CHAP. lxxxvi.

An Act for conferring further powers upon and for amending the Acts relating to the London and South-western Railway Company. [12th July 1869.] A.D. 1869.

WHEREAS it is expedient that the London and South-western Railway Company (in this Act called "the Company") be authorized to widen on both sides thereof their main line of railway at and near the point where the same is carried over the turnpike road leading from Basingstoke to Newbury:

And whereas it is expedient that the Company be authorized to purchase and acquire certain lands in the parish of Merton or Saint Mary Merton, in the county of Surrey, situate near the Lower Merton station on the Tooting, Merton, and Wimbledon Extension Railway, for the purpose of providing additional accommodation, approaches, and other works and conveniences in connexion with that station:

And whereas it is expedient that the provisions of the London and South-western Railway Company's Amendment Act, 1846, (in this Act called the Act of 1846,) with respect to the maximum charges to be made by the Company for and incidental to the conveyance of goods on the railways from time to time purchased, hired, or otherwise acquired and held by the Company, be amended in manner by this Act appearing: 9 & 10 Vict. c. cxxxi.

And whereas by the London and South-western Railway (Portsmouth Railway Amalgamation) Act, 1859, (in this Act called the Act of 1859,) the Company were authorized to create annuities for the purposes of the amalgamation by that Act authorized, and they accordingly created and issued annuities for that purpose, and there now exist one hundred and twelve thousand seven hundred and twenty South-western Railway Portsmouth Annuities of two shillings and sixpence each (in this Act called the Portsmouth Annuities): 22 & 23 Vict. c. xxxi.

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23 & 24 Vict. c. clxxxv.

And whereas by the South-western Railway (General) Act, 1860, (in this Act called the Act of 1860,) the Company were authorized to create and issue annuities of one pound each in substitution for the annuities created and issued by them under the Act of 1859, and were also authorized to create and issue upon the surrender of any of the annuities of the Company, and by way of substitution for the same, and as fully paid-up stock, preferential or ordinary stock of the Company, but the recited powers of the Act of 1860 have not been exercised:

And whereas it is expedient that the recited powers and provisions of the Act of 1860 be repealed, and that the Company be authorized to create and issue in substitution for and upon the surrender of Portsmouth Annuities stock of the Company bearing a fixed annual dividend equal to the annuities to be surrendered, and to rank in the same order and with the same preference as such annuities:

And whereas by the Andover and Redbridge and South-western Railway Act, 1863, (in this Act called the Act of 1863,) the Company were authorized to create annuities for the purpose of the amalgamation by that Act authorized, and they accordingly created and issued annuities for that purpose, and there now exist eight hundred and forty-five South-western Andover Annuities of five shillings and fourpence each (in this Act called the Andover Annuities):

And whereas it is expedient that the Company be authorized to create and issue in substitution for and upon the surrender of South-western Andover Annuities stock of the Company bearing a fixed annual dividend equal to the annuities to be surrendered, and to rank in the same order and with the same preference as such annuities:

And whereas it is expedient that the Company be authorized to raise further monies for the purposes of this Act, and for the general purposes of their undertaking:

And whereas plans and sections showing the line and levels of the works by this Act authorized (the plans also showing the lands proposed to be taken and used for the purposes of this Act), and a book of reference to the plans containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of those lands, have been deposited with the respective clerks of the peace for the counties of Surrey and Hants, and those plans, sections, and book of reference are in this Act referred to as the deposited plans, sections, and book of reference:

And whereas the objects of this Act cannot be attained 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 : A.D. 1869.

1. This Act may be cited for all purposes as "South-western Railway (General) Act, 1869." Short title.

2. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation Act, 1845," Part I. (relating to construction of a railway) of "The Railways Clauses Act, 1863," (save so far as any of the sections or provisions of those Acts and parts respectively are expressly excepted or varied by this Act,) are incorporated with and form part of this Act. 8 & 9 Vict. cc. 18. & 20., 23 & 24 Vict. c. 106., and 26 & 27 Vict. c. 92. incorporated.

3. The following provisions of "The Companies Clauses Consolidation Act, 1845," are incorporated with this Act; (that is to say,) Part of 8 & 9 Vict. c. 16. incorporated.

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 shares into stock ;

With respect to the provision to be made for affording access to the special Act by all parties interested.

4. 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 ; the expression "the railway" means and includes all the railways and undertaking from time to time of the Company, and every or any part thereof ; and in this Act or any Act wholly or partially incorporated herewith the expression "superior courts" or "court of competent jurisdiction," or any other like expression, 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 Same meanings to words in incorporated Acts and this Act.

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debt or demand created by statute; and the words "share" and "shareholders" include, when requisite, stock and stockholders.

Power to Company to make works authorized by Act.

5. Subject to the provisions of this Act, the Company may in the lines and according to the levels shown on the deposited plans and sections widen on both sides thereof their main line of railway at and near the point where the same is carried over the turnpike road leading from Basingstoke to Newbury, and over the footway leading from that turnpike road to the public cemetery, and to the station of the Great Western Railway Company; and the Company may widen and otherwise alter the bridges by which the railway is carried over the said turnpike road and footway respectively, and may provide additional accommodation, sidings, turn-tables, and other works and conveniences in connexion with their Basingstoke station, and may enter upon, take, and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for any of those purposes.

Heads of arrangement in schedule confirmed.

6. The heads of arrangement between the Company and the mayor, aldermen, and burgesses of the borough of Basingstoke, set forth in the schedule to this Act annexed, are by this Act confirmed and made binding on the parties thereto respectively, and may and shall be carried into full effect according to the true intent thereof.

Power to take lands for accommodation at Lower Merton station.

7. Subject to the provisions of this Act, the Company may also enter upon, take, and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for the purpose of providing additional accommodation, approaches, and other works and conveniences at or in connexion with the Lower Merton station of the Tooting, Merton, and Wimbledon Extension Railway.

Powers for compulsory purchases limited.

8. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of two years from the passing of this Act.

Period for completion of works.

9. The works by this Act authorized shall be completed within three years from the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for executing such works, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Amending sect. 13 of Act of 1846.

10. From and after the passing of this Act the section numbered 13 of the Act of 1846 shall be read and have effect as if, in lieu of the words "except loading and unloading where such service is performed by the Company," the words were inserted "except a reasonable sum for loading and unloading goods at any terminal

"station in respect of such goods, and for delivery and collection, "and any other service incidental to the business or duty of a "carrier, where any such service is performed by the Company."

Terminal station.

11. No station shall be considered a terminal station in regard to any goods conveyed on the railway unless such goods have been received thereat direct from the consignor, or are directed to be delivered thereat to the consignee.

Repeal of provisions of Act of 1860 as to Portsmouth Annuities, &c.

12. The following sections and parts of sections of the Act of 1860 are by this Act repealed; that is to say,

The sections numbered 55 to 59, both numbers inclusive:

So much of the section numbered 60 as authorizes the Company to create stock for the purpose of the substitution of stock for annuities:

The section numbered 64.

Company may accept surrender of Portsmouth and Andover Annuities and issue stock in lieu thereof.

13. The Company may from time to time accept from the holder of any of the Portsmouth Annuities or of the Andover Annuities the surrender of the same, and may issue to him instead thereof, and by way of substitution for the same, and as fully paid-up stock, Portsmouth Annuity Stock, or, as the case may be, Andover Annuity Stock, to be created by them for the purpose under the authority of this Act as herein-after provided.

Surrendered annuities extinguished.

14. On every such surrender every annuity surrendered, and all rights and liabilities in respect thereof, are by this Act extinguished, and the Company shall forthwith make an entry in the register of the surrender and the date thereof.

Power to create Portsmouth Annuities Stock and Andover Annuities Stock.

15. For the purpose of the substitution by this Act authorized of stock for annuities the Company from time to time, with the sanction of three fifths of the votes of the shareholders present in person or by proxy at an extraordinary general meeting of the Company specially convened for the purpose, may create stock to be called Portsmouth Annuity Stock, and other stock to be called Andover Annuity Stock, to be deemed respectively fully paid up, and such stocks respectively shall bear such fixed rate of dividend, not exceeding the rate of five pounds per centum per annum, as the Company think fit.

Stock to be issued only in substitution for annuities surrendered.

16. No part of the Portsmouth Annuity Stock shall be issued except upon the surrender of and in substitution for Portsmouth Annuities, nor shall any portion of the Andover Annuity Stock be issued except upon the surrender of and in substitution for Andover Annuities, nor shall in any case stock be issued the dividend upon which for one year would exceed the amount of the annuities surrendered for which the stock is substituted.

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Incidents of Portsmouth Annuities Stock.

17. The Portsmouth Annuity Stock shall be a like charge on the undertaking of the Company, and in like order and with like preference as by the Act of 1859 was provided with respect to the charge thereon of the Portsmouth Annuities.

Incidents of Andover Annuities Stock.

18. The Andover Annuity Stock shall be a like charge on the revenue of the Company or on part thereof, and upon the profits of the Company from time to time applicable to the payment of dividend on their ordinary capital, as by the Act of 1863 was provided with respect to the charge thereon respectively of the Andover Annuities.

Stock to be held on same trusts as annuities surrendered.

19. Every person to whom any Portsmouth Annuity Stock or Andover Annuity Stock is issued under this Act shall be possessed of and entitled to the same upon the same trusts, and subject to the same powers, provisions, charges, and liabilities, as those upon and to which the annuities surrendered and in respect of which the stock is issued were immediately before the surrender thereof held and subject, and the stock so issued shall accordingly pass or be affected by any will or other testamentary instrument disposing of or affecting the annuities so surrendered.

Certificates of stock to be issued.

20. The Company shall, when thereunto required, issue to the respective holders of the stock so issued certificates thereof; provided always, that the Company shall not issue to the holder of any stock so issued any certificate thereof unless or until he delivers to the directors to be cancelled by them or show to their satisfaction the loss or destruction of the certificates of the surrendered annuities in respect of which the stock is issued to him.

Certificates of annuities to be cancelled when delivered up.

21. When in pursuance of any of the provisions of this Act the certificate of any annuity is delivered to the Company to be cancelled they shall forthwith cancel the certificate, and no certificate so delivered shall be re-issued, and the Company shall make an entry in the register of the annuity of the cancellation and the date thereof.

Power for Company to raise additional capital by new shares or new stock.

22. The Company from time to time, with the sanction of at least three fourths of the votes of the shareholders present in person or by proxy at an extraordinary general meeting of the Company specially convened for the purpose, may raise for the purposes of this Act by the creation and issue of new shares or new stock, whether ordinary or preferential or both, any sums not exceeding in the whole two hundred and twenty-five thousand pounds, in addition to and as part of the capital of the Company which they are now authorized to raise by shares or stock.

Shares not to issue until one fifth paid up.

23. 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 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 in respect thereof.

Saving for existing preferential shares or stock.

24. Provided that any preference or priority in payment of dividends which the Company from time to time grant in respect of any new shares or new stock of the additional capital of two hundred and twenty-five thousand pounds by this Act authorized to be raised shall not prejudice any preference or priority in the payment of interest or dividend on any other shares or stock theretofore granted by the Company in pursuance of or confirmed by this Act or any Act of Parliament passed before the passing of this Act, or which is then otherwise lawfully subsisting.

Provisions of Company's Act of 1862 as to shares and stock apply to shares and stock under this Act.

25. The provisions of sections 49 to 70 (both inclusive) of "The South-western Railway (Additional Powers) Act, 1862," with respect to preferential shares and stock, and the cancellation of shares and stock, and the issue of new shares or stock instead of cancelled shares or stock, and with respect to voting for shares or portions of stock, and otherwise respecting shares and stock, extend to this Act with respect to the Company, and the shares and stock which by this Act they are authorized to create and issue.

Power to Company to borrow on mortgage.

26. The Company may from time to time borrow on mortgage for the purposes of this Act any sums not exceeding in the whole, in addition to the sums which they are already authorized to borrow, seventy-five thousand pounds, but no part thereof shall be borrowed until the whole of the additional capital of two hundred and twenty-five thousand pounds by this Act authorized 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 fortieth section of "The Companies Clauses Consolidation Act, 1845," (before he so certifies,) that the whole of the said capital of two hundred and twenty-five thousand pounds 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 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.

Provisions of Company's Acts of 1862 and 1863 as to debenture stock apply to mortgages under this Act.

27. The provisions of sections 71 to 79 (both inclusive) of "The South-western Railway (Additional Powers) Act, 1862," and of section 115 of "The South-western Railway Act, 1863," with respect to debenture stock, extend to this Act with respect to the mortgages by this Act authorized.

Repealing provisions of former Acts as to appointment of a receiver.

28. The provisions of all former Acts relating to the Company by which the mortgagees of the Company are empowered to enforce payment of principal and interest due on their mortgages by the appointment of a receiver are by this Act repealed, but without prejudice to any appointment heretofore made or proceedings now pending under those provisions or any of them.

Arrears may be enforced by appointment of a receiver.

29. The Company's mortgagees 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 authorize the appointment of a receiver in respect of interest or principal, or principal and interest, the amount of principal owing to the mortgagees by whom the application for a receiver is made shall not be less in the whole than ten thousand pounds.

Existing mortgages to have priority.

30. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament passed before the passing of this Act, and which shall be subsisting at the time of the passing thereof, shall during the continuance thereof respectively have priority over any mortgages to be granted by virtue of this Act; provided that this section does not apply to any mortgage from time to time granted by the Company in accordance with section 21 of "The South-western Railway (General) Act, 1865," or section 60 of "The South-western Railway (General) Act, 1867."

Application of monies.

31. All monies raised under the powers of this Act, whether by shares, debenture stock, or borrowing, may be applied for the purposes of this Act, or for any other the purposes of the Company.

Interest not to be paid on calls paid up.

32. The Company shall not, out of any money by this Act authorized 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.

33. The Company shall not out of any money by this Act authorized 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 authorizing the Company to construct any other railway, or to execute any other work or undertaking.

Railway not exempt from provisions of present and future general Acts.

34. Nothing herein contained shall be deemed or construed to exempt the railway 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, authorized by this Act.

Expenses of Act.

35. 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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SCHEDULE referred to in the foregoing Act.

Articles of Arrangement made the first day of April 1869 between the London and South-western Railway Company (herein-after called the Company) and the Mayor, Aldermen, and Burgesses of the town of Basingstoke (herein-after called the Corporation) in their respective capacities of Mayor, Aldermen, and Burgesses of the said town and the Burial Board of the said town and parish.

1. These articles are subject to the approval of Parliament.

2. The Corporation consent to the Company's application for the power sought by their pending bill for altering and widening the railway and the bridges by which the railway is carried at Basingstoke over the turnpike road and adjoining lands and footway there, and the Company may widen the said railway and alter and widen the said bridges accordingly, subject to the restrictions and on the conditions in these heads expressed.

3. The Company shall not under this agreement make any widening or work on the northern side of the railway extending beyond an imaginary line drawn parallel to the northern face of the turnpike road bridge, and at the distance of twenty-five feet therefrom, nor any widening or work on the southern side of the railway extending beyond an imaginary line drawn parallel to the southern face of the same bridge, and at the distance of twenty-two feet therefrom.

4. For the purpose of making and maintaining those respective widenings, or either of them, according to these articles, the Company may take and use all such lands of the Corporation as shall be necessary within the limits mentioned in Article 3, and the same shall be conveyed to them for all the estate and interest of the Corporation therein without other compensation than the fulfilment by the Company of these articles.

5. The Company shall widen on its western side the existing foot archway under the railway (now of the width of nine feet), so that the width thereof shall be not less than twenty-five feet in the clear throughout, and the railway shall be carried over the widened passage by flat iron girders, and the foundations of the entire structure when completed shall be carried down to such a level as to permit, after the excavation of soil provided for by Article 8, a minimum headway of twelve feet six inches between the lowered surface and the under side of the girders, so that after the metalling six inches thick of that lowered surface by the Corporation the minimum headway may be twelve feet.

6. The Company may extend northwards (taking and using any lands of the Corporation within the limits mentioned in Article 3 necessary for the purpose) the widened archway mentioned in Article 5, so that the extension northwards be not beyond the northern imaginary line mentioned in Article 3, and so that its minimum width be twenty-five feet in the clear throughout, the railway to be carried over it by flat iron girders, and the foundations of the entire extension

to be carried down to such a level as to permit, after the excavation of soil provided for by Article 8, a minimum headway of twelve feet six inches between the lowered surface and the under side of the girders, so that after the metalling of that lowered surface by the Corporation the minimum headway may be twelve feet.

7. The Company may extend southwards (taking and using any lands of the Corporation within the limits mentioned in Article 3 necessary for the purpose) the widened archway mentioned in Article 5, so that the extension southwards be not beyond the southern imaginary line mentioned in Article 3, and so that the minimum width be twenty-five feet in the clear throughout, the railway to be carried over it by flat iron girders, and the foundations to be carried down to such a level as to permit, after the excavation of soil provided for by Article 8, a minimum headway of twelve feet six inches between the lowered surface and the under side of the girders, so that after the metalling of the lowered surface by the Corporation the minimum headway may not be less than twelve feet.

8. The Company shall before the completion of either of the extensions of the existing footway as widened remove the soil from the spaces respectively covered or to be covered by them, and by the existing footway as widened, to such a depth as will leave a minimum headway between the lowered surface of that space and the under side of the girders at their northernmost extremity of twelve feet six inches, and so that the lowered surface shall fall gradually southward to the southernmost extremity of the Company's works by an inclination of 1 in 12, or as nearly as may be. It shall be lawful during three months after the passing of any Act confirming these articles, for the relatives of any persons who have been interred within the last twenty years within the limits mentioned in Article 3, or to whose memory any tomb, monument, or inscription may have been erected or placed within that period within those limits, to cause the remains of such persons to be removed, carried away, and placed in some other part of the said cemetery, in such manner as the bishop of the diocese, or such person as he shall appoint, shall direct, and to cause the tombstones and other memorials, if any, connected with those remains to be removed, and the expense of such removal, carrying away, and placing shall be paid by the Company.

9. The graves and vaults in the burial ground or cemetery within the limits mentioned in Article 3 shall be as little disturbed by the Company as possible, and all human remains, and all tombstones or other memorials (if any), which shall be disturbed by them, and which shall not be removed or carried away by relatives as aforesaid, within the period aforesaid, shall be removed and carried away at the expense of the Company, and the remains shall be reinterred in such manner as the bishop of the diocese, or such person as he shall appoint, shall direct, and the stones or memorials (if any) connected with those remains shall be replaced in such other part of the cemetery land as shall be indicated by the Corporation, and the Company shall pay all fees and expenses incident to those operations.

10. The Company may extend northwards and southwards (taking and using any lands of the Corporation necessary for the purpose), but not beyond the imaginary lines respectively mentioned in Article 3, the three several existing arches, viz., B., by which the railway is carried over the turnpike road numbered 5 on the deposited plan, and A., to the westward of the same road, and C., by which

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the railway is carried over part of the space intermediate between the same road and the foot archway mentioned in Article 5, so that the extensions of the archway B. be of the same height, width, and character as the archway they extend; and the Company may erect (but not beyond the limits aforesaid) any transverse walls or fences which they may think necessary or desirable under and across the archway A. and the archway C. respectively, or any such extension thereof respectively as is consistent with these articles, and also for connecting the north-westernmost angle of the extended archway C. with the north-easternmost angle of the extended foot archway, and so inclosing the part of the cemetery land intercepted between those respective last-mentioned archways.

11. The Company will bear the expense of the furnishing, maintaining, and lighting with gas by the Corporation of such lamps as are necessary for properly lighting the respective northern and southern extensions of the foot archway, not exceeding two lamps under each extension, and not exceeding for maintenance and lighting annually sixty shillings per lamp.

12. All the works and operations of the Company in Articles 5, 6, 7, 8, and 9 provided for shall be executed by the Company to the reasonable satisfaction of the surveyor of the Corporation.

13. The Company shall pay the reasonable charges and expenses of the solicitor and surveyor acting for the Corporation in the negotiation and settlement of these articles of arrangement.

Witness the seals of the parties hereto, the day and year first above written.

Seal of the London and South-western Railway Company.

The common seal of the mayor, aldermen, and burgesses of the town of Basingstoke and of the said mayor, aldermen, and burgesses as the burial board of the said town and parish of Basingstoke were respectively affixed by William Forder Smith, Esquire, the mayor of the said town, in the presence of

W. CHALLIS,
Town Clerk, and Clerk to the Burial Board.

W. F. SMITH,
Mayor.

Seal of the Corporation of Basingstoke.

W. F. SMITH,
Chairman of the Burial Board.

Seal of the Burial Board.

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