CHAPTER ccxxi.

An Act to grant further powers to the Monmouthshire Railway and Canal Company; and for other purposes with reference to the Undertaking of the Company. A.D. 1876.

[11th August 1876.]

WHEREAS it is expedient that the Monmouthshire Railway and Canal Company (who are herein-after referred to as "the Company") should be enabled—

To make and maintain the railway herein-after described;

To widen a portion of their railway; and

To take certain additional lands for the purposes of their undertaking;

And the Company are willing, at their own expense, to execute the said works:

And whereas plans and sections, showing the lines and levels of the railways and of the other works authorised by this Act, and the lands in or through which the same are to be made and maintained, and plans of the additional lands to be taken under the powers of this Act, 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 Monmouth, 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; (that is to say,)

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Short title.

1. This Act may be cited as "The Monmouthshire Railway and Canal Act, 1876."

Provisions of certain general Acts incorporated.

2. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869;"

"The Railways Clauses Consolidation Act, 1845;"

Part I. of "The Railways Clauses Act, 1863" (relating to "construction of a railway");

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 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 borrowing of money by the Company on mortgage or bond;

The conversion of the borrowed money into capital;

The consolidation of shares into stock;

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.

Interpretation of terms.

Same meaning to words, &c. in incorporated Acts as in this Act.

3. 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 expression "the railway" means the railway by this Act authorised; and for the purposes of this Act the expression "superior courts," or "courts of competent jurisdiction," or other like expressions 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 simple contract debt, and not a debt or demand created by statute.

Power to execute works according to

4. Subject to the provisions of this Act, the Company may make and maintain, in the line and according to the levels shown on the deposited plans and sections, the railway 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 said plans and described in the deposited book of reference as may be required for that purpose. The railway herein-before referred to and authorised by this Act is,— deposited plans.

A railway 5 furlongs in length, situate wholly in the parish of Saint Woollos in the county of Monmouth, commencing by a junction with the Western Valleys Railway of the Company, and terminating by a junction with the South Wales Railway of the Great Western Railway Company.

Power to abandon portion of Company's railway.

5. The Company may abandon the construction of the portion of their railway authorised by "The Monmouthshire Railway and Canal Act, 1874," and therein described as railway No. 6, a railway 2 furlongs 1 chain and 73 links in length, wholly situate in the said parish of Saint Woollos, commencing by a junction with the said South Wales Railway.

Compensation for damage to land by entry, &c. for purposes of railway abandoned.

6. The abandonment by the Company of the said authorised railway shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels, or probing or boring to ascertain the nature of the soil, or setting out of the line of the said portions of railway; and shall not prejudice or affect the right of the owner or occupier of any land which may have been temporarily occupied by the Company for the purpose of such portions of railway to receive compensation for such temporary occupation, or for any loss, damage, or injury which may have been sustained by such owner or occupier by reason thereof, or of the exercise, as regards such land, of any of the powers contained in "The Railways Clauses Consolidation Act, 1845," or "The Monmouthshire Railway and Canal Act, 1874."

Compensation to be made in respect of portion of railway abandoned.

7. Where before the passing of this Act any contract may have been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to any portion of the said railway so authorised to be abandoned, the Company shall be released from all liability to purchase or to complete the purchase of any such lands, but notwithstanding full compensation shall be made by the Company to the owners and occupiers or other persons interested in such lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice, and the amount and application of the compensation shall be determined in manner provided by "The

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Lands Clauses Consolidation Act, 1845," as amended by any subsequent Act, for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Power to widen part of railway of the Company.

8. Subject to the provisions of this Act, and in the manner shown on the deposited plans, the Company may widen their railway between the following points, and may purchase and take additional lands for that purpose.

In the parish of Bassalleg in the county of Monmouth, between the northern or western end of the railway known as the Park Mile Railway, and the mileage post on the main line of the Western Valleys Railway of the Company in the parish of Risca, indicating five miles and six furlongs from Court-y-Bella Zero.

Power to take additional lands.

9. Subject to the provisions of this Act, the Company may enter upon and take for the purposes of their undertaking so much and so much only of the additional lands shown on the deposited plans and described in the deposited books of reference, in the parish of Saint Woollos, near the junction of Bolt Street and Canal Terrace in the said parish in the county of Monmouth, as is shown upon a plan signed in duplicate by Henry Cecil Raikes, Esquire, the Chairman of the Committee of the House of Commons, to whom the Bill for this Act was referred, one copy of which plan shall be deposited in the Private Bill Office of the House of Commons, and the other copy of which plan shall be in the custody of the town clerk of the borough of Newport.

Lands for extraordinary purposes.

10. The quantity of land to be taken by the Company by agreement under the powers of this Act for the extraordinary purposes mentioned in "The Railways Clauses Consolidation Act, 1845," shall not exceed two acres.

Powers for compulsory purchase limited.

11. 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 three years from the passing of this Act.

Inclination of roads.

12. In altering for the purposes of this Act the roads next herein-after mentioned, the Company may make the same of any inclinations not steeper than the inclinations herein-after mentioned in connexion therewith respectively; (that is to say,)

No. on deposited Plan.	Parish.	Description of Road.	Intended Inclination.
43	Bassaleg - - -	Turnpike - -	1 in 15·70
18	Bassaleg - - -	Public - -	1 in 5·25

Heights and spans of bridges.

13. The Company may make the arches of the bridges for carrying the railway over the roads next herein-after mentioned of any heights and spans not less than those herein-after mentioned in connexion therewith respectively; (that is to say,)

No. on deposited Plan.	Parish.	Description of Road.	Height.	Span.
105	Bassaleg - -	Turnpike -	14 feet.	30 feet.
18	Bassaleg - -	Public - -	13 feet.	20 feet.
114	Risca - -	Turnpike -	14 feet.	25 feet.

Width of certain roadways.

14. The Company may make the roadway over the bridges by which the following roads will be carried over the railway of such width between the fences thereof as the Company think fit, not being less than the respective widths herein-after mentioned in connexion therewith respectively; (that is to say,)

No. on Plan.	Parish.	Description of Roadway.	Width of Road-way.
74	Bassaleg - - -	Turnpike - -	30 feet.
43	Bassaleg - - -	Turnpike - -	25 feet.
44	Risca - - -	Public - -	12 feet.

Notice to be given of taking houses of labouring classes.

15. The Company shall, not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly or partly by persons belonging to the labouring classes as tenants or lodgers, make known their intention to take the same by placards, handbills, or other general notice placed in public view upon or within a reasonable distance from such houses; and the Company shall not take any such houses until they have obtained the certificate of a justice that it has been proved to his satisfaction that they have so made known their intention.

Company to procure accommodation for persons of the labouring class to be displaced.

16. Before taking in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers, who may for the time being be the occupier or occupiers of any house or part of any house which the Company are by this Act authorised to acquire, the Company shall (unless the Company and such person or persons otherwise agree) procure sufficient accommodation elsewhere for such person or persons: Provided always, that if any question shall arise as to the sufficiency of such accommodation, the same shall be determined by a justice; and the Company may, for the purpose of procuring

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such accommodation, appropriate any lands for the time being belonging to them, or which they have power to acquire, and may purchase by agreement such further lands as may be necessary for such purpose, and may on such lands erect labouring class dwellings, and may let or otherwise dispose of such lands and dwellings, and may apply for the purposes of this section, or any of them, any moneys they may have already raised or are authorised to raise.

Power to take easements, &c. by agreement.

17. 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 required for the purposes of this Act, in, over, or affecting any such 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 and to such easements, rights, and privileges as aforesaid respectively.

Penalty unless railway is opened within the time limited.

18. If the Company fail to complete the railway which they are herein-before authorised to construct within the period limited by this Act for that purpose, 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 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 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 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 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, 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 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 completion of works.

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

Railways to form part of original railway.

21. The railway and works by this Act authorised shall be and be deemed, for the purposes of tolls and charges and for all other purposes, part of the railways and undertaking of the Company.

Extension of time for sale of superfluous lands.

22. The period limited for the sale of all superfluous lands is hereby extended for three years from the first day of June one thousand eight hundred and seventy-six, and it shall be lawful for the Company to hold the said lands for such additional period; and

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the Company shall within the said period absolutely sell and dispose of all the lands which have been acquired by them for any of their undertakings, or for any of the purposes of the Company, and which are not required for any of the undertakings or purposes of the Company.

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

23. It shall be lawful for the Company to apply towards the purposes of this Act any of the moneys which they are already authorised to raise, and which may not be required by them for the purposes for which the same were authorised to be raised; and the Company may, for the same purposes, from time to time, subject to the provisions of Part II. of "The Companies Clauses Act, 1853," raise, in addition to the sums of money which they are already authorised to raise, any additional capital, not exceeding in the whole one hundred and five thousand pounds, by the issue, at their option, of new ordinary shares or new preference shares or stock, or wholly or partly by either of those methods respectively, which shares or stock shall form part of the general capital of the Company.

Shares not to vest until fifth part paid up.

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

As to votes of proprietors of such shares.

25. 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 thereby would have entitled them to if the same had been original shares of the Company.

Power to borrow.

26. The Company may from time to time borrow on mortgage for the purpose of this Act, in addition to the sums which they are already authorised to borrow, or which they may be authorised to borrow by any other Act or Acts of Parliament, any sum not exceeding in the whole thirty-five thousand pounds; but no part thereof shall be borrowed until shares for so much of the 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 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 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 so much of the said capital as is to be raised by means of stock is fully paid up, and the Company have proved to such justice as aforesaid 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; 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.

Existing mortgages to have priority.

27. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing hereof, shall, during the continuance of such mortgages, and subject to the provisions of the Acts under which such mortgages are respectively granted, have priority over any mortgage granted by virtue of this Act; but 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.

Debenture stock.

28. 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.

Application of moneys.

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

To prevent trespass on railways.

30. And whereas those parts of the railways and branch railways of the Company which are situate northward of Risca on the Western Valleys and northward of Coed-y-Gric on the Eastern Valleys Railways of the Company are habitually used by persons on foot who trespass thereon; and inasmuch as the main traffic is of mineral trains, and some of the inclines on the railways are necessarily severe, and with the load the checking of the trains whilst warning is given to the trespassers is always attended with difficulty and often with danger, and within the last three years eight persons so trespassing have been killed and nine severely injured, and it is necessary that

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more effectual remedies should be provided in this behalf: Be it therefore enacted, that any person who, without the previous license or consent of the Company, shall be upon any of the railways of the Company northward of Risca or of Coed-y-Gric respectively, or travel or pass thereon upon foot or on horseback, shall, without having received any personal or other warning than herein-after mentioned, forfeit and pay by way of penalty any sum not exceeding forty shillings for every such offence; and the provisions of the Railways Clauses Consolidation Act, 1845, "with respect to the recovery of "damages not specially provided for, and of penalties, and to the "determination of any other matter referred to justices," shall apply to this enactment: Provided that no person shall be subject to any penalty under this enactment unless the Company shall have painted on boards or printed on paper and pasted on boards, affixed at intervals of not more than half a mile upon the said portions of railway north of Risca and Coed-y-Gric respectively, public warning to trespassers; and the Company shall renew such warning as often as the same or any part thereof shall be obliterated or destroyed, and no penalty shall be recoverable unless such warning is so placed and renewed: Provided also, that no person lawfully crossing the railway at any level crossing thereof shall be liable to any such penalty as aforesaid. And provided lastly, that this enactment shall not interfere with but shall be subject to any future general enactment on the subject of trespassers on railways.

Interest not to be paid on calls paid up.

31. 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.

32. 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.

Railway not exempt from provisions of present

33. Nothing in this Act contained shall exempt the railway or the Company from the provisions of any general Act relating to railways, or the better and more impartial audit of the accounts of

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and future general Acts.

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.

34. 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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