CHAPTER ccxxviii.

An Act to confer further powers on the Stratford-upon-Avon, Towcester and Midland Junction Railway Company, in reference to their own undertaking and the undertaking of the East and West Junction Railway Company; and for other purposes. [25th August 1883.] A.D. 1883.

WHEREAS, by the Easton Neston Mineral and Towcester Roade and Olney Junction Railway Act 1879, (hereinafter called "the Act of 1879,") the Easton Neston Mineral and Towcester Roade and Olney Junction Railway Company (who, under that or their subsequently acquired name of the Stratford-upon-Avon, Towcester and Midland Junction Railway Company, are referred to in this Act as "the Company,") were incorporated and authorised to make and maintain certain Railways in the counties of Northampton and Buckingham, and to raise two hundred and twenty thousand pounds by shares, and seventy thousand three hundred pounds by mortgage:

And whereas by the Act of 1879, section six, it was provided that the Company should not commence the construction of Railway No. 1, described in and authorised by that Act, until after the expiration of eighteen calendar months from the passing of the Act of 1879, without the consent in writing of the Northampton and Banbury Junction Railway Company, (in this Act called "the Northampton Company,") under their common seal, and if within the said period of eighteen calendar months, the Northampton Company, by writing under their common seal, gave notice to the Company that they were willing that a second line of rails should be laid down upon so much of the Railway of the Northampton Company as lies between the junction with that Railway of the East and West Junction Railway and the intended junction therewith of the Railway No. 2, authorised by the Act of 1879 (which part of the Railway of the Northampton Company is in the Act of 1879, and hereinafter referred to as "the Towcester Section"), then the Company should not construct the said Railway No. 1 or any part thereof, but the Company and any

A.D. 1883.

Company or persons working or using the Railways of the Company might run over and use the Towcester Section, including the additional rails and works thereon or in connection therewith to be laid down and provided, in accordance with section six of the Act of 1879:

And whereas the Northampton Company, by writing under their common seal, gave notice to the Company on or about the second day of February, one thousand eight hundred and eighty-one, that they were willing that a second line of rails should be laid down upon the Towcester Section of their Railway, and, in consequence of such notice, the Company were precluded from constructing Railway No. 1, authorised by the Act of 1879:

And whereas, by the Stratford-upon-Avon, Towcester and Midland Junction Railway Act, 1882 (hereinafter called "the Act "of 1882"), the name of the Company was changed to the Stratford-upon-Avon, Towcester, and Midland Junction Railway Company, the time for the compulsory purchase of land, and the construction of the Railways, other than Railway No. 1, was extended, and the share capital and borrowing powers of the Company were reduced:

And whereas by the Act of 1879 it was provided that the Company, and any company or persons working the Railways of the Company, or any part thereof, might run over, work and use and levy tolls upon (*a*) the East and West Junction Railway and (*b*) the Evesham Redditch and Stratford-upon-Avon Junction Railway, and by the same Act the Company and the East and West Junction Railway Company were empowered to enter into and carry into effect agreements with respect to the working, use, management and maintenance by the two Companies, or either of them, of their respective Railways and works, the supply and maintenance of engines stock and plant for the purposes of any such agreement, the transmission of traffic, collection of tolls and rates, and other incidental matters:

And whereas the Railway of the Company when completed will, in conjunction with the East and West Junction Railway, the Evesham, Redditch and Stratford-upon-Avon Junction Railway, and other existing railways form a continuous communication eastward and westward, but the condition and state of repair of the first-mentioned Railway is so unsatisfactory that passengers are not allowed to be conveyed upon it, and the Company are therefore precluded from exercising the powers over the said Railways conferred upon them by the Act of 1879, and it is expedient that the East and West Junction Railway and the stations and conveniences connected therewith should be repaired, restored and equipped, and afterwards worked maintained and managed in connection with the Railway of the Company as by this Act provided:

A.D. 1883.

And whereas it is expedient to increase and regulate the share capital and borrowing powers of the Company:

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

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

Short title.

1. This Act may be cited as the Stratford-upon-Avon Towcester and Midland Junction Railway Act 1883.

Incorporation of General Acts.

2. The Railways Clauses Consolidation Act 1845, Part I. (relating to construction of a railway) and Part III. (relating to working agreements) of the Railways Clauses Act 1863;

The provisions of the Companies Clauses Consolidation Act 1845, with respect to the following matters, namely:—

The transfer and transmission of shares;

The payment of subscriptions, and the means of enforcing the payment of calls;

The forfeiture of shares for non-payment of calls;

The remedies of creditors of the Company against the shareholders;

The borrowing of money by the Company on mortgage or bond;

The conversion of borrowed money into capital;

The consolidation of shares into stock;

The provision to be made for affording access to the special Act by all parties interested; and

Part I. (relating to cancellation and surrender of shares), Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863, as amended by the Companies Clauses Act 1869, are, except where expressly varied by this Act, incorporated with and form part of this Act.

Interpretation.

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

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.

A.D. 1883.

Power to repair East and West Junction Railway.

4. The Company, or the East and West Junction Railway Company, may equip, improve and lay down rails upon the East and West Junction Railway, and may provide (by agreement but not otherwise) any additional land required for that purpose, in order to fit and adapt it, as a single line, and the works buildings and conveniences connected therewith to the conveyance and accommodation of passengers as well as goods and mineral traffic, and the extent of such equipment, improvement and repair, and also the cost thereof and incidental thereto, shall be agreed upon between the two Companies, or failing agreement be settled by arbitration as hereinafter provided: Provided always that the Company shall not, unless by agreement with the East and West Junction Railway Company, exercise the foregoing powers of this section until at least six months after they shall have in writing required the East and West Junction Railway Company to exercise such powers, and the East and West Junction Railway Company shall during the whole of that period have failed so to do.

Priority of interest on expenditure by Company on East and West Junction Railway.

5. Interest at the rate of five per cent. per annum upon any money expended by the Company, under the provisions of this Act, upon or in respect of the East and West Junction Railway, shall be charged upon and paid out of the tolls, rates, income and revenue derived from or arising in respect of that Railway (whether worked separately, or in connection with the Railway of the Company as by this Act provided) in priority to all debts and claims secured or unsecured, owing by or made against the East and West Junction Railway Company, other than and except those incurred after the passing of this Act, in respect of the working expenses of that Company, and except rent-charges granted by the East and West Junction Railway Company in pursuance of the Lands Clauses Consolidation Act 1845, or the Lands Clauses Consolidation Acts Amendment Act 1860, and except any rent or sum reserved by or payable under any lease granted or made to that Company.

Providing for Railway and East and West Junction Railway being worked and managed by Joint Committee.

6. If within the time limited by the Act of 1882 for the completion thereof, the Railway of the Company shall have been completed as a single line of Railway with land and over-bridges for a double line, and when the East and West Junction Railway shall also have been improved and renewed by the Company or the East and West Junction Railway Company, and both Railways shall have been inspected and certified by the Board of Trade to be fit for the public conveyance of passengers, the following provisions shall be obligatory on the Company and the East and West Junction Railway Company respectively, and carried into effect:—

(1.) The Railway of the Company and the East and West Junction Railway shall be worked, maintained and managed by

a Joint Committee, to be appointed as hereinafter mentioned, as if those Railways formed one Railway, and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the Railway of the Company and partly on the East and West Junction Railway for a less distance than four miles, tolls and charges may only be charged as for four miles;

(2.) The Company shall provide all such engines, carriages, wagons and plant in addition to those possessed by the East and West Junction Railway Company as may be necessary and proper for efficiently working the traffic on the two Railways, and shall be allowed and paid out of the East and West Junction Railway Company's proportion of the receipts to arise from the working of the Railways, as hereinafter mentioned, five per centum per annum upon the value of the rolling stock and plant provided by the Company, for the joint working, in excess of the proportion which the mileage of the Company's Railway bears to the mileage of the East and West Junction Railway;

(3.) All rates, taxes, salaries, wages and outgoings, and all other expenses of or incident to the use, working and management of the two Railways, including the expense of the maintenance repair and renewal of those Railways, and of the rolling stock and plant for working the same, and all other expenses incidental thereto, except separate establishment charges of the two Companies, shall be paid by the Joint Committee out of the receipts and revenue arising from the joint working of the two lines;

(4.) The gross amount of all tolls, fares, rates and charges for local and through traffic on and over the two Railways, and the revenue and income from all sources arising upon and in respect thereof, including allowances from and payments by other companies, shall belong to the Company and the East and West Junction Railway Company, in proportion to the mileage of their respective Railways, subject to the payments made and the expenses incurred by the Joint Committee in working, managing, maintaining, repairing and renewing the two Railways and rolling stock and plant: Provided that from the proportion belonging and payable to the East and West Junction Railway Company, there shall be deducted and paid to the Company the interest as aforesaid on the amount which may have been expended by them in equipping and improving the East and West Junction Railway, and adapting that Railway for the conveyance of passengers as well as goods and mineral

A.D. 1883.

traffic, and also the interest on the value of the rolling stock and plant provided by the Company in excess of their mileage proportion for the joint working of the two lines as hereinbefore provided;

(5.) The tolls, rates, fares and charges to be from time to time demanded and taken on and with respect to the Railways and the traffic thereon, and all through booking arrangements as regards passengers, goods, and other traffic, shall be regulated by the Joint Committee;

(6.) In the event of the mileage proportion of the receipts payable to the Company in any half-year, exclusive of the interest before mentioned, being insufficient to pay the interest on the mortgages, debentures, and debenture stock of the Company, and a dividend at the rate of five per cent. per annum to the holders of the preference shares in the capital of the Company created under the authority of this Act, the Joint Committee shall retain and pay to the Company out of the net mileage proportion of receipts belonging to the East and West Junction Railway Company, such a sum as will in addition to the mileage proportion of receipts belonging to the Company, suffice to pay such interest and dividend as aforesaid for that half-year; but any excess of the Company's mileage proportion in future half-years, after payment of such interest and dividend as aforesaid, shall belong to and be paid to the East and West Junction Railway Company, along with their mileage proportion of the net receipts, until all moneys so retained and paid thereout to the Company have been repaid to the East and West Junction Railway Company.

Joint Committee.

7. For the purpose of controlling and superintending the user, working and management of the two Railways under the provisions of this Act a Joint Committee with a standing arbitrator shall be appointed in manner hereinafter mentioned, that is to say:—

Appointment of Committee.

(*a.*) Within one month after the Company or the East and West Junction Railway Company shall have given notice to the other of them, requiring them to exercise the powers of this subsection, the Company shall nominate and appoint under their common seal two of their members, and the East and West Junction Railway Company shall in like manner nominate and appoint four of their members, and such six persons shall form the Joint Committee, and shall remain in office until they respectively die, resign or are removed by the Company by whom they were nominated, and their places shall be filled by the same means by which the original appointments were made;

A.D. 1883.

Vacancies in Committee to be filled up.

(*b.*) The Company and the East and West Junction Railway Company may from time to time in like manner, at their pleasure remove the members of the Committee so nominated by them respectively, and may in like manner respectively fill up the vacancies occurring among such members by removal, death or resignation; and no act done by the Committee shall be invalidated because of any such vacancy;

Meetings and Chairman of Committee.

(*c.*) The Committee shall hold its meetings at such place as it may from time to time determine upon, and four shall be a quorum thereof, and the chairman of the Committee shall be elected every twelve months from the members thereof, and (subject to the next following enactment) the proceedings of the Committee shall be determined by a majority of the persons present, the chairman having only his original, and not a casting vote;

Differences to be settled by arbitration.

(*d.*) The Committee shall at their first meeting, and thereafter at the corresponding meeting in every subsequent year, appoint some person as arbitrator for the following twelve months; and if any question shall at any time arise in the Committee concerning which the member or members present representing the one Company, differ from the member or members present representing the other Company, the matter in difference shall, if so desired by the member or members present representing either Company, be from time to time referred to the said arbitrator, or, in default of the appointment of such arbitrator by the Committee, then to an arbitrator to be nominated by the Board of Trade, on the application of either of the Companies; and the arbitrator may, on application made to him by the members of the Committee representing either of the said Companies, attend at any meeting of the Committee, and summarily decide any such matter in difference, and he shall, if called upon to do so, determine by whom and in what share or proportion the costs of such reference to him shall be borne, and every award or decision of such arbitrator shall be final with respect to the matters submitted to him; and the said Committee or the Board of Trade, as the case may be, may fix the remuneration to be paid to such arbitrator: Provided always, that if any matter which may have been referred to the arbitrator shall be left undecided by him at the expiration of his year of office, the same matter shall be decided by the said arbitrator, and his decision shall be binding, although he may no longer fill the said office;

Powers of Committee

(*e.*) The Committee shall be deemed to be and are herein invested with the sole control and superintendence of the user, working, maintenance and management of the Railways and the

A.D. 1883.

employment and removal of officers, servants and workmen, and shall have and enjoy and may exercise, in their own name or in the names or name of the two Companies, or either of them, all the rights, powers and privileges whatsoever vested in the Company or the East and West Junction Railway Company, except powers for raising capital by shares, stock or loan, or relating to the internal administration of either Company;

Providing for half-yearly payments.

(*f.*) The payments to be made to the Company and to the East and West Junction Railway Company, in respect of the working, use and management of the Railways, shall be made half yearly, within fourteen days after the first day of March and the first day of September in each year, in respect of the period ending on the previous thirty-first day of December or thirtieth day of June, as the case may be: Provided that in case an interval of less than half a year shall elapse between the commencement of the working of the Railways by the Committee and the thirtieth day of June or the thirty-first day of December (as the case may be) next following, the sums payable to the two Companies shall be apportioned accordingly.

Arbitration.

8. Any difference in regard to any matters in which the Company and the East and West Junction Railway Company are mutually interested, and for which no other mode of settlement is prescribed, shall be from time to time determined by a single arbitrator, to be appointed by the Board of Trade on the application of the Company and the East and West Junction Railway Company, or either of them, and the costs of and attending the arbitration and award shall be in the discretion of the arbitrator.

Company may apply Corporate funds.

9. The Company and the East and West Junction Railway Company may from time to time apply for or towards all or any of the purposes of this Act, in which they are jointly interested, and to which capital is properly applicable, any sums of money which they have respectively raised, or are authorised to raise, by any of their Acts, and which are not required for the purposes to which they are by those Acts made specially applicable.

Preference may be attached to part of authorised capital.

10. When a moiety of the reduced share capital of two hundred thousand pounds which the Company are authorised to create under the Act of 1879, as amended by the Act of 1882, is subscribed for and fifty thousand pounds paid up the Company may attach to the other moiety of such share capital any preferential dividend or other advantage, and the shares to which such preferential dividend or other advantage is attached shall be called "preference shares:" Provided that such preferential dividend shall not exceed the rate of five pounds per centum per annum; and the provisions contained in the Companies Clauses Act 1863, with respect to preference

shares or stock, shall apply to any preference assigned to any shares by virtue of this Act as if such shares were shares in "additional capital," instead of part of the capital which the Company have already power to raise: Provided also that the terms and conditions on which such preference shares respectively are issued shall be stated on the certificates thereof.

Power to borrow by instalments.

11. The Company may, in respect of the reduced share capital of two hundred thousand pounds which they are authorised to raise, from time to time borrow on mortgage of their undertaking any sum not exceeding in the whole sixty-six thousand six hundred pounds, in manner following (that is to say):—In respect of each sum of sixty-six thousand six hundred pounds of such capital of two hundred thousand pounds they may borrow any sum not exceeding in the whole twenty-two thousand two hundred pounds; but no part of any of such three sums of twenty-two thousand two hundred pounds shall be borrowed until shares for so much of the respective portion of capital in respect of which each sum is authorised to be borrowed 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 the whole of such respective portion of 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 respective portion of capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such respective portion of 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, 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.

Power to Company to raise additional capital.

12. 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 one hundred and twenty thousand pounds, by the issue at their option of new ordinary shares or as to one-half thereof by new preference 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.D. 1883.

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.

13. Except as by this Act otherwise provided, 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 now existing capital of the Company of the same class or description and the new shares were shares in that capital, and any new shares so created shall form part of such capital accordingly.

Dividends on new shares.

14. Every person who becomes entitled to new shares shall in respect of the same be a holder of shares in the capital of 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.

Restriction as to votes in respect of preferential shares.

15. Except as otherwise expressly provided by the resolution creating the same, no person shall be entitled to vote in respect of any shares to which a preferential dividend shall be assigned.

New shares raised under this Act and any other Act may be of same class.

16. Subject to the provisions of any Act already passed, by which the Company are authorised to raise capital by shares, and to the provisions of this Act, the Company may, if they think fit, raise, by the creation and issue of shares of one and the same class, all or any part of the aggregate capital which they are by such other Act and this Act respectively authorised to raise by the creation and issue of shares.

Power to borrow on mortgage.

17. The Company may, in respect of the additional capital of one hundred and twenty thousand pounds, which they are by this Act authorised to raise, from time to time borrow on mortgage of the undertaking, any sum not exceeding in the whole forty thousand pounds, but no part thereof shall be borrowed until shares for the whole of such additional capital of one hundred and twenty thousand pounds 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 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 has been paid on account thereof, before or at the time of the issue or acceptance thereof, and that such additional 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.

Priority of principal moneys secured by existing mortgages.

18. The principal moneys secured by 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, have priority over the principal moneys secured by any mortgages granted by virtue of this Act.

Appointment of a receiver.

19. Section 26 of the Act of 1879, relating to the appointment of a receiver is hereby repealed, but without prejudice to any appointment heretofore made or any proceedings now pending. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest due on their respective mortgages by the appointment of a receiver, and 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 two thousand pounds in the whole.

Power to create and issue debenture stock.

20. 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 after the passing of this Act created and issued or granted by the Company under any previous Act or this Act 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 Acts 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.

21. All moneys raised under this Act, whether by shares, debenture stock or borrowing, shall be applied only for the purposes of this Act and the recited Acts to which capital is properly applicable.

Interest not to be paid on calls paid up.

22. 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 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

A.D. 1883.

the amount of calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

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

23. The Company shall not, out of any money by this Act authorised to be raised, pay or deposit any sum of money which by any Standing Order of either House of Parliament now in force, or hereafter to be 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 execute any other work or undertaking.

Provision as to general Railway Acts.

24. Nothing in this Act contained shall be deemed or construed to exempt the Company, or the Railways of the Company, from the provisions of any general Act relating to railways, or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or the rates for small parcels authorised to be charged by the Company.

Expenses of Act.

25. 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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