CHAPTER lxxxvi.

An Act to enable the Metropolitan District Railway Company to make a junction at West Brompton and to confer other powers on the Company. [27th June 1881.]

A.D. 1881.

WHEREAS it is expedient that the Metropolitan District Railway Company (who are herein-after referred to as "the Company") should be enabled:

(1.) To construct the junction railway at West Brompton herein-after described;

(2.) To purchase certain additional lands;

(3.) To raise additional capital for the purpose of the railways and works hereby authorised and that the provisions herein-after contained should be made with respect to the said additional capital; and

(4.) To raise additional capital by means of shares or of debenture stock for the improvement of their stations and for the general purposes of their undertaking:

And whereas the number of persons travelling on the Metropolitan District Railway exceeds 30 millions yearly and the means which the Company can now lawfully employ for ventilating the said railway are insufficient and it is expedient that the powers herein-after contained should be granted to the Company for remedying the said evil and that the Company should be authorised to purchase and acquire the lands herein-after described for that purpose:

And whereas part of the capital of the Company consists of £1,211,625 debenture stock bearing interest at the rate of six per centum per annum and it would be more convenient for the holders thereof and it is expedient that the said stock should be converted into a debenture stock bearing interest at the rate of four per centum per annum and that the nominal amount of the debenture stock of the Company should be increased for that purpose without nevertheless any increase of the annual charge on the revenues of the Company:

A.D. 1881.

And whereas the market value of the four per centum debenture stock of the Company is proportionately higher by three per centum than the market value of the six per centum debenture stock of the Company:

And whereas it would under the circumstances be equitable that the expenses of the conversion which are estimated to exceed one per centum of the total value of the six per centum debenture stock should to that extent be borne by the holders of the stock to be converted and not by the Company:

And whereas it is also expedient that the other provisions hereinafter contained should be made:

And whereas plans and sections showing the lines and levels of the railway and works authorised by this Act and of the lands to be taken for the purposes thereof and plans of the additional lands which are authorised to be acquired under the powers of this Act also a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited with the clerk of the peace for the county of Middlesex and are herein-after 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:—

Short title.

1. This Act may be cited as the Metropolitan District Railway Act 1881.

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.

2. The Lands Clauses Consolidation Acts 1845 1860 and 1869 the Railways Clauses Consolidation Act 1845 and Part I. (relating to the construction of a railway) of the Railways Clauses Act 1863 are (except where expressly varied by this Act) incorporated with and form part of this Act.

Extension to this Act of certain provisions of 8 & 9 Vict. c. 16. and 26 & 27 Vict. c. 118.

3. The clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to

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 the creditors of the Company against shareholders;

The consolidation of 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;
And also Parts I. II. and III. of the Companies Clauses Act 1863 relating respectively to the cancellation and surrender of shares to additional capital and to debenture stock

are (except where expressly varied by this Act) incorporated with and form part of this Act and shall apply to the Company and to the capital by this Act authorised to be raised by them.

Interpretation of terms.

4. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction The expressions "parish clerks" and "clerks of the several parishes" in sections 7 8 and 9 of the Railways Clauses Consolidation Act 1845 shall with reference to the Company and as regards those parishes or extra-parochial places in which by the standing orders of either House of Parliament plans sections and other documents are required to be deposited with the clerk of the vestry of the parish or with the clerk of the district board for the district in which the parish or extra-parochial place is included mean in the first case the vestry clerks of those parishes and in the second case the clerks of those district boards respectively and for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partly 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 make railway &c.

5. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the railway and works 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 deposited plans and described in the deposited books of reference as may be required for those purposes.

The railway and works herein-before referred to and authorised by this Act are wholly in Middlesex and are as follows:

West Brompton Junction.—A railway (1 furlong 9 chains and 69 links in length) situate wholly in the parish of Saint Mary Abbot Kensington commencing by a junction with the railway

A.D. 1881.

of the Company at the eastern end of the tunnel under the West London Extension Railway through which the Metropolitan District Railway passes on its way from Earl's Court to Addison Road and Hammersmith and terminating by a junction with the West Brompton Branch Railway of the Metropolitan District Railway at about 8 yards north-west of the bridge which carries the Richmond Road over that railway at the West Brompton Station.

Company not to take certain lands without consent.

6. Notwithstanding anything contained in this Act or shown on the deposited plans the Company shall not enter upon take or use any lands of the West London Extension Railway Company except with the previous consent of that company under their common seal.

Tolls.

7. The Company may demand and take for the use of the railway by this Act authorised and for the supply of carriages waggons or trucks any tolls not exceeding those which they are authorised by the Metropolitan District Railway Act 1875 to demand and take for the use of the Ealing Extensions And all the provisions contained in sections 39 to 42 of that Act (both inclusive) shall apply to the railway herein-before authorised and the railway shall for all purposes of tolls and charges be deemed to be an integral and continuous part of the undertaking of the Company.

38 & 39 Vict. c. ccviii.

Period for completion of railway.

8. If the railway herein-before authorised by this Act is not completed within two 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 is then completed.

Power to take easements &c. by agreement.

9. 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 any such lands and the provisions of the last-mentioned Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Power to purchase additional lands.

10. Subject to the provisions of this Act the Company in addition to the other lands which they are by this Act authorised to acquire may enter upon and take compulsorily for the purposes only of

ventilation and the admission of light and air the lands (*a*) and (*b*) herein-after described which are delineated upon the deposited plans and described in the deposited books of reference (that is to say):

(*a*) Certain lands situate in the parish of Saint George Hanover Square in Middlesex in Eccleston Street East near to the back entrance of Saint George's public baths;

(*b*) Also so much of the easternmost of the two subways in the parish of Saint Bride and the precinct of Bridewell in the City of London leading from the River Thames underneath the Victoria Embankment to the south-east corner of the property lately belonging to the City of London Gaslight and Coke Company as lies southward of the south face of the north wall of the Company's archway which is beneath such subway.

Protection of Duke of Westminster.

11. For the protection of the lands of the Duke of Westminster in the parish of Saint George Hanover Square in the county of Middlesex be it enacted that the Company shall not purchase or acquire any of such lands but shall take only and the said Duke shall grant to them an easement in and through the said lands so far as may be necessary for enabling the Company to make and maintain such shafts and other works as shall be actually required for openings for ventilating their railway such easement shall be deemed to be land within the meaning of the Lands Clauses Consolidation Acts 1845 1860 and 1869 and such shafts and other works shall be constructed and maintained by the Company in such manner as shall be mutually agreed upon between the Company and the said Duke or as failing agreement shall be decided by an arbitrator to be appointed on the application of either party by the Board of Trade.

Provision for ventilation of railways.

12. The Company may make and shall for ever after maintain such openings or shafts for the purpose of ventilating their railway in any road or open space under which their railways pass and at such spots as may be agreed upon between the Company and as respects the City of London elsewhere than the Victoria Embankment the Commissioners of Sewers and as respects the district beyond the City and the Victoria Embankment in the City the Metropolitan Board of Works or in default of such agreement as shall be prescribed by an arbitrator to be appointed by the parties or if they cannot agree upon an arbitrator then to be appointed by the Board of Trade on the application of either party and the Company may at those spots erect on the surface of the ground such balustrades or other things for the purpose of the said openings or shafts or connected therewith as shall be so agreed on or prescribed And the Company may for the purposes of the said openings

A.D. 1881.

or shafts interfere with and divert all sewers drains gas and water mains and pipes telegraph wires and other works which may impede the construction and use of the said openings and the Company may apply any moneys from time to time belonging to them for the construction and maintenance of the said openings Provided that any such opening or shaft made under the authority of this Act in any open space intended for public recreation shall at the expense of the Company by planting or otherwise in such manner as shall be agreed upon or be prescribed by the arbitrator be so constructed and maintained as to prevent or diminish as much as possible any inconvenience that may arise therefrom Provided also that without the previous consent in writing of the two Societies of the Inner and Middle Temples nothing herein contained shall enable the Company to construct any such opening or shaft in the tunnel of their railway so far as the same is situate within the Temple land referred to in section 36 of the Metropolitan District Railways Act 1864 or within thirty yards from the boundary of the Temple land which limit is for this purpose substituted for the limit of one hundred yards prescribed in the said section Provided also that nothing contained in this Act shall authorise the Company to take use enter upon or in any manner interfere with any lands or hereditaments vested in the Crown or in the Commissioners of Her Majesty's Works and Public Buildings for public purposes or for the public service or under the management of the same Commissioners without the consent in writing of the said Commissioners or the First Commissioner for the time being first had and obtained which consent the said Commissioners or First Commissioner are and is hereby authorised to give on such terms and subject to such conditions as they or he may think fit to prescribe.

27 & 28 Vict. c. cccxxii.

Saving rights of Inner Temple and Middle Temple.

13. Except only so far as is requisite for the construction and user for ventilating purposes of any opening or shaft which may be made under and in accordance with the provisions of this Act this Act or anything done thereunder shall not take away lessen prejudice or affect any estate right interest jurisdiction franchise power privilege immunity claim or demand of or any liability to the two Societies of the Inner and Middle Temple respectively or either of them or their respective trustees treasurers or masters of the Bench whether under Act of Parliament charter grant agreement specification or otherwise or any right interest claim or demand of the two Societies respectively or either of them in any way relating to the Temple land or any part thereof or any works therein or in connexion therewith.

A.D. 1881.

14. The Company shall not construct any ventilating shaft or make any opening in the carriageway or footway of the Broadway Hammersmith in the Fulham district without the previous consent in writing of the Fulham District Board of Works anything herein contained to the contrary notwithstanding.

Protection of Fulham district.

15. Where any of the intended works to be done under or by virtue of this Act for the purpose of ventilating the railway of the Company shall or may pass over under or by the side of or so as to interfere with any sewer drain watercourse defence or work under the jurisdiction or control of the Metropolitan Board of Works or the Commissioners of Sewers for the City of London or of any vestry or district board of works constituted under the Metropolis Management Act 1855 or any Act or Acts amending the same or extending the powers thereof or with any sewers or works to be made or executed by the said boards or vestries or any of them or shall or may in any way affect the sewerage or drainage of the districts under their or either of their control the Company shall not commence such works until they shall have given to the said Metropolitan Board or to the district board or vestry as the case may be twenty-one days previous notice in writing of their intention to commence the same by leaving such notice at the principal office of such board or vestry as the case may be for the time being with a plan and section showing the course and inclination thereof and other necessary particulars relating thereto And until such board or vestry respectively shall have signified their approval of the same unless such board or vestry as the case may be do not signify their approval disapproval or other directions within twenty-one days after service of the said plan section and particulars as aforesaid Provided that if any difference shall arise as to the said works it shall be referred to an engineer to be appointed by the Board of Trade on the application of any of the said parties interested and the Company shall comply with and conform to all orders directions and regulations of such reference in the execution of the said works and shall provide by new altered or substituted works in such manner as such boards or vestries respectively shall reasonably require and subject to such reference as aforesaid for the proper protection of and for preventing injury or impediment to the sewers and works herein-before referred to by reason of the said intended works or any part thereof and shall save harmless the said boards and vestries respectively against all and every the expense to be occasioned thereby and all such works shall be done by or under the direction superintendence and control of the engineer or other officer or officers of the said Metropolitan Board district board or vestry as the case may be at the costs charges and expenses in all respects of the Company and all reasonable costs charges and

Protection of sewers in the metropolis.

18 & 19 Vict. c. 120.

A.D. 1881.

expenses which the said Metropolitan Board or any district board or vestry may be put to by reason of such works of the Company whether in the execution of works the preparation or examination of plans or designs superintendence or otherwise shall be paid to such board or vestry by the Company on demand and if any dispute shall arise as to the amount of such costs charges and expenses the same shall be settled by a referee to be appointed by the Board of Trade and be a debt due from the Company to the Metropolitan Board district board or vestry as the case may be and when any new altered or substituted works as aforesaid or any works or defence connected therewith shall be completed by or at the costs charges or expenses of the Company under the provisions of this Act the same shall thereafter be as fully and completely under the direction jurisdiction and control of the said Metropolitan Board district board or vestry as the case may be respectively as any sewers or works now are or hereafter may be And nothing in this Act shall extend to prejudice diminish alter or take away any of the rights powers or authorities vested or to be vested in the said respective boards or vestries or any or either of them or of their successors but all such rights powers and authorities shall be as valid and effectual as if this Act had not been passed.

Power to deviate from levels of sections.

16. The Company may subject to the provisions of this Act in the construction of the railway deviate from the levels and gradients as marked on the deposited sections to such an extent as may be found necessary or convenient for avoiding accommodating preserving or improving the drainage or sewers or other works in or under the streets through which the railway will be made and the Company may alter the inclination of the railway accordingly.

Palmerston Road Acton *not to be* stopped up. 41 & 42 Vict. c. cliv.

17. Notwithstanding anything contained in the Metropolitan District Railway Act 1878 the Company shall not in the construction of the junction railway described in the fifth section of that Act stop up the portion of Palmerston Road in the parish of Acton in Middlesex authorised to be crossed by that railway according to the deposited plans and sections thereof on solid embankment but the said road shall be passed over by a flat girderbridge having a span equal to the whole width of the road including footways which bridge shall be made and for ever maintained watertight and with a clear headway of at least eight feet above the level of the road so that the said road may afford access to the South Acton Station of the North and South Western Junction Railway And the joint owners and lessees of that railway may erect gates across the said road at the north-western side of the said bridge and shall bear the cost of maintaining the said road between that spot and their station.

A.D. 1881.

Penalty unless railway is opened within the time limited.

18. If the Company fail within the period limited by this Act to complete the railway which they are herein-before authorised to construct 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 such 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 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 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 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 specified 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 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.

17 & 18 Vict. c. 31.

Application of penalty.

19. 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 with reference to such railway 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 Chancery Division of the High Court of Justice 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

A.D. 1881.

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 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 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 or transferred to such receiver or to the liquidator or liquidators of the Company or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

Period for compulsory purchase of lands.

20. 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.

Company may raise further capital.

21. In addition to the moneys which they are already authorised to raise the Company may for the general purposes of their undertaking raise by the issue of ordinary or preferential shares or stock or of debentures or debenture stock the further sum of one hundred thousand pounds.

Provision for conversion of 6 per Cent. Debenture Stock.

22. The directors of the Company may at any time after the passing of this Act convene a meeting of the holders of Six per Cent. Debenture Stock in the Company by a circular delivered or sent by post to the last known or registered address of each such holder not less than ten days previous to the meeting and such circular shall state the purpose for which the meeting is called and enclose a blank form of proxy with proper instructions for the use of the same and with the sanction of the holders present in person or by proxy of at least three fourths of the debenture stock represented at the meeting the directors may convert all the then existing Six per Cent. Debenture Stock of the Company into debenture stock bearing interest at the rate of four per cent. per annum which they are hereby authorised to create for the purpose Upon the day upon which such conversion is to take effect every such holder of Six per Cent. Debenture Stock shall have registered in his name subject to the charged referred to in the next following section such a nominal amount of Four per Cent. Debenture Stock as will yield to him an amount of interest equal to but not greater than the amount of interest yielded to him by the existing Six per Cent. Debenture Stock then registered in his name and in lieu of which the Four per Cent. Debenture Stock may be substituted And upon the creation of such last-mentioned stock the existing Six per Cent. Debenture Stock shall be cancelled Provided always that the Company shall not be bound to register fractions of a pound of such Four per

Cent. Debenture Stock but may pay to the registered holder thereof such fractional part of a pound as but for this proviso he would have been entitled to have registered in his name in order to secure equality of exchange.

New certificates to be issued in exchange for old certificates.

23. The directors upon such conversion taking effect shall forthwith issue to every holder of the Six per Cent. Debenture Stock so converted subject to a charge in respect of the costs and expenses attending such conversion not exceeding the sum of one per centum on the nominal amount of the stock converted a certificate for and representing such an amount of the Four per Cent. Debenture Stock as such holder is entitled to under the foregoing provision Provided always that until the issue of such new certificates the existing certificates of Six per Cent. Debenture Stock and the holders thereof shall bear and possess the same rights and advantages as they would have had and possessed if this Act had not passed Provided also that the directors shall not issue any new certificate unless and until the existing certificate in substitution for which it is issued is given up to be cancelled or is proved to the satisfaction of the directors to have been lost or destroyed And the certificates so delivered up shall be cancelled.

Substituted debentures to be held on same trusts.

24. The debenture stock which under the powers of this Act may be created and issued in exchange for Six per Cent. Debenture Stock shall remain and be vested in the person or persons to whom it is issued upon the same trusts and subject to the same powers provisions declarations agreements charges liens and incumbrances as at the time of the issue thereof affect the stock in substitution for which the Four per Cent. Debenture Stock so issued and so as to give effect to and not revoke any testamentary or other disposition of or affecting the same And the bequest of any specific amount of Six per Cent. Debenture Stock shall be held to apply to that amount of Four per Cent. Debenture Stock increased by one half And trustees executors or administrators and other incapacitated persons may accept such debenture stock in substitution or exchange for the Six per Cent. Debenture Stock theretofore held by them and may retain dispose of or otherwise deal with the same in all respects as they might have retained disposed of or otherwise dealt with the Six per Cent. Debenture Stock for which it is substituted.

Interest not to be paid on calls paid up

25. 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

A.D. 1881.

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.

26. 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.

Provision as to general Railway Acts.

27. Nothing in this Act contained shall exempt the Company or the 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.

Expenses of Act.

28. 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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