CHAPTER ccviii.

An Act to authorise the Dudley and Oldbury Junction Railway Company to construct a New or Deviation Railway; and for other purposes. [11th August 1876.]

A.D. 1876.

WHEREAS by "The Dudley and Oldbury Junction Railway Act, 1873," (herein-after called the "Act of 1873,") the Dudley and Oldbury Junction Railway Company (herein-after called "the Company") were incorporated and authorised to make and maintain certain railways in the counties of Worcester and Stafford, and to raise one hundred thousand pounds by shares and thirty-three thousand pounds by mortgage: 36 & 37 Vict. c. cliv.

And whereas it is expedient that the Company should be empowered to make the railway herein-after described, and to abandon so much of their authorised railways and works as herein-after provided:

And whereas it is expedient that the period limited by the Act of 1873 for the completion of a portion of the Railway No. 2 authorised by that Act should be extended as herein-after mentioned:

And whereas it is expedient that the Great Western Railway Company (herein-after called "the Great Western Company") should be authorised to enter into and carry into effect the agreements with the Company by this Act authorised:

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

A.D. 1876.

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

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; that is to say,

Short title.

1. This Act may be cited as "The Dudley and Oldbury Junction Railway Act, 1876."

Provisions of certain general Acts incorporated.

2. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," "The Railways Clauses Consolidation Act, 1845," Part I. (relating to the 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 authorised by this Act; the expression "superior courts," or "court of competent jurisdiction," or any other like expression in 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 was a simple contract debt, and not a debt or demand created by statute.

Power to construct railway according to deposited plans.

4. Subject to the provisions of this Act, the Company may make and maintain, in the line and according to the levels shown on the deposited plan and section, the railway herein-after described, with all proper stations, sidings, approaches, works, and conveniences connected therewith, and may enter upon, take, and use such of the lands delineated on the said plan and described in the deposited book of reference as may be required for that purpose. The railway herein-before referred to and authorised by this Act is:

A railway, seven furlongs and two chains and half a chain in length, commencing by a junction with the authorised Railway No. 2 at or near the point of junction therewith of the authorised Railway No. 3, in the land and wharf numbered 124A, in the parish of Hales Owen and township of Oldbury, on the plans deposited with the clerk of the peace for the county of Worcester with reference to the Act of 1873, and terminating by a junction with the Birmingham, Stourbridge, and Worcester

Branch of the Great Western Railway at a point twenty yards or thereabouts, measuring in a south-westerly direction from the south-west side of the bridge which carries the public road called or known as the Tat Bank Road, leading from Tat Bank to Dog Kennel Lane, over the said Birmingham, Stourbridge, and Worcester Branch Railway.

As to junction with Great Western Railway.

5. The junction to be made with the railway of the Great Western Company under the powers of this Act shall be made at such point within the limits of deviation and in such manner as shall be agreed upon between the engineer of the Company and the engineer of the Great Western Company, or as shall be settled by arbitration in case of failure to agree.

Not to interfere with railway of Great Western Company except for the purpose of a junction.

6. Notwithstanding anything herein contained, it shall not be lawful for the Company, nor any person acting under or in execution of this Act, to enter upon, occupy, or use, either permanently or temporarily, any of the lands, works, or property of the Great Western Company or in any manner to alter vary or interfere with their railway or works, without the consent of that Company under their common seal, save only for the purpose of effecting the junction and communication by this Act authorised.

For the protection of the Corporation of Birmingham.

7. With respect to the railway and works by this Act authorised within the limits of the gas supply of the mayor, aldermen, and burgesses of the borough of Birmingham (in this section called the corporation) the following provisions shall have effect; (that is to say,)

(1.) Sections 7, 8, and 9 of the Act of 1873 shall extend and apply to the works authorised by this Act, except that the corporation shall throughout those sections be substituted for the Birmingham and Staffordshire Gas Light Company.

(2.) Subject to the last preceding sub-section, the provisions of sections 18 to 23, both inclusive, of the Railways Clauses Consolidation Act, 1845, shall extend and apply to the gas mains, pipes, and apparatus of the corporation, and whenever in those sections the expressions company and society are used in relation to a gas company or society those expressions shall extend to and include the corporation.

Company to construct bridges over the Birmingham canals in manner prescribed

8. And whereas the railway is intended to be carried by means of bridges over certain of the canals of the Company of Proprietors of the Birmingham Canal Navigations (which Company is hereinafter referred to as the Canal Company), in the respective places and in manner herein-after mentioned; (that is to say,) over a canal

A.D. 1876.

called "the Wolverhampton Level," at a point near the junction of the Houghton Branch with that canal, in the parish of Hales Owen, and a canal called "the Titford Canal," near the bridge called Mill Bridge, in the same parish, as respectively shown upon the deposited plan: 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 Canal Company a good and substantial bridge over each of the said canals, and the towing-paths, banks, and other works thereof, at each of the points where the railway is intended to be carried over the same canals, 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 respective points of crossing the whole navigable waterway of the canal and a space of not less than eight feet wide on each side thereof for a towing-path; and each such bridge shall have close fences not less than six feet high above the level of the rails, and the spring of the arch or soffitt of the girders shall at each of the aforesaid points of crossing over the said canals commence at a point not being less than eight feet above the present surface of the towing-paths of the said canals, and the underside of the middle of the arch shall not be less than ten feet above the top-water level of the said canals, and the extreme width of each such bridge shall not exceed thirty feet.

by the engineer of Canal Company.

Certain sections of Dudley and Oldbury Junction Railway Act, 1873, to apply for protection of Canal Company.

9. Sections 16, 18, 19, 20, 21, 22, 23, and 24 of the Act of 1873 shall respectively apply to the railway and to the said bridges, and to the canals, works, lands, rights, privileges, powers, and authorities of the Canal Company respectively, in the same manner as if those sections were repeated and re-enacted in this Act in reference to the railway, and to the said bridges, canals, works, lands, rights privileges, powers, and authorities.

Saving agreement with Canal Company scheduled to Act of 1873.

10. The agreement mentioned in section 63 of the Act of 1873, and thereby confirmed, shall have full force and effect notwithstanding the passing of this Act, and the railway shall for the purposes of that agreement be deemed to be an extension of the railways authorised by the Act of 1873.

Powers for compulsory purchases limited.

11. 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 passing of this Act.

Period for completion of works.

12. If the railway is not completed within four years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Company for making and completing the

railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Parts of authorised railway and works to be abandoned.

13. The Company shall abandon the construction of the following portions of their railways and works authorised by the Act of 1873; (that is to say,)

The Railways No. 1 and No. 3 described in section 5 of the Act of 1873, and also so much of Railway No. 2 as lies between the junction of the said Railway No. 3 therewith and the termination of Railway No. 2.

Compensation for damage to land by entry, &c.

14. The abandonment by the Company under the authority of this Act of any portion of any 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 of the line of railway, and shall not prejudice or affect the right of the owner or occupier of any land which may have been temporarily occupied by the Company to receive compensation for such temporary occupation, or for any loss, damage, or injury which may have been sustained by such owner or occupier by reason thereof, or of the exercise as regards such land of any of the powers contained in "The Railways Clauses Consolidation Act, 1845," or the Act of 1873.

Compensation to be made in respect of portions of railways abandoned.

15. 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 portions of the railways or works authorised to be abandoned by this Act, and which shall not be required for the purposes of any of the works by this Act authorised, 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 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 the 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.

New line of railway to be part of the Company's undertaking.

16. Subject to the provisions herein contained, the lands and property from time to time acquired by the Company by virtue of this Act, and the railway and works connected therewith, by this

A.D. 1876.

Act authorised to be constructed, shall for all purposes of tolls, rates, and charges for the carriage of animals, goods, and minerals, and for all other purposes whatsoever, be part of the undertaking, railway, works, and property of the Company as if the Company had by the Act of 1873 been authorised to acquire, make, and maintain the same.

Extension of time for compulsory purchase of lands.

17. The powers of the Act of 1873, with respect to the compulsory purchase or taking of lands for so much of the Railway No. 2 authorised by that Act as extends from the commencement thereof to the junction therewith of the Railway No. 3, described in and authorised by that Act, are hereby extended and shall continue in force until the expiration of two years from the twenty-first day of July one thousand eight hundred and seventy-six.

Extension of time for completion of works.

18. The powers of the Company for the construction and completion of so much of the Railway No. 2 authorised by the Act of 1873, as extends from the commencement thereof to the junction therewith of the Railway No. 3 described in and authorised by that Act, shall be extended and enlarged until the expiration of three years from the twenty-first day of July one thousand eight hundred and seventy-six; and on the expiration of such extended period the powers of the Company in relation to the said portion of railway and works shall cease to be exercised, except as to so much thereof as shall then be completed.

Providing for completion of railway.

19. 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 was paid into the Court of Chancery in England in respect of the application to Parliament for the Act of 1873, and it was provided 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 the Act of 1873 should 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 should, previously to the expiration of the period limited by the Act of 1873 for completion of the railway by that Act authorised, either have opened such railway for the public conveyance of passengers, or had paid up and expended one half of the amount of the share capital by that Act authorised; and whereas the said sum of six thousand one hundred and fifty pounds still remains with the said Court of Chancery; and whereas the railway authorised by this Act is in

substitution for the railways and portion of railway authorised by the Act of 1873, and by this Act authorised to be abandoned: Be it therefore enacted, that, notwithstanding anything contained in the said Act of the ninth year of the reign of Her present Majesty, chapter twenty, if the period limited by this Act shall expire before the Company shall either have opened the portion of the said Railway No. 2 and the railway hereby authorised for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Board of Trade that the Company have paid up one half of the amount of the capital they are authorised to raise by means of shares, and have expended for the purposes of their Acts a sum equal in amount to one half of such capital, 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 first above-mentioned Act to the contrary notwithstanding.

Application of deposit.

20. 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 the Act of 1873 and 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 compensation as aforesaid in such manner and in such proportions as to the High Court of Justice, Chancery Division, 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 said court 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 said 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

A.D. 1876.

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.

Power to Company to carry passengers.

21. Section 53 of the Act of 1873 is hereby repealed, and the Company may carry passengers on the Railway No. 2 authorised by that Act and on the railway hereby authorised.

Tolls.

22. The Company may demand and take in respect of passengers conveyed in carriages upon the railways of the Company, or any part thereof, any tolls not exceeding the following; (that is to say,)

Passengers.

For every person conveyed in or upon any such carriage, per mile twopence; and if conveyed in or upon any carriage belonging to the Company, an additional sum per mile of one penny.

Limiting charges for propelling power.

23. The toll which the Company may demand for the use of engines for propelling carriages on their railways shall not exceed one penny per mile for each passenger, in addition to the other tolls or sums by this Act authorised to be taken.

Regulations as to tolls.

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

Short distances.

For all passengers conveyed on the railways of the Company for a less distance than three miles the Company may demand and receive the before-mentioned tolls as for three miles.

Maximum rates for passengers.

25. The maximum rate of charge to be made by the Company for the conveyance of passengers upon their railways, including the tolls for the use of their railways, and of carriages, and for locomotive power, and every other expense incidental to such conveyance, shall not exceed the following; (that is to say,)

For every passenger conveyed in a first-class carriage, threepence a mile;

For every passenger conveyed in a second-class carriage, twopence a mile;

For every passenger conveyed in a third-class carriage, one penny halfpenny a mile.

Passengers luggage.

26. Every passenger travelling upon the railways of the Company may take with him his ordinary luggage, not exceeding one hundred and twenty pounds in weight for first-class passengers, one hundred pounds in weight for second-class passengers, and sixty pounds in weight for third-class passengers, without any charge being made for the carriage thereof.

Notice to be given of taking houses of labouring classes.

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

Company to procure accommodation for persons of the labouring classes to be displaced.

28. Before taking in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers, who may for the time being be the occupier or occupiers of any house or part of any house which the Company are by this Act authorised to acquire, the Company shall (unless the Company and such person or persons otherwise agree) procure sufficient accommodation elsewhere for such person or persons; provided always, that if any question shall arise as to the sufficiency of such accommodation, the same shall be determined by a justice; and the Company may, for the purpose of procuring such accommodation, appropriate any lands for the time being belonging to them or which they have power to acquire, and may purchase by agreement such further lands as may be necessary for such purpose, and may on such lands erect labouring-class dwellings, and may apply, for the purposes of this section or any of them, any moneys they may have already raised or are authorised to raise.

Traffic and working agreements with the Great Western Company.

29. The Company on the one hand and the Great Western Company on the other hand may, subject to the provisions of Part III. (relating to working agreements) of the Railways Clauses Act, 1863, as amended or varied by the Regulation of Railways Act, 1873, 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 railways of the Company, 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 such railways:

A.D. 1876.

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

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 Great Western Company.

30. During the continuance of any agreement to be entered into under the provisions of this Act for the use of the railways by the Great Western Company, the railways of the Company and of the Great 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 railways of the Company and partly on the railways of the Great 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 railways and partly on the railways of the Great Western Company.

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

31. Nothing in this Act contained shall exempt the railway from the provisions of any general Act relating to railways, or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament, or from any future revision or alteration, under the authority of Parliament, of the maximum rates of fares and charges, or of the rates for small parcels.

Expenses of Act.

32. All the 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.

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1876.