CHAP. xvi.

An Act to enable the Severn and Wye Railway and Canal Company to extend their railway to the Ross and Monmouth Railway near the River Wye. [12th May 1870.] A.D. 1870.

WHEREAS an Act was passed in the year 1809, "for making "and maintaining a railway from the river Wye at or near "to a place called Lidbrook in the parish of Ruardean in the "county of Gloucester to or near to a place called the Lower Forge, "below Newern in the parish of Lydney in the said county, and "for making other railways therein mentioned in the Forest of "Dean in the county of Gloucester;" and by that Act the Severn and Wye Railway and Canal Company (who are herein-after referred to as "the company") were incorporated, under the name of the "Lydney and Lydbrook Railway Company," and were authorised to make a railway or tramway from the river Wye near Lidbrook to a place called Mirey Stock in the Forest of Dean, and thence through the Forest of Dean to Lydney near the Severn, with various branches to the collieries, quarries, and works in the said forest, "whereby "the conveyance of coal, stone, and other products of the said "forest, for the supply of the cities and counties of Hereford and "Gloucester, would be greatly facilitated, and rendered less expen-"sive:" 49 G. 3. c. clix.

And whereas by an Act passed in the year 1810 the company were authorised, among other things, to extend their railway from Lidbrook to a place called Bishop's Wood, on the river Wye, and their name was changed to "The Severn and Wye Railway and Canal Company:" 50 G. 3. c. ccxv.

And whereas, in pursuance of the powers contained in the said Acts, the said company have long since constructed and used the tramway between the river Wye and the forest, but the construction of railways in and around the Forest of Dean has rendered the said tramway ill adapted to the existing wants of the forest:

And whereas by "The Severn and Wye Railway and Canal Act, 1869," the company were authorised to convert their tramways from 32 & 33 Vict. c. cxxxvii.

A.D. 1870.

the port of Lydney to Wimblow Slade, and elsewhere in the Forest of Dean, into railways of such a gauge as to be adapted to the interchange of waggons and trucks with any railway in or near the Forest of Dean, so as to prevent the necessity of transferring coal or other the produce of the forest into fresh trucks or waggons:

And whereas it will contribute to the usefulness of the company's undertaking, and to the development of the mineral resources of the Forest of Dean, that the company should be enabled to extend their railway from the neighbourhood of Wimblow Slade to join the Ross and Monmouth Railway near the river Wye, and for the purpose of such communication to convert their said tramway, or such parts thereof as can be rendered available for the purpose, into a railway, and the company are willing at their own expense to undertake the said work:

And whereas plans and sections showing the lines and levels of the new lines of railway and works authorised to be constructed 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 of the said new lines of railway and works, have been deposited with the clerk of the peace for Gloucestershire, and are herein-after respectively referred to as the deposited plans, sections, and books of reference:

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

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Short title.

1. This Act may be cited for all purposes as "The Severn and Wye Railway and Canal Act, 1870."

8 & 9 Vict. cc. 16, 18, 20., 23 & 24 Vict. c. 106., and 26 & 27 Vict. c. 92. incorporated.

2. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "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;

With respect to the transfer or transmission of shares;

With respect to the payment of subscriptions, and the means of enforcing the payment of calls;

With respect to the forfeiture of shares for nonpayment of calls;

With respect to the remedies of creditors of the company against the shareholders;

With respect to the borrowing of money by the company on mortgage or bond;

With respect to the conversion of the borrowed money into capital;

With respect to the consolidation of the shares into stock; and

With respect to the provisions to be made for affording access to the special Act by all parties interested;

And Part I., Part II., and Part III. of "The Companies Clauses Act, 1863," relating respectively to "cancellation and surrender of shares," and to "additional capital," and to "debenture stock," as amended by "The Companies Clauses Act, 1869," shall, so far as the same are not inconsistent with or varied or otherwise provided for by the provisions of this Act, be incorporated with and form part of this Act, and apply to the company and the shareholders thereof, and to the capital authorised by this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which by the Acts wholly or partially incorporated with this Act meanings are assigned have the same respective meanings, unless there be in the subject or context something repugnant to such construction; the expression "the railways" means and includes the railways authorised to be constructed under the powers of this Act; and the expression "superior courts," or "court of competent jurisdiction," or other like expression, in this Act or any Act 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 execute works.

4. Subject to the provisions of this Act and of the Acts wholly or partially incorporated herewith, the company may make and maintain the following works in the line and according to the levels shown on the deposited plans and sections, 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 those purposes:

(*a*) A railway about four miles two furlongs and one chain or thereabouts in length, commencing in the townships of East Dean and West Dean, or one of them, by a junction with the authorised line of the railway firstly described in the fourth section of "The Severn and Wye Railway and Canal Act, 1869," at or near a point measuring five miles three furlongs and five chains upon the deposited plans referred to in the said Act, from the commencement of the said railway No. 1.,

A.D. 1870.

passing through or into the following parishes, townships, and places, or some of them, that is to say, East Dean, West Dean, Ruerdean, Newland, and English Bicknor, and terminating in the said last-mentioned parish by a junction with the authorised line of the Ross and Monmouth Railway; by two junctions, one at a point about one hundred yards south-west of Stowefield farmhouse, and the other at a point about three hundred yards north of the said farmhouse;

(*b*) A railway one mile one furlong two chains in length, to commence in the said township of East Dean by a junction with the before-mentioned authorised line of the Severn and Wye Railway at or near a point marked upon the said deposited plans four miles and five furlongs, and to terminate in the said townships of East Dean and West Dean, or one of them, by a junction with the intended railway firstly herein-before described at a point about four hundred and sixty yards south of where the turnpike road from Mitcheldean to Coleford crosses the Severn and Wye tramway at Mirey Stock;

together with all needful works, stations, approaches, and conveniences connected therewith.

All the foregoing works will be situate in Gloucestershire.

As to gradients.

5. Notwithstanding anything shown on the deposited sections, the gradients or rate of inclination of the railway first herein-before described, from the commencement thereof to the seventh furlong and seventh chain, shall not be steeper than one in sixty-five, and for the remainder of the railway shall not be steeper than one in fifty-three; provided that nothing herein contained shall authorise the company to enter upon, take, or use any lands beyond the limits of deviation shown upon the deposited plans, unless with the consent of the owners, lessees, and occupiers of such lands.

As to abandonment of tramways.

6. The company may abandon from time to time and at their discretion their existing tramway between Wimblow Slade and Bishop's Wood, or any parts thereof, after the railway herein-before first described shall have been opened for public traffic; and the lands of the company (other than those within the ambit of the Forest of Dean) in or upon which the portions of tramway so abandoned are placed, or so much thereof as are useless to the company, shall be deemed to be superfluous lands, within the meaning of "The Lands Clauses Consolidation Act, 1845;" provided that nothing in this enactment contained shall give to the

company any higher or other interest in the said lands than they now possess.

Extending certain provisions of 32 & 33 Vict. c. cxxxvii.

7. The following sections of the recited Act of 1869 shall apply to this Act, and to the works authorised thereby, and to the lands taken or the lands disused under the powers of this Act, as fully and effectually as if they were severally repeated and re-enacted herein:

Section 13. Works within the Forest of Dean to be executed to satisfaction of First Commissioners of Woods:

Section 14. Site of any abandoned tramway within the forest to revert to the Crown:

Section 16. Act not to affect powers of Commissioners of Woods to grant licenses for tramways:

Section 17. Power for Commissioners of Woods to grant lease to company for nine hundred and ninety-nine years:

Section 25. Company to supply locomotive power.

As to crossing certain roads in the forest.

8. The company shall adopt such method of crossing roads (other than public carriageways), rides, and footpaths in the Forest of Dean, whether by bridges over or under the same respectively, or by level crossings, as may be required by Her Majesty's Principal Gaveller in the Forest of Dean: Provided, nevertheless, that if the company shall object to any particular method of crossing so prescribed, the matter shall be referred to the arbitration of an engineer, to be appointed by the President of the Institute of Civil Engineers, whose decision shall be final.

As to gauge of railways.

9. The said railways may be constructed upon the gauge of four feet eight inches and half an inch, or upon the broad gauge, or upon a mixed gauge, so that the same may be adapted to the interchange of waggons and trucks with any other railway in or near the Forest of Dean.

Additional share capital may be raised.

10. The company may apply towards the purposes of this Act any moneys which they are already authorised to raise, and which are not required for the purposes for which they were so authorised; and in addition to the sums of money which the company are already authorised to raise the company may from time to time raise, by the creation of new shares or stock, any sums not exceeding thirty-six thousand pounds, and the company may create and issue such shares or stock either as ordinary shares or stock, or new preference shares, or as new preference stock, as the company may from time to time think fit.

Restriction as to issue of shares or stock.

11. The company shall not issue any share or stock created under the authority of this Act, nor shall any share or stock vest in the

A.D. 1870.

person accepting the same, unless and until a sum not being less than one fifth part of the amount of such share or stock shall have been paid up in respect thereof.

Calls.

12. One fifth part of the amount of a share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and four fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Power to borrow.

13. The company may from time to time raise by borrowing on mortgage such sum or sums of money as may by an order of any meeting of the shareholders be authorised to be so borrowed, not exceeding in the whole the sum of twelve thousand pounds, in addition to the sums which they are already authorised to borrow, but no part of the said sum of twelve thousand pounds shall be borrowed until the whole capital of thirty-six thousand pounds is subscribed for, issued, and accepted, and one half thereof is paid up, and the company have proved to the justice who is to certify, under the 40th section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that the whole of the additional capital of thirty-six thousand pounds hereby authorised to be raised has been subscribed for, issued, and accepted, and that one half of such capital has been paid up, and that not less than one fifth part of the amount of each separate share or portion of stock 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 subscribers or their assigns, and that such subscribers or their 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.

14. The mortgagees of the company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages, by the appointment of a receiver, and in order to authorise the appointment of a receiver in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than five thousand pounds in the whole.

Application of moneys.

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

Lands for extraordinary purposes.

16. The quantity of land to be taken by the company by agreement for the extraordinary purposes mentioned in "The Railways Clauses Consolidation Act, 1845," shall not exceed three acres.

Period for compulsory purchase of lands.

17. 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.

Period for completion of works.

18. The railways hereby authorised to be constructed 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.

Penalty on company if railways not made within time limited.

19. If the company fail within the period limited by this Act to complete the railways, 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 railways are 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 seventeenth and eighteenth Victoria, chapter thirty-one, 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 seventeenth and eighteenth Victoria, chapter thirty-one, to an account opened or to be opened in the name and with the privity of the Accountant General of the Court of Chancery in England, in the bank named in such 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 railways 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 penalties.

20. 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

A.D. 1870.

other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said railways 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 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 paid to the company from whom such penalty was recovered.

Tolls.

21. The company may demand and take, for the conveyance of minerals, goods, and merchandise on the railways, tolls, dues, and charges not exceeding those which they are authorised to demand and take by the recited Act of 1869; and the railways shall for purposes of tolls and charges, and for all other purposes, be deemed part of the railways of the company authorised by that Act, and subject to the conditions and restrictions which the said Act contains; and the said tolls, dues, and charges shall include the charge for locomotive power, but shall not include the charge for waggons or trucks.

Saving rights of the Crown.

22. Nothing whatsoever in this Act contained, or in any of the Acts incorporated herewith, shall extend to authorise the said company to purchase, take, use, or otherwise interfere with any land, soil, tenements, or hereditaments, or any rights in respect thereof, belonging to Her Majesty in right of her crown, or to interfere with, prejudice, or in any manner affect any forestal or other rights belonging to Her Majesty, without the consent in writing of the Commissioners for the time being of Her Majesty's Woods, Forests, and Land Revenues, or one of them, first had and obtained for that purpose, (and which such Commissioners or Commissioner are and is hereby authorised and empowered to give,) or divest, prejudice, diminish, alter, or take away any of the estates, rights, privileges, powers, or authorities which now are or hereafter may be vested in or enjoyed by Her Majesty, her heirs or successors.

Interest not to be paid on calls paid up.

23. 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."

Deposit for future bills not to be paid out of capital.

24. 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 for general Railway Acts.

25. Nothing herein contained shall be deemed or construed to exempt the railway by this Act authorised to be made from the provisions of any general Act relating to railways, or to 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 tolls, dues, and charges authorised to be taken by the company.

Expenses of Act.

26. 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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