CHAPTER xci.

An Act for enabling the Swindon, Marlborough, and Andover Railway Company to construct new or deviation Lines of Railway; to abandon certain portions of their authorised Railway; and for other purposes. [3d July 1879.]

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WHEREAS the Swindon, Marlborough, and Andover Railway Company were incorporated by the Swindon, Marlborough, and Andover Railway Act, 1873, with power to make and maintain certain railways therein described in the counties of Wilts and Hants: 36 & 37 Vict. c. cxciv.

And whereas the said railways are in the course of construction, and by the Swindon, Marlborough, and Andover Railway Act, 1878, the time for their completion was extended to the twenty-first day of July one thousand eight hundred and eighty-one: 41 & 42 Vict c. xiii.

And whereas it is expedient that the Company should be authorised to construct the new or deviation lines of railway herein-after described, and to abandon the portions of their authorised railway which will be rendered unnecessary by the construction of such new or deviation lines of railway:

And whereas the cost of making the new or deviation railways will be less than the estimated cost of the portions of railway authorised by this Act to be abandoned:

And whereas it is expedient that the Company should be empowered to borrow by instalments, as herein-after provided, the amount authorised by the Act of 1873 to be borrowed:

And whereas plans and sections of the new or deviation railways showing the lines and levels thereof, and also books 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

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for the county of Wilts, and are herein-after respectively referred to as the deposited plans, sections, and books of reference:

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 Swindon, Marlborough, and Andover Railway Act, 1879.

Incorporation of general Acts.
8 & 9 Vict. c. 20.
8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.
26 & 27 Vict. c. 92.

2. The Railways Clauses Consolidation Act, 1845, the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, and Part I. (relating to construction of a railway) of the Railways Clauses Act, 1863, 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 "the Company" means the Swindon, Marlborough, and Andover Railway Company; the expression "the Act of 1873" means the Swindon, Marlborough, and Andover Railway Act, 1873; the expression "the Act of 1878" means the Swindon, Marlborough, and Andover Railway Act, 1878; the expression "the railways" means the railways by this Act authorised; 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 common 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 line 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 herein-before referred to and authorised by this Act are—

(1.) A deviation railway, five miles five furlongs and six chains in length, commencing in the parish of Swindon by a junction with the Great Western Railway at a point twenty yards or thereabouts, measuring in a westerly direction along that railway, from the centre of the bridge carrying that railway over the turnpike road leading from Swindon to Wootton Basset, and terminating in the parish of Chiseldon at a point marked five miles two furlongs on the plans of Railway No. 1 authorised by the Act of 1873, deposited with the clerk of the peace for the county of Wilts with reference to that Act:

(2.) A deviation railway, two miles two furlongs and nine chains in length, commencing in the parish of Ogbourne Saint Andrew at a point marked and measured ten miles three furlongs and five chains on the plans of the Railway No. 1 authorised by the Act of 1873, and deposited with the clerk of the peace for the county of Wilts with reference to that Act, and terminating in the parish of Preshute by a junction with the Marlborough Railway at a point eighty yards or thereabouts, measured in an easterly direction along that railway, from the eastern end of the goods shed at the Marlborough Station of that railway.

Not to take lands of or interfere with the Great Western and Marlborough Railways except for the purposes of junctions.

5. Notwithstanding anything in this Act contained, it shall not be lawful for the Company, nor for any person acting under or in the execution of this Act, to enter upon, occupy, or use, either permanently or temporarily, any of the lands, works, or property of the Great Western Railway Company or of the Marlborough Railway Company, or in any manner to alter, vary, or interfere with the Great Western Railway or the Marlborough Railway, or any of the works connected with those railways respectively, without the consent of the Great Western Railway Company under their common seal, and so far as respects the Marlborough Railway, without also the consent of the Marlborough Railway Company under their common seal, save only for the purpose of effecting the junctions by this Act authorised with the aforesaid railways respectively; and the Great Western Railway Company may at any time or times hereafter, should it be necessary for them to do so, at their own expense, alter or remove either of such junctions, and substitute a new junction or junctions, as the case may be, therefor, but so as such alteration or removal or substituted junction or junctions shall not stop the traffic of the railway by this Act authorised, or unnecessarily interfere therewith, or cause

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increased expense to the Company in the working or maintenance of the junction or junctions or the substituted junction or junctions, as the case may be, or the signals, works, and conveniences connected therewith.

Period for compulsory purchase of lands.

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

Period for completion of works.

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

Parts of authorised railway and works to be abandoned.

8. The Company shall abandon the making of the following portions of their railway and works authorised by the Act of 1873; (that is to say,)

(A.) So much of the Railway No. 1 authorised by the Act of 1873 as lies between the authorised junction of that railway with the Great Western Railway, at or near the Swindon Station, and a point in the parish of Chiseldon marked five miles two furlongs on the plans of the said Railway No. 1, deposited with the clerk of the peace for the county of Wilts with reference to the Act of 1873, all in the county of Wilts;

(B.) So much of the Railway No. 1 authorised by the Act of 1873 as lies between a point in the parish of Ogbourne Saint Andrew marked and measured ten miles three furlongs and five chains on the plans of that railway, deposited as aforesaid, and the termination of that railway in the parish of Preshute in the county of Wilts;

and on and after the passing of this Act the Company shall, except only as is by this Act otherwise expressly provided, be absolutely freed from all obligation with respect to the making and maintaining of the said portions of their railway.

Compensation for damage to land by entry, &c.

9. The abandonment by the Company, under the authority of this Act, of any portion of any railway or works 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 1873.

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

10. Where before the passing of this Act any contract may have been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to any portions of the railway or works authorised to be abandoned by this Act, and which shall not be required for the purposes of any of the works by this Act authorised, 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 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 the 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.

New lines of railway to be part of the Company's undertaking.

11. Subject to the provisions herein contained, the lands and property from time to time acquired by the Company by virtue of this Act, and the railways and works connected therewith by this Act authorised to be constructed, shall for all purposes of tolls, rates, and charges, for the carriage of animals, goods, and minerals, and for all other purposes whatsoever, be part of the undertaking, railway, works, and property of the Company, as if the Company had by the Act of 1873 been authorised to acquire, make, and maintain the same.

Providing for completion of railway.

12. 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, the sum of eighteen thousand nine hundred and thirty-three pounds six shillings and tenpence three pounds per centum consolidated Bank annuities is now standing in the name of the Paymaster General on behalf of the Chancery Division of the High Court of Justice in England in respect of the application to Parliament for the Act of 1873, and by that Act it was provided that, notwithstanding anything contained in the said Act, the said stock so transferred as aforesaid in respect of the application for the Act of 1873 should not be paid or transferred to

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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 (herein-after called "the depositors"), unless the Company should, previously to the expiration of the period limited by the Act of 1873 for completion of the railway by that Act authorised, either have opened such railway for the public conveyance of passengers, or had paid up and expended one half of the amount of the share capital by that Act authorised: And whereas the railways authorised by this Act are in substitution for portions of the railways authorised by the Act of 1873, and by this Act authorised to be abandoned: Be it therefore enacted, that, notwithstanding anything contained in the said Act of the ninth year of the reign of Her present Majesty, chapter twenty, if the period limited by the Act of 1878 and by this Act shall expire before the Company shall either have opened the portions of the railways authorised by the Act of 1873, and not by this Act authorised to be abandoned, and the railways hereby authorised for the public conveyance of passengers, or have given proof to the satisfaction of the Board of Trade that the Company have paid up one half of the amount of the capital they are authorised to raise by means of shares, and have expended for the purposes of their Acts a sum equal in amount to one half of such capital, the said stock transferred as aforesaid shall be applied in the manner herein-after specified; and the certificate of the Board of Trade that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the first above-mentioned Act to the contrary notwithstanding.

Application of deposit.

13. The said sum of eighteen thousand nine hundred and thirty-three pounds six shillings and tenpence stock shall be applicable, and after due notice in the London Gazette shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the 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 the Act of 1873 and 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 High Court of Justice, Chancery Division, may seem fit; and if no such compensation shall be payable, or if a portion of

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the said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said stock, 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 said Court thinks fit to order on the application of the Solicitor of Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the said 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 said stock has been re-transferred 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 person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivors or survivor of them.

Power to borrow by instalments.

14. Section 14 of the Act of 1873 shall be and is hereby repealed, and the Company may, in respect of the capital of three hundred and seventy-five thousand pounds which they are by that Act authorised to raise, from time to time borrow on mortgage any sum not exceeding in the whole one hundred and twenty-five thousand pounds in manner following, (that is to say,) in respect of every sum of seventy-five thousand pounds of such capital of three hundred and seventy-five thousand pounds any sum not exceeding in the whole twenty-five thousand pounds; but no part of any such several sums of twenty-five thousand pounds shall be borrowed until shares for so much of the respective portion of capital in respect of which it is authorised to be borrowed as is to be raised by means of shares are issued and accepted, and one half thereof is paid up, and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that shares for the whole of such respective portion of capital have been issued and accepted, and that one half thereof has been paid up, and that not less than one-fifth part of the amount of each separate share in such respective portion of capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and until stock for one half of such respective portion of capital as is to be raised by means of stock is fully paid up, and the Company have proved to such justice as aforesaid, before he so certifies, that such shares or stock, as the

8 & 9 Vict. c. 16.

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case may be, were issued and accepted and paid up bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, or assigns, and also if the said capital is raised by shares, that such persons or corporations, or their executors, administrators, or assigns, are legally liable for the same. 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.

Interest not to be paid on calls paid up.

15. The Company shall not, out of any money by this Act authorised to be raised, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him; but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act, 1845.

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

16. The Company shall not, out of any money which they are by any Act authorised to raise, 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.

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

17. Nothing in this Act contained shall exempt the Company or the railways 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 taken by the Company.

Expenses of Act.

18. All the 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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