CHAPTER lxxxviii.

A.D. 1882.

An Act for empowering the London and North-western Railway Company to construct a new Railway at Ordsall Lane in Manchester and for other purposes.

[3rd July 1882.]

WHEREAS it is expedient that in connexion with and for the purposes of the widening and improvement of their railway and station at Ordsall Lane in Manchester the London and North-western Railway Company (in this Act called the Company) should be empowered to make a new railway in substitution for a portion of the Manchester South Junction and Altrincham Railway and that the said portion of the last-mentioned railway should be abandoned and that the Company should be empowered to raise capital for the purposes of this Act:

Plans and sections deposited.

And whereas plans and sections showing the line and levels of the said railway 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 Lancaster which plans sections and book of reference are in this Act respectively referred to as the deposited plans sections and book of reference:

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

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 London and North-western Railway (Ordsall Lane) Act 1882.

A.D. 1882.

Incorporation of General Acts.
8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.
8 & 9 Vict. c. 20.
26 & 27 Vict. c. 92.
8 & 9 Vict. c. 16.

2. The following Acts and parts of Acts are (except where expressly varied by this Act) incorporated with and form part of this Act (that is to say):

The Lands Clauses Consolidation Acts 1845 1860 and 1869:

The Railways Clauses Consolidation Act 1845 and Part I. (relating to construction of a railway) of the Railways Clauses Act 1863:

The provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (namely)

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 borrowing of money;

The conversion of the borrowed money into capital;

The consolidation of shares into stock;

The general meetings of the Company;

The making of dividends; and

The giving of notices;

Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863.

26 & 27 Vict. c. 118.

Interpretation.

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 new railway by this Act authorised;

The expression "the South Junction Company" means the Manchester South Junction and Altrincham Railway Company; 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 for the purposes of this Act be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Power to make railway.

4. Subject to the provisions of this Act the Company may make and maintain in the line shown on the deposited plans and according to the levels shown on the deposited sections the railway hereinafter 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 deposited plans and described in the deposited book of reference including any lands belonging to the South Junction Company as may be required for those purposes or for purposes connected therewith:

The railway herein-before referred to and authorised by this Act is—

A railway (one furlong two chains and sixty links in length) situate wholly in the townships of Salford and Manchester in the parish of Manchester in the county of Lancaster commencing by a junction with the Manchester South Junction and Altrincham Railway at and on the south-east side of the bridge which carries that railway over the River Irwell and terminating in Ordsall Lane Station by a junction with the Company's railway as proposed to be altered:

and for the purposes of the said railway the Company may extend the centre pier of the said bridge for any distance not exceeding ten feet at the south-western end thereof but such extension shall be in line with and not wider than the present pier and the Company shall not place any other pillar or obstruction in the said river or in any manner diminish the width thereof except so far as may be temporarily necessary for constructing the said railway.

Power to owners to grant easements.

5. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement right or privilege (not being an easement of water) required for the purposes of this Act in over or affecting lands and the provisions of the said Acts with respect to lands and rentcharges as far as the same are applicable in this behalf shall extend and apply to such grants easements rights and privileges as aforesaid respectively.

Period for compulsory purchase of lands.

6. The powers of the Company for the compulsory purchase of lands under this Act shall not be exercised after the expiration of two years from the passing of this Act.

Period for completion of railway.

7. If the railway is not completed within three 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

A.D. 1882.

completing the same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Imposing penalty unless railway opened.

8. If the Company fail within the period limited by this Act to complete the railway 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 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 railway:

The said penalty may be applied for by any landowner or other person claiming to be compensated in respect of the railway in accordance with the provisions of the next following section of this Act or by the Solicitor of Her Majesty's Treasury and in the same manner as the penalty provided in section 3 of the Railway and Canal Traffic Act 1854:

17 & 18 Vict. c. 31.

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 that section to an account opened or to be opened in the name and with the privity of Her Majesty's Paymaster General on behalf of the Chancery Division of the High Court of Justice in the bank and to the credit named in such warrant or 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.

9. 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 conferred upon the Company by this Act of taking property 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 Chancery Division of the High Court of Justice may seem fit:

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 either be forfeited to Her Majesty and accordingly be paid to or for the account of Her Majesty's Exchequer in such manner as the said Chancery Division 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 Chancery Division 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 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.

Tolls, &c., and appropriation of part of railway to South Junction Company.

10. So much of the railway as extends from a point distant fifty yards from the commencement thereof to the termination thereof shall with respect to tolls rates and charges and for all other purposes whatever be part of the Company's undertaking and the Company may demand tolls rates and charges in respect thereof accordingly not being higher than the tolls rates and charges authorised by the Act (Local and Personal) 9 and 10 Victoria c. 204 entitled "An Act to consolidate the London and Birmingham Grand Junction and Manchester and Birmingham Railway Companies" the London and North-western Railway (Additional Powers) Act 1872 the London and North-western Railway (New Lines and Additional Powers) Act 1876 and the London and North-western Railway (Joint and Various Powers) Act 1877 :

35 & 36 Vict. c. lxxxvii. 39 & 40 Vict. c. clxxx. 40 & 41 Vict. c. xci.

So much of the railway as extends from the commencement thereof to the point above described shall when completed with respect to tolls rates and charges and for all other purposes whatever be a portion of the undertaking of the South Junction Company.

For protection of the South Junction Company.

11. In executing the railway and works by this Act authorised the following provisions for the protection of the South Junction Company shall apply and be obligatory upon the Company :—

(1.) All that portion of the said railway and works which will under the provisions of this Act form when completed part of the undertaking of the South Junction Company shall be made according to plans and specifications to be reasonably

A.D. 1882.

approved by and to be executed under the superintendence of the engineer of the South Junction Company and in all respects at the expense of the Company:

(2.) The Company will bear and on demand pay to the South Junction Company the expense of the employment by that Company of a sufficient number of inspectors or watchmen to be appointed by them for watching their railway with reference to and during the execution of the works authorised by this Act and for preventing as far as may be all interference obstruction danger and accident which may arise from any of the operations of the Company or from acts or defaults of any contractor or contractors or other person or persons in their employment or otherwise:

(3.) The Company and their contractors agents servants or workmen shall not nor shall any of them obstruct impede or interfere with the free and uninterrupted and safe use of the railway or other works of the South Junction Company or any traffic thereon and if any such obstruction or interference shall be caused or take place contrary to this enactment the Company shall forfeit and pay to the South Junction Company by way of ascertained damages the sum of fifty pounds for every hour during which such obstruction or interference shall continue:

(4.) Notwithstanding anything in this Act contained the Company shall be responsible for and make good to the South Junction Company all costs losses damages and expenses which may be occasioned to that Company or to their railway works or property or to the traffic thereon or otherwise by reason of the execution of the railway and the works in connexion therewith or of any act or omission of the Company or of any contractors or other persons in their employ and the Company will effectually indemnify and hold harmless the South Junction Company from all claims and demands upon or against them by reason of such execution and of any such act or omission:

(5.) And whereas it will be necessary in constructing the railway to widen the bridge which now carries the railway of the South Junction Company over the River Irwell and which bridge is now maintained and repaired by the said Company therefore the Company shall recoup to the South Junction Company and indemnify that Company against any additional cost and expenses incurred by them in maintaining and repairing the said bridge by reason of such widening and such

additional costs and expenses may be recovered by the South Junction Company from the Company with costs of suit in any court of competent jurisdiction :

(6.) If by reason of the execution of any of the works by this Act authorised it shall become necessary to add to or alter the signal or signals upon the railway of the South Junction Company the same shall be so added to or altered by that Company and the reasonable expense thereof shall be repaid to them by the Company :

(7.) Any difference which may arise between the Company and the South Junction Company as to the true intent and meaning of the foregoing provisions of this section or as to the mode of giving effect thereto shall from time to time be determined by arbitration in the manner prescribed by the Railway Companies Arbitration Act 1859 : 22 & 23 Vict. c. 59.

(8.) Nothing in this Act contained shall extend to prejudice alter or take away any of the rights privileges or powers of the South Junction Company otherwise than is herein expressly provided.

For protection of the Corporation of Salford.

12. For the protection of the mayor aldermen and burgesses of the borough of Salford (in this section called the Corporation) the following provisions shall have effect that is to say—

(1.) The provisions of sections 18 to 23 (both inclusive) of the Railways Clauses Consolidation Act 1845 shall extend and apply to the gas and water mains pipes and apparatus of the Corporation and to the Corporation in respect thereof as though the Corporation were a gas or water company or society :

(2.) If by reason of the execution of the powers of this Act any additional gas or water mains pipes sewers or drains or any increased lengths or capacity thereof respectively be rendered necessary the same shall be respectively provided laid and constructed by the Corporation at the cost of the Company :

(3.) If by reason of the execution of the powers of this Act the Corporation shall at any time incur any additional cost in repairing or altering any gas or water main pipe or apparatus or any sewer or drain such additional cost shall be repaid by the Company to the Corporation :

(4.) Before the Company interfere with any existing sewer or drain they shall to the reasonable satisfaction of the Corporation at the cost of the Company and in accordance with plans and sections to be previously submitted and reasonably approved of by the Corporation construct a sufficient substituted sewer or drain and connect the same with the sewer or drain so interfered with :

A.D. 1882.

(5.) If the Company construct any pier or abutment over any sewer of the Corporation the Company shall at their own cost if so required by the Corporation construct and maintain a good and sufficient culvert thereover so as to afford access thereto for the purpose of repairs:

(6.) Nothing in this section shall interfere with the rights or powers of the Corporation in relation to the making of new sewers and drains:

(7.) Any widening or extension of the bridge over Wilburn Street shall so far as may be practicable be constructed so as to prevent the dropping of water on the road beneath:

(8.) The abutments and foundations for widening or extending the bridge over Wilburn Street shall be carried to such a depth below the surface thereof as to allow the Corporation to reconstruct lay or repair any existing sewer watercourse main or other pipe:

(9.) The parapet on the south side of such widened or extended bridge shall be not less than nine feet in height above the level of the upper surface of the rails or platform as the case may be:

(10.) Before the Company obstruct any street or road they shall to the reasonable satisfaction of the Corporation and at the cost in all things of the Company provide and thenceforward until such obstruction be removed maintain proper accommodation for the traffic thereof and access to houses and property therein with proper fences and lights:

(11.) All streets the surface of which shall be disturbed by the Company shall be restored to the reasonable satisfaction of the Corporation and at the cost in all things of the Company.

Discontinuance of portion of Manchester South Junction and Altrincham Railway.

13. The use and maintenance of so much of the existing Manchester South Junction and Altrincham Railway as lies between the commencement of the railway and the termination of the said existing railway at Ordsall Lane Station shall from and after the completion of the railway be abandoned and discontinued and the site of the portion of railway so abandoned except so much thereof as shall be required for and occupied by that part of the railway which is by this Act declared to be part of the undertaking of the South Junction Company shall belong to the Company and may be used by them as part of and for the purposes of their undertaking.

Power to Company and South

14. The Company and the South Junction Company may from time to time make and carry into effect agreements with reference

to the objects and purposes of this Act and the construction maintenance and use of the railway or any portion thereof and the payment of the cost and expenses of such construction and maintenance and otherwise in relation to the objects and purposes of this Act in which the said companies are mutually interested.

Junction Company to make agreements.

15. Nothing in this Act contained shall prejudice alter or affect the rights of the Manchester Sheffield and Lincolnshire Railway Company under section 53 of the Manchester Sheffield and Lincolnshire Railway (Extension to Liverpool) Act 1865 to run over work and use the Manchester South Junction and Altrincham Railway and so much of the railway of the Company as lies between the junction therewith of the Manchester South Junction and Altrincham Railway near the bridge which carries that railway over the River Irwell and Ordsall Lane Station and to use the said station and for the purposes of the said section the portion of the railway by this Act vested in the South Junction Company shall be deemed to be part of the Manchester South Junction and Altrincham Railway and the remainder of the railway shall be deemed to be the portion of the railway of the Company between the said junction and the said station.

Saving the rights of the Manchester, Sheffield, and Lincolnshire Railway Company. 28 & 29 Vict. c. cccIxxviii.

16. The Company from time to time may raise for the purposes of this Act by the creation and issue of shares or stock such capital as they shall think necessary not exceeding nine thousand pounds exclusive of the capital which they are or may be authorised to raise by any other Act or Acts of Parliament and the Company may create and issue such shares or stock either wholly or partially as ordinary or wholly or partially as preferential shares or stock as they may think fit.

Power to Company to raise additional money by creation of shares or stock.

17. 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.

Shares of Company not to be issued until one-fifth part thereof shall have been paid up.

18. The capital created by the Company under this Act and the shares or stock therein and the holders thereof respectively (except any capital and shares or stock therein to which a preferential dividend is attached and the holders of those shares and that stock respectively) shall be subject and entitled to the same powers provisions forfeitures liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing ordinary capital of the Company and those shares and that stock were shares and stock in that ordinary capital.

Except as otherwise provided, new capital of Company to be subject to same incidents as ordinary capital.

19. Every person who becomes entitled to a share or any stock created by the Company under this Act shall in respect of the same

Dividends on new shares or stock of Company.

A.D. 1882.

be a holder of shares or stock in the Company and shall be entitled to a dividend either preferential or ordinary as the case may be with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares or stock.

Votes and qualifications in respect of new shares or stock of Company.

20. The holders of the shares or stock created under this Act shall have rights of voting and qualifications in respect thereof on the principle that each sum of one hundred pounds paid up in respect of the shares or stock held by any such holder shall be deemed equivalent to one original share of one hundred pounds in the capital of the Company as prescribed by their Act of Incorporation:

Provided that no person shall be entitled to vote in respect of any less amount than one hundred pounds paid up:

Provided also that (unless otherwise specified in any resolution of the Company) no person shall be entitled to vote in respect of any share or stock created or issued under this Act to which a preferential dividend shall be assigned.

New shares or stock of Company raised under this Act and other Acts may be of same class.

21. Subject to the provisions of any Act already passed by which the Company are authorised to raise capital by new shares or stock and to the provisions of this Act and any other Act passed in the present session of Parliament whether before or after the passing of this Act by which the Company may be authorised to raise capital by new shares or stock the Company may if they think fit raise by the creation and issue of new shares or stock of one and the same class all or any part of the aggregate capital which they are by such other Act and this Act respectively authorised to raise by the creation and issue of new shares or stock.

Receipt clause in case of persons not sui juris.

22. If any money is payable to a holder of shares or stock in the Company being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to Company to borrow.

23. The Company may in respect of the additional capital of nine thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage for the purposes of this Act any sum not exceeding in the whole three thousand pounds But no part of such sum of three thousand pounds 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 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 shares or stock for the whole of such capital have 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 respective portion of 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 such 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 if the said capital is raised by shares that such persons or corporations or their executors administrators successors or assigns are legally liable for the same:

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.

For appointment of a receiver for mortgagees of Company.

24. Every provision in any Act passed before the present session of Parliament whereby the Company is authorised to raise by borrowing money for the purposes of their undertaking with respect to the appointment of a receiver for enforcing payment by the Company of arrears of interest or principal money or principal money and interest shall be and the same is hereby repealed but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under any such provision:

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 arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds in the whole.

Company may create debenture stock.

25. 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 after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company and shall have priority over all principal moneys secured by such mortgages.

Existing mortgages of Company to have priority.

26. All mortgages or bonds granted or to be granted under the authority of any former Act relating to the Company shall during the continuance thereof and subject to the provisions of the Acts

A.D. 1882.

under which such mortgages or bonds were respectively granted have priority over any mortgages granted by virtue of this Act And nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Application of moneys raised by Company.

27. All moneys raised by the Company under this Act whether by shares stock debenture stock or borrowing shall be applied only to the purposes of this Act.

Power to Company to apply corporate funds to purposes of Act.

28. The Company may apply to the purposes of this Act any of the moneys which they now have in their hands or which they have power to raise by shares stock debenture stock or mortgage by virtue of any Acts relating to the Company and which may not be required for the purposes to which they are by any such Acts made specially applicable.

Interest not to be paid on calls paid up.

29. 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 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.

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

30. The Company shall not out of any moneys 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.

Provision as to general Railway Acts.

31. Nothing in this Act contained shall exempt the Company or their railways 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 authorised to be taken by the Company.

Costs of Act.

32. 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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