CHAPTER lvii.

An Act to enable the West Lancashire Railway Company to purchase certain lands in the county of Lancaster and a branch railway or siding known as the Tarleton Branch Railway to raise further moneys and to confer further powers in relation to their undertaking on the Company and for other purposes. [3rd June 1881.]

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WHEREAS by the West Lancashire Railway Act 1871 (in this Act called "the Act of 1871") the West Lancashire Railway Company (in this Act called "the Company") were incorporated and authorised to raise a capital of one hundred and fifty-five thousand pounds in shares and to borrow not exceeding fifty-one thousand six hundred and sixty-six pounds and to make and maintain the West Lancashire Railway (in this Act called "the original line") being a railway from Southport to Preston in the county of Lancaster: 34 & 35 Vict. c. cc.

And whereas by the West Lancashire Railway Act 1872 (in this Act called "the Act of 1872") the Company were authorised to construct additional lines of railway (in this Act called "the additional lines") to connect the original line with the Lancashire and Yorkshire Railway and to raise additional share capital not exceeding forty-five thousand pounds and to borrow further sums not exceeding fifteen thousand pounds and to run over and use the Lancashire and Yorkshire Railway between the junction therewith of the Railway No. 3 authorised by the Act of 1872 and the station at Blackburn in the county of Lancaster belonging to the Lancashire and Yorkshire Railway Company including that station: 35 & 36 Vict. c. clxxxiii.

And whereas by the West Lancashire Railway Act 1873 (in this Act called "the Act of 1873") the Company were authorised to raise further capital for the purpose of doubling the original line and the additional lines and for the general purposes of their undertaking: 36 & 37 Vict. c. cxxvii.

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38 & 39 Vict. c. clxxxii.

And whereas by the West Lancashire Railway Act 1875 (in this Act called "the Act of 1875") the respective periods limited by the Act of 1871 and the Act of 1872 for the completion of the original line and additional lines therein mentioned were extended to the fourteenth day of August one thousand eight hundred and seventy-nine and the sixth day of August one thousand eight hundred and eighty respectively the Act of 1873 was repealed and the Company were authorised to raise the sum of one hundred and eighty-seven thousand five hundred pounds by shares and sixty-two thousand five hundred pounds by borrowing:

41 & 42 Vict. c. xxxi.

And whereas by the West Lancashire Railway (Steam Vessels) Act 1878 (in this Act called "the Act of 1878") the Company were authorised to provide and work steam and other vessels between the ports and places therein mentioned and to raise a further sum of one hundred thousand pounds by shares and thirty-three thousand three hundred pounds by loans for that purpose:

42 & 43 Vict. c. cix.

And whereas by the West Lancashire Railway Act 1879 (in this Act called the Act of 1879) the respective periods for the completion of the original line and additional lines were further extended to the fourteenth day of August one thousand eight hundred and eighty-two and the sixth day of August one thousand eight hundred and eighty-three respectively and the fourth section of the Act of 1875 (extending the time for completing the original line and the additional lines) was repealed:

And whereas it is expedient that the Company should be authorised to acquire additional lands for the purpose of extending their station siding warehouse and other accommodation and to purchase the branch railway or siding known as the Tarleton Branch Railway:

And whereas it is expedient that the Company be authorised to raise further moneys for the purposes of this Act and of their undertaking and to apply their existing capital to those purposes as herein-after provided:

And whereas it is expedient that the Acts relating to the Company should be amended as by this Act provided:

And whereas plans showing the lands required or which may be taken for the purposes or under the powers of this Act and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited with the clerk of the peace for the county of Lancaster and are herein-after respectively referred to as the deposited plans 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 West Lancashire Railway Act 1881.

Incorporation of general Acts. 8 & 9 Vict. c. 16.

2. The clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (that is to say):

The distribution of the capital of the Company into shares;
The transfer or transmission of shares;
The payment of subscriptions and the means of enforcing the payment of calls;
The forfeiture of shares for nonpayment of calls;
The remedies of creditors of the Company against the shareholders;
The borrowing of money by the Company on mortgage or bond;
The conversion of borrowed money into capital;
The consolidation of shares into stock;
The making of dividends;
The giving of notices; and
The provision to be made for affording access to the special Act by all parties interested;

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; 26 & 27 Vict. c. 118. 32 & 33 Vict. c. 48.

The Lands Clauses Consolidation Acts 1845 1860 and 1869; 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106.

The Railways Clauses Consolidation Act 1845; 32 & 33 Vict. c. 18. 8 & 9 Vict. c. 20.

are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction the expression "the Company" means the "West Lancashire Railway Company" and for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or in 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.

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Power to acquire Tarleton Branch Railway.

4. The Company may acquire by compulsion or by agreement and may hold as part of their undertaking the railway following and all and every estate or interest in the lands on which the same is constructed and all stations sidings works and conveniences connected therewith (that is to say):

The railway 1 mile 7.25 chains or thereabouts in length in the parishes and townships of Hesketh-with-Becconsall and Tarleton in the county of Lancaster known as the Tarleton Branch Railway extending from a siding of the West Lancashire Railway in the said parish and township of Hesketh-with-Becconsall at a point in line with the southern fence of the said West Lancashire Railway and ten yards or thereabouts in a southerly direction from the western end of the southern platform of the River Douglas Station of that railway to a point on the westerly bank of the Leeds and Liverpool Canal in the said parish and township of Tarleton such point being two hundred and eighty yards or thereabouts measured in a southerly direction along the said bank from the house occupied by the lock-keeper at Tarleton lock on the said canal.

And the said railway and works respectively when so acquired by the Company shall for the purposes of tolls and charges and for all other purposes whatever be part of the undertaking of the Company as if the same had been part of the railways authorised by the Act of 1871.

Protection of Lord Lilford.

5. The following provisions for the protection and benefit of Thomas Littleton Baron Lilford his heirs and assigns (herein-after referred to as Baron Lilford) shall have effect:

The Company shall for ever hereafter maintain in good repair and to the height as at present the embankment of so much of the River Douglas bordering on and adjoining the land belonging or reputed to belong to Baron Lilford situate between a point 2 furlongs 2 chains and 70 links or thereabouts from the junction of the Tarleton Branch Railway with the West Lancashire Railway and the Leeds and Liverpool Canal in the parish of Tarleton in the county of Lancaster:

Provided always that the engineers surveyors workmen and others of the Company shall have at all times hereafter full and free access to through and over so much of the land belonging or reputed to belong to Baron Lilford situate as aforesaid as lies between the River Douglas and the land to be acquired of Baron Lilford by the Company under the powers of this Act to enable the Company to maintain and repair the said embankment as herein-before provided the Company doing thereby no damage that can be avoided to the

property of Baron Lilford and forthwith compensating him or his tenants for all damage (if any) from time to time so occasioned.

Power to acquire additional lands, &c.

6. Subject to the provisions of this Act and in addition to any other lands houses and buildings which the Company are or have been authorised to acquire the Company may from time to time enter upon take use and appropriate to the purposes of extending the station siding warehouse coal wharf depôt mineral goods and other accommodation of the Company and for other purposes connected with their undertaking the lands houses and buildings herein-after described or referred to and may in connexion with such use and appropriation execute the works and exercise the powers herein-after mentioned (that is to say):

Certain lands houses and buildings situate in the township and parish of North Meols and borough of Southport in the county of Lancaster being the coal yard and sidings weigh-bridge and offices of the Wigan Coal and Iron Company Limited situate near to the junction of Derby Road and Kensington Road together with the site of the private road leading thereto from Kensington Road.

Certain lands houses and buildings situate in the township and parish of North Meols and borough of Southport aforesaid being respectively Numbers 2 and 2A Kensington Road and Numbers 29 (otherwise Crawford House) 31 33 35 and 37 Derby Road.

Protection of the Wigan Company.

7. The following provisions for the protection and benefit of the Wigan Coal and Iron Company Limited (in this section called the Wigan Company) shall have effect:

1. The Company shall not without the consent in writing of the Wigan Company enter upon take or use any land belonging to the Wigan Company except the strip of land coloured red on the plan signed by Thomas Gilbert on behalf of the Company and Alfred Hewlett on behalf of the Wigan Company:
2. The Company shall at their own expense make and complete to the reasonable satisfaction of the Wigan Company a road of the length width and in the situation shown on the said plan and coloured yellow and the Company shall not enter upon take or use the strip of land referred to in the last preceding sub-section until they have made and completed such road.
3. The Company shall construct a suitable siding from their railway to the boundary of the Wigan Company's lands shown upon the said plan and at such point within the limits A and B marked on the said plan as the Wigan

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Company shall require but so that the siding be within the limits of deviation shown on the deposited plans and the Wigan Company shall have the free use of such siding and access to the Company's railway for their coal lime slag and other mineral traffic.

4. The Company shall pay to the Wigan Company such price and compensation as shall be agreed upon between the two companies or failing agreement shall be determined by arbitration under the provisions of the Lands Clauses Consolidation Act 1845 as well for the land coloured red and yellow on the said plan as for all damage that the Wigan Company may sustain by depreciation in value of their house adjoining or near to the site of the proposed road described in sub-section 2 the compensation in the latter case to include loss of amenities (if any) and the Company shall under their statutory powers make all necessary arrangements with the lessors of the said lands for carrying out the provisions of this section.

Power to apply corporate funds to purposes of Act.

8. The Company may apply for the purposes of this Act any moneys which by any previous Act or Acts they are authorised to raise by shares or by borrowing and which may not be required for the special purpose (if any) for which the same were authorised to be raised.

Power to raise additional capital.

9. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 from time to time raise any additional capital not exceeding two hundred thousand pounds in the whole by the creation and issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by any one or more of those modes respectively but the Company shall not issue any share of less nominal value than ten pounds nor shall any share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

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

10. Except as by this Act otherwise provided the additional capital under this Act and the new shares or stock 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 authorised capital of the Company of the same class or description and the new shares or stock were shares or stock in that capital.

Dividends on new shares or stock.

11. Every person who becomes entitled to new shares or stock in the additional capital under this Act shall in respect of the same be a holder of shares or stock in the capital of the Company and

shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares or to the whole amount of such stock as the case may be.

Restriction as to votes in respect of preferential shares or stock.

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

Power to divide shares.

13. Subject to the provisions of this Act the Company with the authority of three-fourths of the votes of the shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose may from time to time divide any share in their additional capital into half-shares of which one shall be called "preferred half-share" and the other shall be called "deferred half-share" but the Company shall not so divide any share under the authority of this Act unless and until not less than sixty per centum upon such share has been paid up and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half-share (being the whole amount payable thereon) and the residue to the credit of the preferred half-share.

Dividends on half-shares.

14. The dividend which would from time to time be payable on any divided share if the same had continued an entire share shall be applied in payment of dividends on the two half-shares in manner following (that is to say) first in payment of dividend after such rate not exceeding six per centum per annum as shall be determined once for all at a general meeting of the Company specially convened for the purpose on the amount for the time being paid up on the preferred half-share and the remainder (if any) in payment of dividend on the deferred half-share and the Company shall not pay any greater amount of dividend on the two half-shares than would have from time to time been payable on the entire share if the same had not been divided.

Dividend on preferred half-shares to be paid out of the profits of the year only.

15. Each preferred half-share shall be entitled out of the profits of each year to the dividend which may have been attached to it by the Company as aforesaid in priority to the deferred half-share bearing the same number but if in any year ending the thirty-first day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half-share for that year no part of the deficiency shall be made good out of the profits of any subsequent year or out of any other funds of the Company.

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Half-shares to be registered and certificates issued.

16. Forthwith after the creation of any half-shares the same shall be registered by the directors and each half-share shall bear the same number as the number of the entire share certificate in respect of which it was issued and the directors shall issue certificates of the half-shares accordingly and shall cause an entry to be made in the register of the entire shares of the conversion thereof but the directors shall not be bound to issue a certificate of any half-share until the certificate of the existing entire share be delivered to them to be cancelled unless it be shown to their satisfaction that such certificate is destroyed or lost and on any certificate being so delivered up the directors shall cancel it.

Terms of issue to be stated on certificates.

17. The terms and conditions on which any preferred half-share or deferred half-share created under this Act is issued shall be stated on the certificate of each such half-share.

Forfeiture of preferred half-shares.

18. The provisions of the Companies Clauses Consolidation Act 1845 with respect to the forfeiture of shares for nonpayment of calls shall apply to all preferred half-shares created under the authority of this Act and every such preferred half-share shall for that purpose be considered an entire share distinct from the corresponding deferred half-share and until any forfeited preferred half-share shall be sold by the directors all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards payment of any expenses attending the declaration of forfeiture thereof and of the arrears of calls for the time being due thereon with interest.

Preferred half-shares not to be cancelled, &c.

19. No preferred half-share created under the authority of this Act shall be cancelled or be surrendered to the Company.

Half-shares to be half-shares in capital.

20. The several half-shares under this Act shall be half-shares in the capital of the Company and every two half-shares (whether preferred or deferred or one of each) held by the same person shall confer such right of voting at meetings of the Company and (subject to the provisions herein-before contained) shall confer and have all such other rights qualifications privileges liabilities and incidents as attach and are incident to an entire share.

Power to borrow.

21. The Company may in respect of the additional capital of two hundred thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage any sum not exceeding in the whole sixty-six thousand six hundred and sixty pounds but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted and one half of such capital 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 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 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 so much of such additional 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 case may be were issued and accepted bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also if the said capital is raised by shares 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 existing mortgages.

22. 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 and subject to the provisions of the Acts under which such mortgages were respectively granted have priority over any mortgages granted by virtue of this Act but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Repeal of certain provisions of 41 & 42 Vict. c. xxxi.

23. The provisions of the Act of 1878 as to the appointment of a receiver are hereby repealed but without prejudice to any appointment heretofore made or proceedings now pending thereunder.

Appointment of a receiver.

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

Debenture stock.

25. 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 at any time after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company and shall have priority over all principal moneys secured by such mortgages.

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Application of moneys.

26. Subject to the provisions of this Act all moneys raised under this Act whether by shares stock debenture stock or borrowing shall be applied for the purposes of this Act only.

Period for compulsory purchase of lands.

27. 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.

Interest not to be paid on calls paid up.

28. The Company shall not out of any money by this Act authorised to be raised pay interest or dividends 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 capital.

29. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum which by any standing order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an act authorising the Company to construct any other railway or to execute any other work or undertaking.

Provision as to general railway Acts.

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

Saving for Leeds and Liverpool Canal Company.

31. Except as is by this Act otherwise expressly provided nothing in this Act contained shall take away lessen prejudice alter or affect any of the rights privileges property powers or authorities of the Company of Proprietors of the Canal Navigation from Leeds to Liverpool.

Expenses of Act.

32. 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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