CHAP. lxxvi.

An Act to enlarge the powers of the Llanelly Railway and Dock Company, and for other purposes. [12th July 1869.] A.D. 1869.

WHEREAS the following amongst other Acts have been from time to time passed relating to the Llanelly Railway and Dock Company (who are in this Act referred to as "the company"), to wit:

"The Llanelly Railway (Extension to Mumbles) Act, 1865" (herein called "the Act of 1865"), "The Llanelly Railway and Dock Company (Further Powers) Act, 1866" (herein called "the Act of 1866"), and "The Llanelly Railway and Dock Company's Amendment Act, 1867" (herein called "the Act of 1867"):

And whereas by the Act of 1865 the company are authorized to extend their railway to the Mumbles, and by the Act of 1866, amongst other things, the company are empowered to construct a pier in Swansea Bay in connexion with the said extension to the Mumbles, and such Extension Railway and pier when made are to form part of the Swansea lines undertaking of the company:

And whereas by the Act of 1867 the period granted by the Act of 1865 for the compulsory purchase of lands and for the construction of the said Extension Railway was extended, but it is necessary and expedient that both such periods be further extended, the company not having as yet been able to carry either of the said Acts into execution:

And whereas it is expedient that the capital to be raised for the before-mentioned railway and pier be made a separate capital, and that the raising thereof should be facilitated by the company having power to guarantee the payment of the principal monies borrowed for the purposes of the said undertakings, and of the interest on those monies:

And whereas it is expedient that the company be empowered to connect their railway at Carmarthen with the Carmarthen and

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Cardigan Railway, by constructing the railway after mentioned, and to purchase additional lands in connexion with their Amman Branch:

And whereas plans and sections showing the line and levels of the proposed railway, and also books of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required or which may be taken for the purposes of this Act, have been deposited with the respective clerks of the peace for the counties of Carmarthen and Glamorgan:

And whereas it is expedient that the company and the Carmarthen and Cardigan Railway Company should be empowered to agree as to the doubling of the narrow gauge line of rails upon the Carmarthen and Cardigan Railway, from the junction therewith of the Llanelly Railway (Carmarthen line) to where the Pembroke and Tenby Railway joins the Carmarthen and Cardigan Railway:

And whereas it is expedient that the company and the Llanelly Harbour and Burry Navigation Commissioners (in this Act referred to as "the commissioners") be authorized to agree as by this Act provided in respect of the docks at Llanelly, and that the present powers of the company be in certain respects altered and enlarged:

And whereas the several purposes aforesaid cannot be effected without the authority of Parliament:

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

Short title.

1. This Act may be cited for all purposes as "The Llanelly Railway and Dock Company's Act, 1869."

8 & 9 Vict. cc. 16. 18. & 20., 10 & 11 Vict. c. 27., 23 & 24 Vict. c. 106., and 26 & 27 Vict. c. 92. incorporated.

2. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation Act, 1845," "The Harbours, Docks, and Piers Clauses Act, 1847," and Parts I. and II. of "The Railways Clauses Act, 1863" (relating respectively to construction of a railway and to extension of time), and the clauses and provisions of "The Companies Clauses Consolidation Act, 1845,"

With respect to the distribution of the capital of the company into shares;

With respect to the transfer or transmission of shares;

With respect to the payment of subscriptions and means of enforcing the payment of calls;

With respect to the forfeiture of shares for nonpayment of calls;

With respect to the remedies of the creditors of the company against shareholders;

With respect to the borrowing of money by the company on mortgage or bond;

With respect to the conversion of the borrowed money into capital;

With respect to the consolidation of shares into stock; and

With respect to the provisions to be made for affording access to the special Act by all parties interested;

and also Parts I. and II. of "The Companies Clauses Act, 1863," relating respectively to the cancellation and surrender of shares and to additional capital, 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 by the Acts wholly or partially incorporated with this Act meanings are assigned have the same respective meanings, unless there be in the subject or context something repugnant to such construction; the words "the railway" mean the new line of railway and the works connected therewith by this Act authorized to be constructed; and the expression "superior courts," or "court of competent jurisdiction," or other like expression in this Act or any Act 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.

Power to execute works according to deposited plans.

4. Subject to the provisions of this Act, the company may make and maintain the following railway in the line and according to the levels shown on the deposited plans and sections, and may enter upon, take, and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for the purposes of the said railway and for the general purposes of their undertaking:

The railway herein-before referred to and authorized by this Act is fifteen chains in length in Carmarthen, and will commence by a junction with the Carmarthen line of the company, and terminate by a junction with the Carmarthen and Cardigan Railway.

Company not to take lands of Swansea Harbour Trustees.

5. Nothing in this Act contained shall authorize the company to take any of the lands of the Swansea Harbour Trustees.

Not to take land of Swansea

6. Notwithstanding anything in this Act contained, the company shall not enter upon, take, or use any land belonging to the

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Vale Railway Company without consent.

Swansea Vale Railway Company without the previous consent in writing of that company under their common seal first had and obtained.

As to tolls, &c. on railway.

7. The company may demand and take in respect of the railway the same tolls and charges as they are authorized to receive for and in respect of their Carmarthen line undertaking, of which the railway hereby authorized shall form part.

Powers for compulsory purchases limited.

8. The powers of the company for the compulsory purchase of lands for the purposes of the railway shall not be exercised after the expiration of three years from the passing of this Act.

Period for completion of railway.

9. The railway shall be completed within four 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.

Imposing penalty unless railway be opened.

10. If the company fail within the period limited by this Act to complete the railway authorized to be made by this Act, they shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the said railway is completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per centum on the sum of four thousand pounds, being the estimated cost of the railway; and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act, and in the same manner as the penalty provided in the third section of the Act seventeen and eighteen Victoria, chapter thirty-one, known as "The Railway and Canal Traffic Act, 1854;" and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in the said third section of the Act seventeen and eighteen Victoria, chapter thirty-one, to an account to be opened in the name and with the privity of the Accountant General of the Court of Chancery in England in the bank named in such order, and shall not be paid thereout except as herein-after provided; but no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the company was prevented from completing or opening the railway by unforeseen accident or circumstances beyond their control, provided that want of sufficient funds shall not be held to be a circumstance beyond their control.

Providing for application of penalty in compensation to parties injured.

11. Every sum of money so recovered by way of penalty 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 for the purposes of the railway, 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 Court of Chancery in England may seem fit; and if no such compensation shall be payable, or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum or sums of money recovered by way of penalty, or such portion thereof as may not be required as aforesaid, shall be paid to the company.

Company may apply their funds towards purposes of Act, and may raise additional capital.

12. The company may apply towards the construction of the railway authorized by this Act any of the monies which they are already authorized to raise and which may not be required by them for the purposes of their Carmarthen line undertaking; and the company may for the purposes of this Act from time to time raise, in addition to the sums of money which they are already authorized to raise, any further sums not exceeding in the whole eighteen thousand pounds, by the creation of new ordinary shares or stock and preference shares or stock, or by any or either of those modes, to be raised as and to form part of their Carmarthen line capital.

Shares, &c. not to issue until one fifth paid up.

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

As to the votes of proprietors of such shares or stock.

14. The proprietors of any shares or stock to be issued under the authority of this Act shall be entitled to such number of votes in respect thereof as the nominal amount represented by such shares or stock would have entitled them to if the same had been original shares or stock in the said Carmarthen line capital, unless the company on the creation of such capital shall otherwise determine.

Power to borrow in respect of

15. The company may under this Act from time to time borrow on mortgage any sum not exceeding in the whole six thousand

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Carmarthen line undertaking.

pounds with respect to their Carmarthen line undertaking, but no part thereof shall be borrowed until shares or stock for the whole of the before-mentioned capital of eighteen thousand pounds which the company are by this Act authorized to raise by new shares or stock in their Carmarthen line capital are issued and taken up, and one half of that 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 or stock for the whole of that capital have been issued and accepted, and that one half of that capital has been paid up, and that not less than one-fifth part of the amount of each separate share or portion of stock in that capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such shares or stock were issued and taken bonâ fide, and are held by the persons to whom the same were issued or their assigns, and that such persons or their 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.

Priority of existing mortgages.

16. Provided that all mortgages granted by the company before the passing of this Act and then in force shall, while in force, and in accordance with their respective priorities among themselves and the property comprised therein respectively, have priority over all mortgages granted by the company under this Act.

Application of sums raised under this Act.

17. All and every part of the sums which the company are by this Act authorized to raise by new shares or stock, or on mortgage, shall be applied only to the purposes by this Act authorized, and to the several purposes of the Carmarthen line undertaking.

Extending time for purchase of lands under Acts of 1865 and 1866.

18. The powers of the Act of 1865 and the powers of the Act of 1866 with respect to the compulsory purchase or taking of lands are hereby respectively extended, and shall be in force until the first day of December one thousand eight hundred and seventy-one.

Extending time for completion of Mumbles Extension and Pier.

19. The time granted by the Act of 1865 and the time granted by the Act of 1866 for constructing and completing the works by those Acts respectively authorized shall be respectively extended until the first day of December one thousand eight hundred and seventy-two.

Penalty if railway to Mumbles not made within extended time.

20. If the company fail within the period limited by this Act to complete the Extension Railway to the Mumbles, the company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the Extension Railway is completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per centum on the

estimated cost of the works; and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act, and in the same manner as the penalty provided in the third section of the Act seventeenth and eighteenth Victoria, chapter thirty-one, known as "The Railway and Canal Traffic Act, 1854;" and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such Court or judge as is specified in the said third section of the Act seventeenth and eighteenth Victoria, chapter thirty-one, to an account opened or to be opened in the name and with the privity of the Accountant General of the Court of Chancery in England in the bank named in such order, and shall not be paid thereout except as herein-after provided; but no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the company was prevented from completing or opening such line by unforeseen accident or circumstances beyond their control, provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Application of monies.

21. Every sum of money so recovered by way of penalty 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 Extension 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, 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 Court of Chancery in England may seem fit; and if no such compensation shall be payable, or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum or sums of money recovered by way of penalty, or such portion thereof as may not be required as aforesaid, shall be paid to the company from whom such penalty was recovered.

Time limited for completion of railway.

22. If the Extension Railway shall not be completed within the period limited by this Act, then on the expiration of such period the powers 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.

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Mumbles Extension capital may be made a separate capital.

23. The company may, with the sanction of three fourths of the votes of the shareholders of the Swansea line undertaking of the company present personally or by proxy at a meeting of the company convened with special notice of the object, determine that the capital to be raised for the purposes of the Act of 1865 and of the Act of 1866 shall, instead of forming part of the company's Swansea lines capital, be a separate and distinct capital, and thereupon so much of the said respective Acts as directs that the capitals to be raised for the purposes of those Acts are to be shares or stock in the company's Swansea lines undertaking and as preference capital, and sections seven, eight, and nine of the Act of 1865, relating to mortgages, and sections thirteen, fourteen, fifteen, and sixteen of the Act of 1866, shall be no longer in force; and the capital to be raised for the purposes of the said Acts shall be called "Mumbles Extension capital," and the undertakings by those Acts authorized shall be designated "the Mumbles Extension and Pier."

Power to borrow in respect of Mumbles Extension and Pier.

24. If the enactment lastly herein-before contained shall be acted upon, the company may from time to time borrow on mortgage of the Mumbles Extension and Pier any sum not exceeding in the whole twenty-five thousand three hundred pounds, but no part thereof shall be borrowed until the whole capital of seventy-six thousand pounds is subscribed for, 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 subscribed for, 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 subscribers or their assigns, and that such subscribers or their 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.

Arrears may be enforced by appointment of a receiver.

25. The mortgagees of the company may enforce payment of arrears of interest or principal, or principal and interest, due on any mortgages issued under this Act by the appointment of a receiver, and in order to authorize the appointment of a receiver in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than five hundred pounds in the whole.

Existing provisions as to other separate capitals of company to apply to Mumbles Extension capital.

26. The provisions of the existing Acts of the company now in force with respect to their separate capitals shall extend and be in force with reference to and be applicable to the Mumbles Extension capital.

Shareholders in original undertaking of company may guarantee mortgage debt and interest of Mumbles Extension and Pier.

27. The shareholders in the original undertaking of the company, with the sanction of three fourths of the votes of such shareholders present in person or by proxy at any meeting convened with notice of the object, may from time to time exercise the following powers; (that is to say,)

They may for any period not exceeding ten years from the passing of this Act guarantee and secure the payment of the money or any portion of the money which the company may from time to time borrow on the credit of the Mumbles Extension and Pier, and the payment of the interest on any such money, or the payment of such interest alone or any part thereof, or the payment for any specified period of such interest or any part thereof:

They may from time to time, out of their income applicable to dividend on their ordinary shares and stock, discharge any monies which they may be called upon to pay upon or in respect of any such guarantee, and all such monies so paid shall be a charge upon the Mumbles Extension and Pier:

Provided always, that every such guarantee shall be subject and without prejudice to any mortgages or bonds then charged or attaching upon the original undertaking of the company, and to any preference or priority in payment of interest or dividend on any shares or stock in the said undertaking theretofore granted by the company by or in pursuance of or confirmed by any Act of Parliament or then otherwise lawfully subsisting.

As to Pembroke and Tenby Railway.

28. The rails which under "The Pembroke and Tenby Railway Act, 1866," have been laid down by the Great Western Railway Company and the Pembroke and Tenby Railway Company, or either of those companies, between Whitland and Carmarthen, shall, not later than the first day of October next, be opened and continued open for passenger traffic; and section thirty of "The Pembroke and Tenby Railway Act, 1866," shall be read and construed as though the before-mentioned rails formed part of the undertaking of the Pembroke and Tenby Railway Company for the purposes of that section.

As to laying down extra line of narrow gauge

29. The company may lay down a second line of narrow gauge rails upon the land of the Carmarthen and Cardigan Railway Company lying on the east side of that railway between the Abergwilli

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rails between Abergwilli and Pembroke and Tenby Junctions.

junction and the junction of the Pembroke and Tenby Railway with the Carmarthen and Cardigan Railway: Provided always, that the company shall be bound to provide all the materials and additional land, and do all the works necessary for the purpose, and that no injury or expense shall be caused thereby to the Carmarthen and Cardigan Railway Company. The rails and works so laid down and executed shall thereafter be and form part of the undertaking of the Carmarthen and Cardigan Railway Company, and shall be under the control and management of and for ever maintained by them, but the company shall be entitled to use and shall enjoy all the same rights and powers over the said second line of narrow gauge rails according and subject to the same enactments, conditions, and limitations as the company at present have, use, and enjoy over any other part of the said Carmarthen and Cardigan Railway. If any injury or expense to the said Carmarthen and Cardigan Railway Company be caused by the said works, and if any question arise as to the user of the said second line of rails, or as to the terms and conditions on which such user shall be enjoyed, and if any other question or dispute shall arise between the said companies under this enactment, the same shall, if not agreed upon, be from time to time determined by an arbitrator to be appointed by the Board of Trade, and the decisions of such arbitrator shall be binding and conclusive on all the parties in difference, and the costs and expenses of the arbitrations shall be defrayed as the arbitrator shall direct; and if either of the said companies shall neglect or refuse to perform, observe, and conform to any decision given or regulation made by any such arbitrator in the premises, they shall forfeit and pay to the other company any sum not exceeding fifty pounds for every such neglect or refusal, and twenty pounds for every day during which such neglect or refusal shall continue.

Extending time for sale of lands.

30. The company may, notwithstanding anything to the contrary in "The Lands Clauses Consolidation Act, 1845," or in any Act relating to the company with which that Act is incorporated, retain and hold any lands belonging to them, and which have not yet been applied to the purposes of the company, for the period of ten years after the passing of this Act, but the company shall at the expiration of that period sell and dispose of all such parts of those lands respectively as shall not then have been sold or disposed of or applied to or are not then required for the purposes of their undertaking.

Power to enter into arrangements with

31. The company on the one hand and the commissioners on the other hand may from time to time enter into contracts or arrangements with respect to the following purposes or any of them; (that is to say,)

Llanelly Harbour Commissioners.

The exercise by the company of the powers of the commissioners in respect of any of the docks at Llanelly and the works connected therewith:

The construction, maintenance, use, and management of such docks:

The collection, division, and appropriation of the tolls and revenues arising from the said docks; but nothing in this Act contained, and no such agreement as aforesaid, shall in anywise prejudice or affect any mortgagee or other creditor of the commissioners.

For preventing trespass on the railways of the company.

32. If any person shall, at any time within twelve months after having received notice in writing from the company, or any officer or servant of the company on behalf of the company, not to do so, be or travel or pass upon foot upon any railway of the company without the licence and consent of the company (unless for the purpose of attending any carriage under his care, or in crossing such railway by any road or highway on the level thereof), every person so offending shall forfeit and pay any sum not exceeding two pounds for every such offence, and in default of payment shall, at the discretion of the justices before whom the offender is brought, be imprisoned for any period not exceeding one calendar month.

Notice of preceding provision to be duly published.

33. Due notice of the preceding provision shall be published in legible characters, and in a conspicuous manner, upon the railways of the company, and no person shall be convicted under the provisions of this Act if he shall have been convicted for the same offence under the provisions of an Act made and passed in the third and fourth years of the reign of Her Majesty, chapter ninety-seven, and intituled "An Act for regulating Railways."

Interest not to be paid on calls paid up.

34. The company shall not, out of any money by this Act authorized to be raised by calls or by borrowing, 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 on 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.

35. The company shall not, out of any money by this Act authorized 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 authorizing the company to construct any other railway, or to execute any other work or undertaking.

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

36. Nothing herein contained shall be deemed or construed to exempt the railway by this Act authorized to be made 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, authorized by this Act.

Expenses of Act.

37. 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 out of their respective capitals, in such proportions as the directors of the company shall think fit.

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