nor shall any share vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Calls.

27. One fifth of the amount of a share shall be the greatest amount of a call, and two months at least shall be the interval between successive calls, and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Power to divide shares.

28. Subject to the provisions of this Act, the Company, with the authority of three fourths of the votes of the shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose, may from time to time divide any share in the capital into half shares, of which one shall be called "preferred half share," and the other shall be called "deferred half share:" Provided always, that the Company shall not divide any share under the authority of this Act unless and until not less than sixty per centum upon such share has been paid up, and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share (being the whole amount

payable thereon), and the residue to the credit of the preferred half share.

Dividend on half shares.

29. The dividend which would from time to time be payable on any divided share if the same had continued an entire share shall be applied in payment of dividends on the two half shares in manner following; (that is to say,) first in payment of dividend, after such rate not exceeding six pounds per centum per annum as shall be determined at a general meeting of the Company specially convened for the purpose, on the amount for the time being paid up on the preferred half share, and the remainder, if any, in payment of dividend on the deferred half share, and the Company shall not pay any greater amount of dividend on the two half shares than would have from time to time been payable on the entire share if the same had not been divided.

Dividend on preferred half share to be paid out of the profits of the year only.

30. Each preferred half share shall be entitled out of the profits of each year to the dividend which may have been attached to it by the Company as aforesaid in priority to the deferred half share bearing the same number, but if in any year ending the thirty-first day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half share for that year, no part of the deficiency shall be made good out of the profits of any subsequent year or out of any other funds of the Company.

Half shares to be registered and issued.

31. Forthwith after the creation of any half shares the same shall be registered by the directors, and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued, and the directors shall issue certificates of the half shares accordingly, and shall cause an entry to be made in the register of the entire shares of the conversion thereof: Provided always, that the directors shall not be bound to issue a certificate of any half share until the certificate of the existing share be delivered to them to be cancelled, unless it be shown to their satisfaction that the certificate is destroyed or lost, and on any certificate being so delivered up the directors shall cancel it.

Terms of issue to be stated in certificate.

32. The terms and conditions on which any preferred half share or deferred half share created under this Act is issued shall be stated on the certificate of each such half share.

Forfeiture of preferred half shares.

33. The provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the forfeiture of shares for nonpayment of calls shall apply to all preferred half shares to be created under the authority of this Act, and every such preferred half share shall for that purpose be considered a whole share distinct from the

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corresponding deferred half share: Provided always, that until any forfeited preferred half share shall be sold by the directors of the Company all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards payment of any expenses attending the declaration of forfeiture thereof, and of the arrears of calls for the time being due thereon, with interest.

Preferred shares not to be cancelled or surrendered.

34. No preferred half share created under the authority of this Act shall be cancelled or be surrendered to the Company.

Half shares to be half shares in capital.

35. The several half shares under this Act shall be half shares in the capital of the Company, and every two half shares, whether preferred or deferred, or one of each, held by the same person shall confer such right of voting at meetings of the Company, and (subject to the provisions herein-before contained) shall confer and have all such other rights, qualifications, privileges, liabilities, and incidents as attach and are incident to an entire share.

Power to borrow.

36. The Company may from time to time borrow on mortgage any sum not exceeding in the whole thirty-three thousand pounds, but no part thereof shall be borrowed until the whole capital of one hundred thousand pounds 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 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 capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide and is held by the persons or corporations to whom the same was 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.

For appointment of a receiver.

37. 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, and in order to authorise the appointment of a receiver in respect 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.

Debenture stock.

38. 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.

Application of moneys.

39. All moneys raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act only.

First and subsequent meetings.

40. The first ordinary meeting of the Company shall be held within three months after the passing of this Act, and the subsequent ordinary meetings of the Company shall be held twice in every year in the months of February or March and August or September, as the directors may appoint.

Number of directors.

41. The number of directors shall be five, but the Company may from time to time reduce the number, provided that the number be not less than three.

Qualification of directors.

42. The qualification of a director, except in the case of the directors to be appointed by the Birmingham Canal Company under the power by this Act granted, shall be the possession in his own right of not less than fifty shares.

Quorum of directors.

43. The quorum of a meeting of directors shall be three, but if the number of the directors be reduced to three the quorum shall be two.

First directors.

Election of directors.

44. Arthur Albright, Sampson Samuel Lloyd, Samuel Minton, and two persons to be nominated by the Birmingham Canal Company, and consenting to such nomination, shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the shareholders present in person or by proxy may, subject to the provision herein-after made with reference to the directors appointed by the Birmingham Canal Company, either continue in office the directors appointed by this Act, or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power hereinbefore contained for reducing the number of directors) elect a person or persons to supply the places of the director or directors then

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retiring from office, agreeably to the provisions in "The Companies Clauses Consolidation Act, 1845," contained, and the person or persons elected at any such meeting, being neither removed or disqualified nor having resigned, shall continue to be a director or directors until others are elected in their stead in manner provided by the same Act.

Power to Canal Company to appoint directors.

45. The Birmingham Canal Company or their committee may, by writing under their common seal, nominate two directors of the Company, and they may from time to time, in the same way, remove any director so appointed, and appoint another person in the stead of any director who shall be so removed, or shall die, resign, or become incapable of acting, and it shall not be necessary for the directors so to be appointed to hold any shares in the undertaking; and the said directors shall not go out of office in the manner provided for with respect to directors hereby appointed or to be appointed by the shareholders of the Company, but in all other respects they shall have the same powers and be subject to the same regulations and provisions (except as aforesaid) as the other directors of the Company.

Lands for extraordinary purposes.

46. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in "The Railways Clauses Consolidation Act, 1845," shall not exceed two acres.

Period for compulsory purchase of lands.

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

Power to deviate from levels.

48. It shall be lawful for the Company in the construction of the railways to deviate beyond the limits of deviation prescribed by "The Railways Clauses Consolidation Act, 1845," from the levels and gradients as marked on the deposited sections to such an extent as may be found necessary for accommodating the railway to the sewerage, drainage, roads, or canals of the district, but not so as to affect the level or inclination of the surface of any existing street or public road further or otherwise than the Company are authorised to do under any other provisions of this Act.

Notice to be given of taking houses of labouring classes.

49. The Company shall, not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers, make known their intention to take the same by placards, handbills, or other general notice placed in public view upon or within a reasonable distance from such houses, and the Company shall not take any such houses until they have obtained the certi-

ficate of a justice that it has been proved to his satisfaction that they have so made known their intention.

Deposit money not to be repaid until line opened or half the capital paid up and expended.

50. 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 six thousand one hundred and fifty pounds, being five per centum upon the amount of the estimate in respect of the railway, has been paid to the account of the Paymaster General on behalf of the Court of Chancery in England in respect of the application to Parliament for this Act: Be it enacted, that, notwithstanding anything contained in the said Act, the sum of six thousand one hundred and fifty pounds so paid as aforesaid in respect of the application for this Act shall not be paid or transferred to or on the application of the person or persons, or the majority of the persons, named in the warrant or order issued in pursuance of the said Act, 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, either open the 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 railway for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Board of Trade, the said sum 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.

Application of deposit.

51. The said sum of money paid 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, and for which injury or loss no compensation or inadequate compensation shall have been paid, and shall be distributed in satisfaction of such compensa-

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tion aforesaid in such manner and in such proportions as to the Court of Chancery in England may seem fit; and if no such compensation shall be payable, or if a portion of the said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum 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 sum of money has been repaid to the depositors, or has 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 warrant or order as aforesaid, or the survivors or survivor of them.

Period for completion of works.

52. The railway shall be completed within five years from the passing of this Act, and if the railway shall not be completed within that period, then on the expiration thereof 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 shall then be completed.

Not to convey passengers.

53. The Company shall not convey passengers on the railway.

Tolls.

54. The Company may demand and take in respect of the use of the railway any tolls not exceeding the following; (that is to say,)

For animals.

In respect of animals conveyed in carriages on the railway:

For every horse, mule, or other beast of draught or burden, the sum of threepence per mile, and if conveyed in or upon any carriage belonging to the Company an additional sum of one penny per mile:

For every ox, cow, bull, or head of neat cattle, the sum of twopence per head per mile, and if conveyed in carriages belonging to the Company an additional sum of one penny per mile:

For every calf, pig, sheep, lamp, or other small animal, one

penny each per mile, and if conveyed in carriages belonging to the Company an additional sum of one halfpenny per mile.

For goods.

In respect of goods conveyed on the railway:

For all coals, slack, coke, culm, charcoal, cannel, limestone, chalk, lime, salt, sand, fire-clay, cinders, ashes, dung, compost, and all sorts of manure, and all undressed materials for the repairs of public roads or highways, per ton per mile not exceeding one penny, and if conveyed in carriages belonging to the Company an additional sum per ton per mile not exceeding one penny:

For all ironstone, iron ore, pig iron, bar iron, rod iron, sheet iron, hoop iron, plates of iron, slabs, billets, and rolled iron, bricks, slag, and stone, stones for buildings, pitching, and paving, tiles, slates, and clay (except fire-clay), and for wrought iron not otherwise specially classed herein, and for heavy iron castings (including railway chairs), per ton per mile not exceeding twopence, and if conveyed in carriages belonging to the Company an additional sum per ton per mile not exceeding one halfpenny:

For all sugar, grain, corn, flour, hides, dyewoods, earthenware, timber, staves, deals, and metals (except iron), nails, anvils, vices, and chains, iron hurdles, and for light iron castings, per ton per mile not exceeding twopence, and if conveyed in carriages belonging to the Company an additional sum per ton per mile not exceeding one penny:

For cotton and other wools, drugs, rugs, and manufactured goods, and all other wares, merchandise, fish, articles, matters, or things, per ton per mile not exceeding threepence, and if conveyed in carriages belonging to the Company an additional sum per ton per mile not exceeding one penny:

For every carriage, of every description, not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton, carried or conveyed in a truck or platform belonging to the Company, not exceeding sixpence per mile, and three halfpence per mile for every additional quarter of a ton which any such carriage may weigh.

Tolls for propelling power.

55. The toll which the Company may demand for the use of engines for propelling carriages on the railway shall not exceed one penny per mile for each animal or for each ton of goods, in addition to the several other tolls or sums by this Act authorised to be taken.

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Regulations as to tolls.

56. The following provisions and regulations shall apply to the fixing of all tolls and charges payable under this Act; (that is to say,)

For all animals or goods conveyed on the railway for a less distance than three miles the Company may demand tolls and charges as for three miles:

For a fraction of a mile beyond three miles or beyond any greater number of miles the Company may demand tolls and charges on animals or goods for such fraction in proportion to the number of quarters of a mile contained therein, and if there be a fraction of a quarter of a mile such fraction shall be deemed a quarter of a mile, and in respect of passengers every fraction of a mile beyond an integral number of miles shall be deemed a mile:

For a fraction of a ton the Company may demand tolls according to the number of quarters of a ton in such fraction, and if there be a fraction of a quarter of a ton such fraction shall be deemed a quarter of a ton:

With respect to all articles, except stone and timber, the weight shall be determined according to the usual avoirdupois weight:

With respect to stone and timber, fourteen cubic feet of stone, forty cubic feet of oak, mahogany, teak, beech, or ash, and fifty cubic feet of any other timber, shall be deemed one ton weight, and so in proportion for any smaller quantity.

Tolls for small articles and single articles of great weight.

57. With respect to small parcels not exceeding five hundred pounds in weight, and single articles of great weight, notwithstanding anything in this Act, the Company may demand and take any tolls not exceeding the following; (that is to say,)

For the carriage of small parcels on the railway:

For any parcel not exceeding seven pounds in weight, threepence:

For any parcel exceeding seven pounds and not exceeding fourteen pounds in weight, fivepence:

For any parcel exceeding fourteen pounds and not exceeding twenty-eight pounds in weight, sevenpence:

For any parcel exceeding twenty-eight pounds and not exceeding fifty-six pounds in weight, ninepence:

For any parcel exceeding fifty-six pounds and not exceeding five hundred pounds in weight the Company may demand any sum which they think fit:

Provided always, that articles sent in large aggregate quantities, although made up in separate parcels, such as bags of sugar, coffee,

meal, and the like, shall not be deemed small parcels, but that term shall apply only to single parcels in separate packages.

For the carriage of single articles of great weight on the railway:

For the carriage of any iron boiler, cylinder, or single piece of machinery, or single piece of timber or stone, or other single article, the weight of which, including the carriage, shall exceed four tons but shall not exceed eight tons, the Company may demand any such sum as they think fit, not exceeding sixpence per ton per mile:

For the carriage of any single piece of timber, stone, machinery, or other single article, the weight of which, with the carriage, shall exceed eight tons, the Company may demand such sum as they think fit.

Maximum rate for goods.

58. The maximum rate of charge to be made by the Company for the conveyance of animals and goods on the railway, including the tolls for the use of the railway, and for waggons or trucks, and for locomotive power, and every other expense incidental to the conveyance (except a reasonable charge for loading and unloading goods at any terminal station in respect of such goods, and for delivery and collection, and any other service incidental to the business or duty of a carrier, where any such service is performed by the Company), shall not exceed the following sums; (that is to say,)

For every horse, mule, or other beast of draught or burden, fourpence per mile:

For cattle, threepence per head per mile:

For calves, pigs, sheep, and small animals, one penny per mile:

For all coal, coke, and other articles herein-before classed therewith, one penny halfpenny per ton per mile:

For all iron and other articles herein-before classed therewith, twopence per ton per mile:

For all sugar, grain, and other articles herein-before classed therewith, threepence per ton per mile:

For all cotton and other articles herein-before classed therewith, fourpence per ton per mile:

And for every carriage, of whatever description, not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton, carried or conveyed on a truck or platform, per mile sixpence, and three halfpence for every additional quarter of a ton weight which such carriage may weigh.

Terminal station.

59. No station shall be considered a terminal station in regard to any goods conveyed on the railway, unless such goods have been

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received thereat direct from the consignor, or are directed to be delivered thereat to the consignee.

Company may take increased charges by agreement.

60. Nothing in this Act shall prevent the Company from taking any increased charges, over and above the charges by this Act limited, for the conveyance of animals or goods of any description by agreement with the owners or persons in charge thereof, either by reason of any special service performed by the Company in relation thereto, or in respect to the conveyance of animals or goods (other than small parcels) by passenger trains.

Traffic agreements with the London and North-western Railway Company.

61. The Company on the one hand, and the North-western Company on the other hand, may, subject to the provisions of Part III. of the Railways Clauses Act, 1863, from time to time enter into and carry into effect agreements with respect to the following purposes, or any of them; (that is to say,)

The management, use, working, and maintenance of the railway, or of any part or parts thereof:

The supply of any rolling or working stock or machinery, and the supply and employment of officers and servants for the conduct of the traffic on the railway:

The levying, fixing, collection, division, and appropriation of the tolls, rates, and charges to be levied or taken in respect of the traffic on the railway:

The payments and allowances to be made and the conditions to be performed with respect to the matters aforesaid:

The interchange, accommodation, conveyance, and delivery of traffic coming from or destined for the undertakings of the contracting companies.

Tolls for traffic partly on the railway and partly on railways of the London and North-western Railway Company.

62. During the continuance of any agreement to be entered into under the provisions of this Act for the use of the railway by the North-western Company, the railways of the Company and of the North-western Company shall for the purposes of tolls and charges be considered as one railway; and in estimating the amounts of tolls and charges in respect of traffic conveyed partly on the railway and partly on the railways of the North-western Company for a less distance than three miles, tolls and charges may only be charged as for three miles; and in respect of animals and goods, for every quarter of a mile or fraction of a quarter of a mile beyond three miles, tolls and charges as for a quarter of a mile only; and no other short-distance charge shall be made for the conveyance of animals or goods partly on the railway and partly on the railways of the North-western Company.

Confirmation of agreement with the Birmingham Canal Company.

63. The agreement made between the Birmingham Canal Company and the promoters of the Company, which is set forth in the schedule to this Act, is hereby confirmed and made binding on that company and the Company respectively, and full effect may and shall be given thereto.

Interest not to be paid on calls paid up.

64. 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: Provided always, that this Act shall not prevent the Company from paying to any shareholder such interest or 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.

65. 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.

66. Nothing herein contained shall be deemed or construed to exempt the railways by this Act authorised to be made from the provisions of any general Act relating to railways, or the better or 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 by this Act.

Expenses of Act.

67. 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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SCHEDULE.

Heads of an Arrangement made this 31st day of January 1873, between the Promoters of the Dudley and Oldbury Junction Railway Bill on the one part, and the Company of Proprietors of the Birmingham Canal Navigations on the other part, as follows:

1. Unless excluded by the subject or context, the words and expressions following shall in these heads have the meanings following; (that is to say,) "the Railway Company" shall not only apply to and mean the promoters of the said Bill, but shall also apply to and mean "the Dudley and Oldbury Junction Railway Company," or other the company that may be incorporated by the intended Act, and their successors; "the railway" shall mean and include as well the railways described in the said Bill, and each of them, and all other works that may be constructed under the authority of the intended Act, as all extensions thereof respectively that may from time to time be constructed under the authority of Parliament; "the Canal Company" shall mean the Company of Proprietors of the Birmingham Canal Navigations and their successors. Words importing the singular number shall include the plural, and vice versâ.

2. The Canal Company shall not oppose the said Bill in Parliament, except so far as may be necessary for giving effect to this arrangement, or any of the provisions thereof, or for affording protection to their lands, works, and property.

3. In consideration of the premises, and as a compensation for loss of traffic that may be sustained by the Canal Company by or in consequence of the construction of the railway, and for other the considerations herein appearing, all moneys annually available for dividend upon the paid-up capital for the time being of the Railway Company, whether ordinary or preference, in excess of five pounds per cent. per annum, shall be divided equally between the Railway Company and the Canal Company.

4. The division under Article 3 shall be made annually, and the accounts may from time to time be examined by an auditor appointed by the Canal Company.

5. The Canal Company or their committee may from time to time nominate two directors of the Railway Company.

6. Subject to the maximum prescribed by the Bill, the tolls, rates, and charges from time to time exigible by the Railway Company shall in the event of difference between the directors nominated by the Canal Company and the other directors be determined by the London and North-western Railway Company.

7. Every item properly belonging to revenue shall be credited and paid thereto, and on no account whatever shall any item be charged against or paid out of revenue that is not properly chargeable against it or payable thereout.

8. The arrangement hereby entered into shall be without prejudice to the Canal Company's rights with reference to the interference by the Railway Company with any lands, works, or property of the Canal Company, who shall have the same claims to compensation, and the same rights to object to the interference with and the alteration of such lands, works, and property, as if this arrangement had not been made.

9. All differences and questions that may arise between the Railway Company and the Canal Company as to the meaning of these presents, or as to the carrying out of any of the provisions herein contained, shall be determined by a single arbitrator to be (if not agreed upon) appointed by the Board of Trade, and the costs of the reference shall be in the discretion of the arbitrator.

10. If required by the Canal Company these heads shall be scheduled in the Bill and submitted to Parliament for ratification, and any necessary alterations in the Bill for making it consistent with this agreement shall be made by the Railway Company.

11. The costs of this agreement and all costs of and incidental thereto, and to the carrying out of the provisions thereof, shall be borne and paid by the Railway Company.

Wm. Evans,
Solicitor for the Canal Company.
Mathews & Smith,
Solicitors for the Promoters.

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