CHAPTER clii.

An Act to confer further Powers on the Dudley and Oldbury Junction Railway Company. [4th July 1878.]

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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 by the Dudley and Oldbury Junction Railway Act, 1876, (herein-after called "the Act of 1876,") the Company were empowered to make a deviation railway, and to abandon a portion of their authorised railways: 39 & 40 Vict. c. ccviii.

And whereas it is expedient that the periods limited by the Act of 1876 for the compulsory purchase of land and for the completion of the railways should be extended as herein-after mentioned:

And whereas it is expedient that the Company should be authorised to raise additional capital as herein-after provided:

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,

1. This Act may be cited as the Dudley and Oldbury Junction Railway Act, 1878. Short title.

2. Part II. (relating to extension of time) of the Railways Clauses Act, 1863, is (except where expressly varied by this Act) incorporated with and forms part of this Act. Incorporation of Part II. of 26 & 27 Vict. c. 92.

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Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Act partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction. The expression "the railways" means the railway authorised by the Act of 1876, and so much of the railways authorised by the Act of 1873 as are not authorised to be abandoned by the Act of 1876; the expression "superior courts," or "court of competent jurisdiction," or any other like expression in the Act 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.

Extension of time for compulsory purchase of lands.

4. The powers of the Act of 1876, with respect to the compulsory purchase or taking of lands for the railways, 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-eight.

Extension of time for completion of works.

5. The powers of the Company for the construction and completion of the railways shall be extended and enlarged until the expiration of three years from the twenty-first day of July one thousand eight hundred and seventy-eight, and on the expiration of such extended period the powers of the Company in relation to the railways and works shall cease to be exercised, except as to so much thereof as shall then be completed.

As to period for completion of railway.

6. The provisions of sections 19 and 20 of the Act of 1876 shall be read and have effect as if the period limited by that Act for the completion of the railway were three years from the twenty-first day of July one thousand eight hundred and seventy-eight.

For protection of estate of Messrs. Chance Brothers and Co.

7. For the benefit and protection of the lands and estate of Messieurs Chance Brothers and Company, or other the owners for the time being of those lands and estate (who are herein-after referred to as "the said owners"), the following provisions shall be observed and have effect, and in such provisions the numbers referred to are the numbers on the deposited plans of the railway authorised by the Act of 1876 referring to lands in the parish of Halesowen, and the railway referred to is the railway authorised by the Act of 1876:

(*a.*) The Company shall not enter upon, take, or use any part of the lands numbered respectively 75, 77, 78, 79, 80, 81, 82, 83, and 84, or any lands of the said owners other than

portions of the lands numbered respectively 12, 14, 16, 76, 89, 90, 91, 92, 93, 94, 96, 139, 140, and 141, without the previous consent in writing of the said owners:

(*b.*) And whereas, in the construction of the railway, portions only of the lands belonging or reputed to belong to the said owners, numbered respectively 12, 14, 16, 76, 139, 140, and 141, are required for the purposes of the railway, therefore the said owners shall sell and convey to the Company those portions only, without the Company being obliged or compellable to purchase the whole or any greater portion of those lands, or the lands, buildings, or manufactories to which they are or may be appurtenant:

(*c.*) The railway, where it passes upon or over the lands numbered 76, shall be constructed as near to the eastern boundaries of those lands as the limits of deviation will reasonably permit, and upon a viaduct supported on arches with piers or abutments, and such arches and piers or abutments shall be built of brick, and each arch shall be of a span not less than twenty feet in width, and in height from the ground to the springing of the arch of not less than eight feet, and to the underside of the centre of the arch of not less than thirteen feet; and each pier or abutment shall be not more than four feet three inches in thickness, and shall have a centre opening or arch not less than eight feet in width and five feet in height to the springing of the arch, and six feet six inches at the centre; and such viaduct, where it passes through the said lands, shall have a close fence on both sides eight feet high above the level of the rails. The said owners, and their lessees, tenants, servants, and agents, shall at all times have a free and uninterrupted right of way and passage for all purposes, and with or without animals, engines, and vehicles, under and through the said arches, and the right to occupy and use, and at their option to enclose, the spaces underneath the said arches for any purpose whatever, but so as not thereby injuriously to affect the railway and works of the Company:

(*d.*) The Company shall at their own cost acquire and convey to the said owners the fee simple in possession, free from incumbrances, of so much of the lands numbered 142 as will be situate on the western side of the railway, together with the mines and minerals therein and thereunder (but reserving in favour of the present owner, his heirs and

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assigns, and his and their lessees and tenants, a right of passage along the branch canal to the main canal, and of a towing-path alongside the same with a headway of eight feet in height above the surface of the ground), in consideration of a sum to be computed according to the actual contents of the land so conveyed at the rate of one thousand pounds per acre, and such land shall be accepted by the said owners in part satisfaction of their compensation as herein-after provided:

(*e.*) The Company shall make and maintain a brick boundary wall nine feet in height on and along the south-western side of the embankment, carrying the railway through the lands numbered respectively 12, 14, and 16, also on and along the western side of the embankment, carrying the railway through the lands numbered respectively 139, 140, 141, and 142, and also on and along the western side of the embankment, carrying the railway through the lands numbered respectively 89, 90, 91, 92, 93, 94, and 96, or so far as may be necessary for effectually fencing off from the railway so much (if any) of those lands as the Company shall not acquire for the purposes of their undertaking, and the said owners shall be at liberty to use the said walls as part of or in connexion with any buildings they may hereafter erect on the said estate:

(*f.*) The Company shall also make and maintain on the lands numbered respectively 139, 140, and 141 a branch railway or siding, with two lines of rails, with proper points and connexions, and of a gradient not steeper than 1 in 50. Such branch railway or siding shall commence as near as practicable to the intended bridge for carrying the railway over Trinity Street, and shall terminate at or near a point where the said branch railway or siding shall reach the present level of the said lands numbered respectively 139, 140, and 141, and shall be made so as to occupy as small a portion of the said lands as reasonably may be, and in a situation to be approved by the said owners, and with proper gates across the said branch railway or siding near the point where the said branch railway or siding will leave the main line. The land requisite for the formation of the said branch railway or siding, and lying to the west of the line of the boundary wall, shall be provided by the said owners free of cost to the Company, but the same shall remain the property of the said owners:

(*g*.) The said works shall be executed and maintained by and at the cost of the Company and to the reasonable satisfaction of Mr. Thomson Plevins, of Birmingham, or other the surveyor for the time being of the said owners:

(*h*.) The amount of the compensation to which the said owners shall be entitled for their interest in the lands required by the Company, and for all damage that may be sustained by the said owners by reason of the construction and maintenance of the railway and works, or otherwise by the exercise by the Company of their statutory powers, shall be ascertained by arbitration in manner provided by the Lands Clauses Consolidation Act, 1845, and in such arbitration the Company shall admit that the said owners are unwilling vendors, and that the lands numbered respectively 76, 139, 140, and 141 are parts of the manufactory of the said owners, and the obligation of the Company to make the several accommodation works herein-before specified shall be taken into account, and the Company shall not enter upon or interfere with any of the lands of the said owners until they shall have paid to the said owners the amount of such compensation, less the amount of the consideration for the land so to be conveyed to them as aforesaid, and shall have conveyed such land to the said owners as before provided: 8 & 9 Vict. c. 18.

(*i*.) If the said owners shall at any time, and either before or after the construction thereof, desire any alterations of the said accommodation works or any of them, or require additional accommodation or other works, the Company shall, upon the request of the said owners, make such alterations or construct such additional works, and the said owners shall bear the additional expense that may be occasioned by any such alterations and the whole expense of any such additional works, and such additional works shall be maintained by the Company at the expense of the said owners: Provided always, that such alterations or additional works shall be made in accordance with plans and particulars previously submitted to and approved by the Company's engineer, and shall not in any respect prejudicially interfere with the railway and works of the Company or the traffic thereon, and if any dispute shall arise between the said owners and the Company in respect of such plans and particulars or the execution of the said

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works, or any matter consequent on or relating thereto, the same shall be determined by arbitration in manner provided by the Railways Clauses Consolidation Act, 1845.

22 & 23 Vict. c. 59.

Owners may be required to sell parts only of certain lands and buildings.

8 & 9 Vict. c. 18.

8. And whereas in the construction of the railways it may happen that portions only of the lands, buildings, or manufactories shown on the deposited plans of the railways may be sufficient for the purposes of the same, and that such portions may be severed from the remainder of the said properties without material detriment thereto; therefore, notwithstanding section 92 of the Lands Clauses Consolidation Act, 1845, the owners of and persons interested in the lands, buildings, or manufactories described in the schedule to this Act, and whereof parts only are required for the purposes of the railways, may, if such portions can in the judgment of the jury, arbitrator, or other authority assessing or determining the compensation under that Act, be severed from the remainder of the said properties without material detriment thereto, be required to sell and convey to the Company the portions only of the properties so required without the Company being obliged or compellable to purchase the whole or any greater portion thereof, the Company paying for the portions required by them, and making compensation for any damage sustained by the owners thereof or other persons interested therein by severance or otherwise.

Power to Company to raise additional capital.

8 & 9 Vict. c. 16.

9. The Company may from time to time raise capital in addition to any capital which they are or may be authorised to raise by any other Act or Acts of Parliament, not exceeding seventy-two thousand pounds, by the issue at the option of the Company of ordinary shares or stock or preference shares or stock, or partly by one or more of those modes respectively, and the clauses and provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters; (that is to say,)

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

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

The forfeiture of shares for nonpayment of calls;

The remedies of creditors of the Company against the shareholders;

The consolidation of the shares into stock;

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

The making of dividends;
The giving of notices; and
The provision to be made for affording access to the special Act by all parties interested;

Part I. (relating to cancellation and surrender of shares) and Part II. (relating to additional capital) of the Companies Clauses Act, 1863, shall extend and apply to the Company, and to the additional capital which they are by this Act authorised to raise. 26 & 27 Vict. c. 118.

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

10. The Company shall not issue any share under the authority of this Act of less nominal value than ten pounds, nor shall any 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 shall have been paid in respect thereof.

Power to borrow on mortgage.

11. The Company may, in respect of the additional capital of seventy-two thousand pounds which they are by this Act authorised to raise, from time to time borrow on mortgage any sum not exceeding in the whole twenty-four thousand pounds, but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted, and one half of such capital is paid up, and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that shares for the whole of such capital have been issued and accepted, and that one half of such capital 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 until stock for one half of the said additional capital as is to be raised by means of stock is fully paid up, and the Company have proved to such justice as aforesaid, before he so certifies, that such shares or stock, as the case may be, were issued and accepted and paid up bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and also, so far as the said additional capital is raised by shares, that such persons or corporations, or 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 certificate shall be sufficient evidence thereof. 8 & 9 Vict. c. 16.

As to appointment of receiver.

12. The provisions of all former Acts relating to the Company, by which the mortgagees of the Company are empowered to enforce

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payment of principal or interest due on their mortgages by the appointment of a receiver, are by this Act repealed, but without prejudice to any appointment heretofore made or proceedings now pending under those provisions, or any of them. The mortgagees 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 arrears of principal, the amount of principal owing to the mortgagees by whom the application for a receiver is made shall not be less than four thousand pounds in the whole.

Existing mortgages to have priority.

13. The principal moneys secured by all mortgages granted or to be granted by the Company under the authority of any Act of Parliament before the passing of this Act, and subsisting at the passing thereof, shall, during the continuance of such mortgages, have priority over the principal moneys secured by any mortgages granted by virtue of this Act.

Application of moneys.

14. All moneys raised under this Act, whether by shares, stock, debenture stock, or borrowing, shall be applied for the purposes of this Act and for the general purposes of the undertaking of the Company.

Interest not to be paid out of capital.

15. The Company shall not, out of any money by this Act authorised to be raised, pay interest or dividend to any shareholder on the amount of calls paid in respect of the shares held by him; but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act, 1845.

8 & 9 Vict. c. 16.

Deposits for future Bills not to be paid out of Company's capital.

16. 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 Railway Acts.

17. Nothing in this Act contained shall be deemed or construed to exempt the railways of the Company 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 the rates for small parcels authorised to be charged by the Company. A.D. 1878.

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

The SCHEDULE referred to in the foregoing Act.

Describing Lands, Buildings, and Manufactories of which portions only are required.

Township or Parish.	Number on Plan referred to in Dudley and Oldbury Junction Railway Act, 1873.
Rowley Regis - - -	53, 54, 67, 68, 69, 86, 87, 88, 89, 90, 129.
Township of Oldbury and Parish of Halesowen.	12, 24, 25, 61.

LONDON: Printed by George Edward Eyre and William Spottiswoode, Printers to the Queen's most Excellent Majesty. 1878.