CHAPTER cvii.

An Act to grant further powers to the Metropolitan Railway Company, and for other purposes. [29th June 1875.]

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WHEREAS by the fourth section of "The Metropolitan Railway Act, 1872," the period for the completion of so much of what is in the said Act called "the Extension Railway" as was authorised to be constructed between Moor Lane and the authorised termination of the extension railway in Trinity Square, Tower Hill, is extended until the first day of August 1875, and the Metropolitan Railway Company (who are herein-after called "the Company") have since the passing of the said Act completed their railway to Liverpool Street, and it is expedient that the time for completing so much of the remainder of the extension railway as lies between Liverpool Street and the eastern or southern side of Aldgate should be further extended:

35 & 36 Vict. c. lviii.

And whereas it is also expedient still further to facilitate the transfer to the Company of the undertaking of the Metropolitan and Saint John's Wood Railway Company (who are herein-after called "the Saint John's Wood Railway Company"), and that the provisions herein-after contained to that effect should be made:

And whereas by the sixtieth section of "The Kingsbury and Harrow Railway Act, 1874," it is provided that if the Saint John's Wood Company at any time within three months after the passing of that Act give notice to the Company of their desire so to do, the Saint John's Wood Company are authorised to divest themselves of and to transfer to the Company the powers, duties, rights and privileges, and responsibilities conferred or imposed upon the two Companies jointly by the said Act:

37 & 38 Vict. c. cxlix.

And whereas the said three months expired on the tenth day of October 1874, but the said notice was not given, and it is expedient that the period prescribed for giving the said notice should be extended:

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And whereas by means of the undertakings of the several companies mentioned in the schedule to this Act there is a continuous railway between the Metropolis and Buckingham, and the said schedule also shows the powers possessed by the said companies respectively for agreeing with respect to the mutual use of their undertakings, and it is expedient and will contribute greatly to the public convenience and to the welfare of the said several companies that the provisions herein-after contained should be made for the use of the said several undertakings continuously as though they were one undertaking, and that they should, for the purposes of through traffic, be placed under united management:

35 & 36 Vict. c. cxcii.

And whereas by "The South Kensington Railway Act, 1872," a Company was incorporated for making a railway a little exceeding four furlongs in length, commencing in the South Kensington station of the Metropolitan and Metropolitan District Railways, and terminating on the eastern side of the Royal Albert Hall, and the said Company was authorised to raise a capital of sixty thousand pounds in shares, and to borrow twenty thousand pounds; and by the thirty-ninth section of the same Act the said Company and the Metropolitan and Metropolitan District Railway Companies are authorised to enter into agreements with respect to the interchange, accommodation, conveyance, and delivery of traffic coming from their respective undertakings, and fixing and division between the said Companies of the receipts arising from such traffic, and it is expedient to make provision for the guarantee by the Company, jointly with the Metropolitan District Railway Company, of interest and dividend on the share and loan capital of the South Kensington Railway Company:

And whereas it is expedient that the other provisions herein-after contained should be made:

And whereas the 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 as "The Metropolitan Railway Act, 1875."

Provisions of general Act incorporated.

2. Part II. (relating to extension of time) of "The Railways Clauses Act, 1863," is (except where expressly varied by this Act) incorporated with and forms part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; 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 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.

Extension of time for making railway to Aldgate.

4. The period limited by "The Metropolitan Railway Act, 1872," for the completion of "the Extension Railway" between Moor Lane and Trinity Square is by this Act extended until the first day of August one thousand eight hundred and seventy-six, so far as relates to the construction of the extension railway between Liverpool Street and the eastern or southern side of Aldgate.

Penalty if railway not made within extended time.

5. Sections six and seven of "The Metropolitan Railway Act, 1872," providing for penalty if "Extension Railway" is not made within prescribed time, and the application of the said penalty, are hereby repealed so far as relates to the construction of the said extension railway between Liverpool Street and the eastern or southern side of Aldgate; and in the stead thereof, be it enacted, that if the Company fail within the period limited by this Act to complete the said portion of the extension 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 said portion 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 17 and 18 Victoria, chapter 31, 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 17 and 18 Victoria, chapter 31, 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 Court of Chancery in England in the bank 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

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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 moneys recovered by way of penalty.

6. 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 said portion 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 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 Court of Chancery in England 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 Court, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver, or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company, for the benefit of the creditors thereof.

Powers with respect to St. John's Wood capital. 36 & 37 Vict. c. ccxlvii.

7. In addition to the powers conferred on the Company by the forty-third section of "The Metropolitan and Saint John's Wood Railway Act, 1873," to guarantee interest on the debenture mortgages or debenture stock of the Saint John's Wood Company, the Company may themselves grant mortgages charged upon their own undertaking and that of the Saint John's Wood Company, or upon either of those undertakings, in discharge of any mortgages from time to time accruing due of the Saint John's Wood Company, or to secure any money which may be borrowed under the powers of the same Company; provided that no money shall be borrowed or mortgages issued by the Company under the powers contained in

this section excepting in exchange for the mortgages of the Saint John's Wood Company, or in diminution of the sum which that Company have power to borrow.

Amending section 60 of Kingsbury and Harrow Railway Act, 1874.

8. The sixtieth section of "The Kingsbury and Harrow Railway Act, 1874," shall be read and have effect as though the period for giving the notice provided for in the said section were the first day of November one thousand eight hundred and seventy-five.

Reciprocal running powers for through traffic among companies in schedule.

9. Every Company mentioned in the schedule to this Act whose undertaking is open for public traffic, or so soon as the undertaking of that Company is open for public traffic, may, for the purpose of through traffic, and subject to the provisions herein-after contained, run over and use, with their engines and carriages of every description, and with their clerks, officers, and servants, all or any part of the railways and undertakings of the other companies mentioned in the said schedule, together with the stations, watering-places, water, booking offices, warehouses, landing-places, sidings, works, and conveniences connected therewith respectively: Provided, that for the purpose of this enactment, and of the enactments dependent thereon, through traffic shall mean traffic of all descriptions as defined in the Railway and Canal Traffic Act, 1854 (17 and 18 Victoria, chapter 31), arising on the railway of the Company exercising such powers, and intended to be delivered on or beyond the railway over which the powers are exercised, or arising on such last-named railway, and intended to be delivered on the railway of the company exercising the powers.

Defining through traffic.

As to payments in respect of running powers.

10. Each Company shall pay to the Company over whose undertaking the running powers are exercised, under the authority of the last preceding enactment, such tolls or other consideration as may be agreed on between the companies interested, or, failing such agreement, as the Traffic Committee, herein-after provided for, shall from time to time determine.

Protecting local traffic.

11. It shall not be lawful for any Company exercising the running powers hereby granted to convey, by virtue of those powers, any traffic other than through traffic, as herein-before defined, unless the Company exercising such powers have obtained the consent in writing of the Company over whose undertaking such traffic is carried; and if any Company violate this enactment they shall for every such violation pay to the Company on whose railway the said traffic was improperly conveyed fifty pounds by way of penalty.

As to services on portions of railway run over

12. Each Company shall perform upon the railway belonging to them respectively, and at the stations thereon, all such services and duties as may be necessary or reasonable for the convenient conduct

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and stations used.

of the traffic of the other companies upon payment of such charges for the same, and for the use of such stations, as may be agreed upon between the companies; and if any difference shall arise between the companies as to the amount of such payments, or as to the nature, extent, or sufficiency of the services and duties so to be performed, and the use made of such stations, such difference shall from time to time be settled by the Traffic Committee hereinafter provided for, who may determine the amount of such payments, and prescribe what duties and services shall be so performed; and if they shall be of opinion that it is needful for the protection of the due working or development of the traffic of any Company, they may prescribe that that Company may employ at any of the stations aforesaid, to be designated by the Traffic Committee, such clerks, agents, and servants as they may define, and they may likewise prescribe the accommodation that shall be given at such station to the said clerks, agents, and servants, and may lay down rules for their conduct, and may prescribe the payments to be made for the accommodation so afforded, and the orders made from time to time by the Traffic Committee shall be binding upon the companies, and shall be obeyed by them respectively: Provided always, that it shall be lawful for each Company to cart goods into and out of the stations of the other companies for the purpose of through traffic.

Byelaws to be observed.

13. Each Company in using or traversing the railway of another Company, and in using the stations and conveniences thereof in accordance with the provisions herein-before mentioned, shall at all times observe the regulations and byelaws for the time being in force on the undertaking so used, so far as such byelaws shall be applicable to the Company exercising the said powers; provided that any difference which may arise concerning the fitness of such byelaws or their application shall be settled by the Traffic Committee.

Providing for traffic facilities in lieu of running powers.

14. If any of the said companies from time to time desire that instead of exercising the running powers by this Act conferred upon them over any of the railways of other companies, or any part or parts thereof, traffic facilities should be afforded by that Company, the following provisions shall apply and have effect:

(1.) The Company so desiring shall give notice in writing under their common seal to the Company owning the same of the portion or portions of railway over which they desire such facilities to be afforded, and such notice shall be deemed to include the stations, watering-places, water, booking offices, warehouses, landing-places, sidings, works, and conveniences connected therewith:

(2.) Upon and from the expiration of one month from the giving of any such notice, the Company to whom the notice is given shall afford to the Company giving the notice all such facilities and accommodation as are usual or useful for the convenient working or development of through traffic, including, among other things, through booking, through tickets and invoices, and, so far as may reasonably be required, through carriages and waggons, and conveniently timed and arranged trains, and the employment and accommodation at the stations and offices of the company to whom the notice is given of the officers and servants of the Company giving the notice; and the Company to whom the notice is given shall at all times and in all respects conduct, forward, carry on, and accommodate all such traffic on equal terms with and as if it were their own traffic:

(3.) The rates and other sums to be charged by the Company to whom the notice is given for or in respect of the facilities so rendered shall, failing agreement, be settled by the Traffic Committee:

(4.) During the continuance of any such notice the running powers by this Act granted over the portions of railway mentioned therein shall not be exercised, but the Company by whom the notice is given may, at any time after the expiration of six months from the time of the notice taking effect, by similar notice put an end to the same, and may thenceforth exercise those running powers as fully and effectually as if the traffic facilities had not been required or afforded.

Providing for appointment of Traffic Committee. Constitution of Traffic Committee.

15. There shall be a committee, to be called "the Traffic Committee," and the committee shall be appointed as herein-after mentioned, and have the powers herein-after specified.

16. Within six months after the passing of this Act, with respect to the companies mentioned in the schedule to this Act whose undertakings are open for traffic, and with respect to the other companies so mentioned, within three months after their respective undertakings are so opened, the directors of the said several companies shall nominate and appoint in writing, under the hand of their chairman or secretary, two persons, and the persons so nominated by the several companies shall form the said Traffic Committee, and shall remain in office until they respectively die, resign, or are removed by the directors by whom they were nominated, and their places shall be filled, or they may be re-appointed by the same means by which the original appointments were made.

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As to vacancies in committee.

17. The several companies may from time to time in like manner, at their pleasure, remove the members of the committee so nominated by them respectively, and may in like manner respectively fill up the vacancies occurring among such members by removal, death, or resignation; and no act done by the committee shall be invalidated because of any alleged or real want of authority on the part of the said chairman or secretary to sign such appointment.

Meetings of committee.

18. The first meeting of the committee shall be in London, at such place and time as the chairman for the time being of the Metropolitan Railway Company shall appoint, and afterwards the committee shall hold its meetings at such place as it may from time to time determine upon, and four shall be a quorum thereof, and the chairman of each meeting shall be elected by the members present; and the representatives of each company shall only have one vote between them, and the chairman shall not have a casting vote.

As to settlement of disputes.

19. The committee shall at their first meeting in every year appoint some person as arbitrator for the ensuing year, and if any question shall at any time arise in the committee concerning which question the member or members present representing one Company differ from the member or members present representing any other company or companies, the matter in difference shall, if so desired by the member or members present representing either Company, be from time to time referred to the said arbitrator, or in default of the appointment of such arbitrator by the committee, then to an arbitrator to be nominated by the Board of Trade on the application of any of the companies, and the arbitrator may, on application made to him by the members of the committee representing any of the said companies, attend at any meeting of the committee, and summarily decide any such matter in difference, and every award or decision of such arbitrator shall be final with respect to the matters submitted to him, and the said committee or the Board of Trade, as the case may be, may fix the remuneration to be paid to such arbitrator: Provided always, that if any matter which may have been referred to the arbitrator shall be left undecided by him at the expiration of his year of office the same matter shall be decided by the said arbitrator, and his decision shall be binding, although he may no longer fill the said office.

Management of committee.

20. The committee may appoint, remunerate, and at their pleasure remove such officers, clerks, and servants as they may deem needful for the purposes for which they are constituted, and they shall cause proper books to be kept in which shall be entered the minutes of all proceedings at every meeting of such committee.

Providing for expenses of committee.

21. The expense of carrying on the business of the committee shall be defrayed by the companies represented therein in such proportions as the committee shall agree on or the standing arbitrator determine, and the amount payable by each Company shall be stated in a minute of the committee, together with the time and place of payment:

And copies of every such minute, signed by the chairman of the meeting at which such minute was made, and by the clerk of the committee, or by the arbitrator and clerk, shall be sent to the secretaries of the companies;

And the companies shall at the time so fixed in the minute pay to the bankers or treasurer of the committee the amount specified in the minute, and such amount shall be deemed debts due from the companies respectively to the committee from the day fixed for the payment thereof until the same shall be discharged;

If any of the companies shall make default in such payment the same Company shall be charged by the committee and shall pay to the committee interest at the rate of ten per centum per annum upon the amount due from the same Company, to be calculated from the day fixed for the payment until the day when the same is paid;

Any Company which in pursuance of the foregoing provisions shall have made the required payment may recover from the Company in default the moneys so due by action of debt in any court of competent jurisdiction; and it shall be sufficient in any such action to produce the minute book containing the minute on which the claim is founded, and to prove that a copy of the said minute duly authenticated was sent to the secretary, addressed at the principal office of the Company in default, and that the sum mentioned in the said minute has not been paid.

Providing for default in nomination of committee.

22. If any of the companies shall omit to nominate members of the Traffic Committee at the time and in the manner herein-before provided, the Railway Commissioners may, upon the application of any of the other companies, appoint, by writing under the hand of their secretary, two persons to act on behalf of the Company so in default, and the persons so appointed shall have the same rights and powers as though they had been appointed by the Company: Provided, that the persons so appointed by the Railway Commissioners shall cease to be members of the committee if the Company in default shall subsequently nominate members.

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Functions of Traffic Committee.

23. The Traffic Committee, or the arbitrator, as the case may be, shall determine—

The rates, tolls, and other payments to be paid by each Company for the use of the undertaking of any other of the said companies;

And the facilities to be afforded by each Company for the exercise over its undertaking of the running powers herein-before granted;

And the facilities to be afforded for through traffic if such running powers are not exercised;

and they shall make such rules and regulations with respect to these matters as shall cause the several undertakings to be used for the purposes of through traffic in all respects as conveniently as though they were one undertaking and under one management; and the decisions of the committee or of the standing arbitrator upon these matters, or any of them, when recorded in a minute and authenticated and communicated as aforesaid, shall be as binding upon the said several companies as though such decisions had received the authority of Parliament.

Saving Metropolitan Railway.

24. Nothing herein-before contained shall enable the said companies to run over or use, or the Traffic Committee to interfere with or exercise any control over, so much of the undertaking of the Metropolitan Railway Company as lies southward or eastward of the station of the Metropolitan and Saint John's Wood Railway at Baker Street, or to control or interfere with the traffic of the said portion of the Metropolitan Railway, or the tolls or charges for the use thereof.

Guarantee of dividend on South Kensington Railway capital.

25. The Company, either severally or jointly with the Metropolitan District Railway Company, may guarantee interest or dividends, not exceeding five per centum per annum, upon the share capital of the South Kensington Railway Company, not exceeding sixty thousand pounds, and may guarantee the interest on the mortgages of the same Company, not exceeding twenty thousand pounds.

Consolidation of stocks. 36 & 37 Vict. c. clxxxi.

26. The fifteenth section of "The Metropolitan Railway Act, 1873," with respect to the consolidation of the preference stocks of the Company, shall be read as though the first day of August one thousand eight hundred and seventy-seven were mentioned therein for the preparation of the scheme or schemes for the consolidation of such stocks instead of the first day of August one thousand eight hundred and seventy-five.

Railway not exempt from provisions of

27. Nothing in this Act contained shall exempt the railway of the Company from the provisions of any general Act relating to

railways, or the better and more impartial audit of the accounts of railway companies, now in force or which may hereafter pass during this or any future session of Parliament, or from any future revision or alteration, under the authority of Parliament, of the maximum rates of fares and charges, or of the rates for small parcels.

present and future general Acts.

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.

Expenses of Act.

SCHEDULE

Containing the names of the Companies to whom Mutual Running Powers are given by this Act for the purposes of Through Traffic.

THE METROPOLITAN RAILWAY COMPANY:

This company has power to make working agreements with the Metropolitan and Saint John's Wood Railway Company and the London and Aylesbury Railway Company, and has power to acquire the Metropolitan and Saint John's Wood Railway and all its rights, and to construct the Kingsbury and Harrow Railway.

THE METROPOLITAN AND SAINT JOHN'S WOOD RAILWAY COMPANY:

This company has power to make working agreements with the Metropolitan Railway Company and the London and Aylesbury Railway Company.

THE HARROW AND RICKMANSWORTH RAILWAY COMPANY:

This company has power to make working agreements with the London and Aylesbury, the Metropolitan and Saint John's Wood, and the Metropolitan Railway Companies.

THE LONDON AND AYLESBURY RAILWAY COMPANY:

This company has power to make working agreements with the London and North-western Railway Company and the Aylesbury and Buckingham Railway Company.

THE AYLESBURY AND BUCKINGHAM RAILWAY COMPANY:

This company has power to make working agreements with the London and North-western Railway Company.

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