CHAPTER ccxviii.

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An Act to empower the Rotherham and Bawtry Railway Company to make new railways at Rotherham to abandon part of their authorised railway and to raise further capital; and for other purposes. [10th August 1882.]

WHEREAS by the Rotherham and Bawtry Railway Act 1881 (in this Act called the Act of 1881) the Rotherham and Bawtry Railway Company (in this Act called the Company) were incorporated and empowered to make railways between Rotherham in the west riding of the county of York and Bawtry on the Great Northern Railway in the county of Nottingham and the Company were authorised to raise for the purposes of their undertaking the sum of three hundred and sixty thousand pounds by the creation and issue of shares and the further sum of one hundred and twenty thousand pounds by borrowing: 44 & 45 Vict. c. ccx.

And whereas the Company have not borrowed any portion of the said sum of one hundred and twenty thousand pounds:

And whereas it was by the Act of 1881 provided (section 6) that the Company should not open any portions of their railway for public traffic until they should have applied to Parliament for powers to construct and if such powers are obtained should have constructed a convenient junction with the Midland Railway at or near Rotherham and (section 7) that the Company should at the time when they apply for powers to construct a junction with the Midland Railway in the same application to Parliament apply for like powers to construct and if those powers are obtained should forthwith construct a convenient junction with the railway of the Manchester Sheffield and Lincolnshire Railway Company at or near Rotherham:

And whereas for the purpose of giving effect to such provision it is expedient that the Company should be empowered to construct the railways by this Act authorised and to abandon the portion

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herein-after described of the Railway No. 1 authorised by the Act of 1881:

And whereas plans and sections showing the lines and levels of the railways by this Act authorised and also a book of reference to the plans 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 west riding of the county of York and are herein-after referred to as the deposited plans sections and book of reference:

And whereas it is expedient that the Company should be empowered to raise further money for the purposes of this Act:

And whereas the objects 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 Rotherham and Bawtry Railway Act 1882.

Incorporation of general Acts.

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):

8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.
8 & 9 Vict. c. 20.
8 & 9 Vict. c. 16.

The Lands Clauses Consolidation Acts 1845 1860 and 1869;

The Railways Clauses Consolidation Act 1845;

The Companies Clauses Consolidation Act 1845 but so much only as respects 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;

26 & 27 Vict. c. 92.

The Railways Clauses Act 1863 but only:

Part I. (relating to the construction of a railway); and

The Companies Clauses Act 1863 but only :
Part I. (relating to cancellation and surrender of shares) ;
Part II. (relating to additional capital) ; and
Part III. (relating to debenture stock).

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 shall have the same respective meanings unless there be something in the subject or context repugnant to such construction the expression "the railway" or "the railways" means the railways by this Act authorised the expression "the undertaking" means the undertaking of the Company as authorised by the Act of 1881 and this Act 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.

Power to make railways.

4. 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 railways 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 books of reference as may be required for that purpose.. The railways authorised by this Act are :

(1) A Railway No. 1 (one mile five furlongs four chains and eighty links in length) commencing in the parish of Rotherham in the west riding of the county of York at or near the authorised commencement of Railway No. 1 described in and authorised by the Act of 1881 on the south side of the high road leading from Rotherham to Sheffield and terminating in the parish of Whiston in the said west riding by a junction with the said authorised Railway No. 1 in Canklow Wood ;

(2) A Railway No. 2 (two furlongs five chains and seventy links in length) commencing in the said parish of Rotherham by a junction with the Midland Railway and terminating in the said parish of Whiston by a junction with the Railway No. 1 by this Act authorised ;

(3) A Railway No. 3 (four furlongs and two chains in length) wholly in the said parish of Rotherham commencing by a junction with the Manchester Sheffield and Lincolnshire Railway and terminating by a junction with the Railway No. 1 by this Act authorised.

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Railways to form part of Company's undertaking.

5. The railways shall for all purposes whatever (including the demanding and recovering of tolls rates and charges) be part of the Company's undertaking.

Power to raise additional capital.

6. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise any additional capital not exceeding in the whole fifty thousand pounds by the issue of new shares but the Company shall not issue any share of less nominal value than ten pounds nor shall any share vest in the person or corporation 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.

New shares to be subject to the same incidents as other shares or stock.

7. The capital in new shares created by the Company under this Act and the new shares therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the capital of the Company authorised by the Act of 1881 and the new shares were shares in that capital. The capital in new shares so created shall form part of the capital of the Company.

Dividends on new shares.

8. Every person who becomes entitled to new shares shall in respect of the same be a holder of shares in the Company and shall be entitled to a dividend with the other holders of shares of the same class or description proportioned to the whole amount from time to time called and paid on such new shares.

Receipt clause in case of persons not sui juris.

9. If any money is payable to a shareholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Extending to additional capital provisions of Act of 1881 as to dividing shares.

10. The provisions contained in sections 13 to 20 both inclusive of the Act of 1881 with reference to the division of the shares in the capital by that Act authorised into half shares shall extend and apply to the shares in the additional capital by this Act authorised as if the same had been re-enacted in this Act with reference thereto.

Power to borrow.

11. The Company may in respect of the additional capital of fifty thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage any sum not exceeding in the whole sixteen thousand six hundred pounds but no part thereof shall be borrowed until the whole of the said additional capital is issued and accepted and one half thereof is paid up and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before

he so certifies that the whole of such additional capital has 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 that such capital was issued bonâ fide and is held by the persons or corporations to whom the same was issued or their executors administrators successors or assigns and 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 certificate shall be sufficient evidence thereof.

For appointment of a receiver.

12. Section 22 of the Act of 1881 with reference to the appointment of a receiver is hereby repealed and 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. 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.

Debenture stock.

13. 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 and of all mortgages at any time created and issued or granted by the Company under this or any subsequent Act shall subject to the provisions of any subsequent Act rank pari passu without respect to the dates of the securities or of the Act of Parliament or resolutions by which the stock and mortgages were authorised and shall have priority over all principal moneys secured by such mortgages.

Application of moneys.

14. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied for the purposes of the Act of 1881 and this Act and to no other purpose.

Period for compulsory purchase of lands.

15. 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.

Power to grant easements by agreement.

16. 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

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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 rent-charges 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.

For protection of corporation of Rotherham.

17. For the protection of the mayor aldermen and burgesses of the borough of Rotherham (in this section called the corporation) the following provisions shall apply and have effect that is to say:

(1) Sub-sections 5 and 6 of section 38 of the Act of 1881 are hereby incorporated with and form part of this Act provided that in construing for the purposes of this Act the said sub-section 5 the same shall be read as if the road numbered 27 on the deposited plans and books of reference of the Railway No. 3 by this Act authorised had been referred to therein instead of the road numbered 1 on the deposited plans and books of reference of the Railway No. 1 by that Act authorised;

(2) Railways Nos. 1 and 2 where they or either of them will cross over the water pipes belonging to the corporation laid in the property numbered on the deposited plans 2 in the parish of Whiston shall be constructed with a sufficient arch so as to leave the said water pipes accessible for the purposes of maintenance renewal and repair.

Company to abandon portion of authorised Railway No. 1.

18. The Company shall abandon the construction of so much of the Railway No. 1 authorised by the Act of 1881 as lies between the commencement of that railway and the junction therewith of Railway No. 1 by this Act authorised.

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

19. The abandonment by the Company under the authority of this Act of the said portion of 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 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 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 Act of 1881.

Compensation for non-completion of

20. Where before the passing of this Act any contract has been entered into or notice given by the Company for the purchasing of

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contracts in respect of portion of railway abandoned.

any land for the purposes of or in relation to the portion of railway by this Act 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 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.

Deposit money not to be repaid except so far as railways are opened.

21. And whereas the estimated expense of the railways by this Act authorised exceeds the estimated expense of the portion of railway by this Act authorised to be abandoned and whereas pursuant to the Standing Orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her present Majesty chapter twenty a sum of two thousand and forty-one pounds twelve shillings and elevenpence Reduced Three Pounds per Centum Annuities being equal in value to five per centum upon the amount of such excess has been deposited with the Chancery Division of the High Court of Justice in England in respect of the application to Parliament for this Act which sum is referred to in this Act as the deposit fund: Be it enacted that notwithstanding anything contained in the said Act the said deposit fund shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act or the survivors or survivor of them (which persons survivors or survivor are or is in this Act referred to as the depositors) unless the Company shall previously to the expiration of the period limited by this Act for completion of the railways open the same for the public conveyance of passengers: Provided that if within such period as aforesaid the Company open any portion of the railways for the public conveyance of passengers then on the production of a certificate of the Board of Trade, specifying the length of the portion of the railways opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the railways so opened bears to the entire length of the railways the court shall on the application of the depositors or the majority of them order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certi-

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fied and it shall not be necessary to produce any certificate of this Act having passed anything in the above-mentioned Act to the contrary notwithstanding.

Application of deposit.

22. If the Company do not previously to the expiration of the period limited by this Act for the completion of the railways complete and open the same for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the "London Gazette" shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railways or any portion thereof or who may have been subjected to any 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 has 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 in England may seem fit and if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid 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 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 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: Provided that until the deposit fund has been repaid to the depositors or has become otherwise applicable as herein-before mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.

Period for completion of works.

23. The railways shall be completed within five years from the passing of this Act and if the railways shall not be completed within that period then on the expiration thereof the powers by this Act granted to the Company for making and completing the railways or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed.

Classification table to be open to inspection and copies to be sold and terminal charges (if any) to be specified on application.

24. The book tables or other document in use for the time being containing the general classification of goods carried by goods or merchandise train on the railways of the Company shall during all reasonable hours be open to the inspection of any person without the payment of any fee at every station at which goods or merchandise are received for transmission and such book tables or other document as annually revised shall be kept on sale at the principal office of the Company at a price not exceeding one shilling:

The Company shall within one week after application in writing made to the secretary of the Company by any person interested in the carriage of any goods which have been or are intended to be carried over the railway render an account to the person so applying in which the charge made or claimed by the Company for the carriage of such goods shall be divided and the charge for conveyance over the railway shall be distinguished from the terminal charges (if any) and if any terminal charge is included in such account the nature and detail of the terminal expenses in respect of which it is made shall be specified:

If the Company fail to comply with the provisions of this section they shall for each offence and in the case of a continuing offence for every day during which the offence continues be liable to a penalty not exceeding five pounds which penalty shall be recovered and applied in the same manner as penalties imposed by section 14 of the Regulation of Railways Act 1873.

36 & 37 Vict. c. 48.

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 by calls or by borrowing pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always that this Act shall not prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

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

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 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

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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 by the Act of 1881 and this Act.

Costs of Act.

28. All costs charges and expenses of and incident to the preparing and applying for and the obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

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