CHAP. xxviii.

An Act to confer further powers on the Wolverhampton and Walsall Railway Company. [20th June 1870.] A.D. 1870.

WHEREAS the Wolverhampton and Walsall Railway Company (who are herein-after referred to as the Company) were incorporated by an Act passed in the year 1865, and by Acts passed in the years 1866, 1867, and 1868 further powers were granted to the said Company, and by virtue of those powers they have already raised and expended in the purchase of land and in the construction of their railway between Wolverhampton and Walsall a sum exceeding one hundred and forty thousand pounds, and nearly the whole of the lands necessary for the said railway have been purchased, and great progress has been made towards the completion of the railway: 28 & 29 Vict. c. clxxxi. 29 & 30 Vict. c. cclxxvi. 30 & 31 Vict. c. clxxx. 31 & 32 Vict. c. cxvi.

And whereas the said Company are authorised to raise by shares a capital of one hundred and ninety-five thousand pounds, and they are authorised to borrow on mortgage of their undertaking sixty-four thousand nine hundred pounds; and they have in fact raised by shares one hundred and twenty thousand pounds, and by loan thirty-two thousand one hundred pounds:

And whereas it is expedient—

(1.) That the time granted to the Company for the purchase of the lands herein-after described should be revived;

(2.) And that the time limited for the completion of the railways and works which the Company are authorised to construct should be extended;

(3.) And that the works which they are authorised to make at and near the junction of their undertaking with the London and North-western Railway in the parish of Wolverhampton should be varied;

(4.) And that they should be authorised to purchase additional lands for the purpose of their station in Willenhall in Staffordshire;

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(5.) And that they should be enabled to raise additional capital, and to attach a preference to a certain portion of the capital which they are already authorised to raise:

And whereas plans and sections showing the lines and levels of the works authorised by this Act, and the lands intended to be taken under the powers thereof, and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for any of the purposes aforesaid, have been deposited with the clerk of the peace for Staffordshire, and are herein-after respectively referred to as the deposited plans, sections, and books of reference:

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

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

Short title.

1. This Act may be cited for all purposes as "The Wolverhampton and Walsall Railway Act, 1870."

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

2. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation Act, 1845," and Part I. of "The Railways Clauses Act, 1863," (relating to construction of a railway,) and the clauses and provisions of "The Companies Clauses Consolidation Act, 1845,"

With respect to the distribution of the capital of the Company into shares;

With respect to the transfer or transmission of shares;

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

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

With respect to the remedies of the creditors of the Company against 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; and

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

And also Parts I., II., and III. of "The Companies Clauses Act, 1863," relating respectively to the cancellation and surrender of shares, to additional capital, and to debenture stock, as amended by "The Companies Clauses Act, 1869,"

Are (except when expressly varied by this Act) incorporated with and form part of this Act.

Same meanings to words, &c. in incorporated Acts as in this Act. Interpretation of terms.

3. In this Act the several words and expressions to which by the Acts wholly or partially incorporated with this Act meanings are assigned have the same respective meanings, unless there be in the subject or context something repugnant to such construction; the words "the Company" mean the Wolverhampton and Walsall Railway Company, and the expression "superior courts," or "court of competent jurisdiction," or other like expression in this Act or any Act incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt, and not a debt or demand created by statute.

Power to execute works.

4. Subject to the provisions of this Act and of the Acts wholly or partially incorporated herewith, the Company may exercise the following powers; that is to say,

They may, in the line and according to the levels shown on the deposited plans and sections, execute the following works, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for those purposes;

They may divert and alter the radius of the junction curve with the London and North-western Railway on the line of railway (No. 1.) authorised by the 4th section of "The Wolverhampton and Walsall Railway Act, 1866," and intended to be constructed in the parish of Wolverhampton in Staffordshire:

They may reduce the height and span of the arch intended to be constructed over a tramway described on the deposited sections referred to in "The Wolverhampton and Walsall Railway Act, 1866," as lying near the junction marked A. in the parish of Wolverhampton, and described in the deposited sections in this Act before referred to as a "siding," so that the span of the said arch be not less than fourteen feet, and that the height thereof be not less than fourteen feet:

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They may purchase, by compulsion or agreement, a piece of land in the parish of Willenhall in Staffordshire (shown on the deposited plans) for the purposes of station accommodation.

All the said lands and proposed works are in Staffordshire.

As to execution of the railway No. 1. on land of Great Western Railway Company.

5. In constructing the diversion and alteration of the radius of the junction curve with the London and North-western Railway above described through or over the land and property of the Great Western Railway Company the Company shall not deviate more than ten yards from the centre line shown on the deposited plans without the previous consent in writing of the Great Western Railway Company under their common seal, and the said diversion and alteration of the radius of the said junction curve, where the same is intended to cross the railway of the Great Western Railway Company in the parish of Wolverhampton, shall, subject to the powers of deviation aforesaid, be carried over the said railway and the works thereof in the manner shown upon and according to a plan and section of the said diversion and alteration which has been signed and approved of by William George Owen, principal engineer of the Great Western Railway Company, and the said diversion and alteration shall be constructed and maintained in such a manner as not to injuriously interfere with or in any way obstruct the traffic on the said railway of the Great Western Railway Company.

Clauses 41 and 43 to 49 inclusive of 29 & 30 Vict. c. cclxxvi. incorporated with this Act.

6. Subject to the special provisions aforesaid, clauses 41 and 43 to 49 inclusive of the Wolverhampton and Walsall Railway Act of 1866, respecting the junction with the London and North-western Railway authorised by that Act, are incorporated with and form part of this Act, and shall in all respects to the full extent and meaning thereof be applicable to the diversion and alteration of the said junction authorised by this Act.

Saving rights of Birmingham Canal Company.

7. Nothing in this Act contained shall prejudice, diminish, alter, or take away any of the rights, privileges, powers, or authorities of or belonging to or vested in the Company of proprietors of the Birmingham Canal Navigations, or prejudice, vary, or in any way affect any enactments for the protection of that company contained in the herein-before mentioned Acts passed in the years 1865, 1866, 1867, and 1868 respectively, or any of them, except in so far only as such enactments have been varied or modified by agreements between the Company and the Company of proprietors of the Birmingham Canal Navigations, and nothing in this Act contained shall prejudice, alter, or affect any such agreements.

Company may apply their funds towards purposes of Act, and may raise additional capital.

8. It shall be lawful for the Company to apply towards the purposes of this Act any of the moneys which they are already authorised to raise, and which may not be required by them for the purposes for which the same were authorised to be raised, and the Company may for the same purposes, and also for the general purposes of their undertaking, from time to time raise, in addition to the sums of money which they are already authorised to raise, any further sums not exceeding in the whole seventy thousand pounds, by the creation of new shares or stock in their undertaking, which shares or stock shall form part of the general capital of the Company, and the Company may attach to such new shares any preferential dividend not exceeding six per centum per annum.

Shares not to issue until one fifth part paid up.

9. 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.

As to votes of proprietors of such shares.

10. The proprietors of any shares to be issued under the authority of this Act shall be entitled to such number of votes in respect thereof as the nominal amount represented by such shares would have entitled them to if the same had been original shares of the Company.

If ordinary shares or stock not at a premium, shares or stock to which preference assigned to be offered to existing ordinary shareholders.

11. Notwithstanding any of the provisions herein-before or in Part 2. of "The Companies Clauses Act, 1863," contained, relating to additional capital, if at the time of the issue of any shares to which any preference may be attached or assigned by virtue of this Act the ordinary shares or ordinary stock of the Company are or is not at a premium, then such shares shall be offered to the then respective holders of the ordinary shares or ordinary stock of the Company in proportion as nearly as convenient as may be to the ordinary shares or ordinary stock held by them respectively, and, save as is in this enactment otherwise provided, the provisions contained in Part 2. of "The Companies Clauses Act, 1863," relating to additional capital, shall, where applicable, apply to any such shares to which any preference may be so attached or assigned.

Power to borrow on mortgage.

12. The Company may from time to time, under the powers of this Act, borrow any additional sum of money, not exceeding twenty-thousand one hundred pounds, by mortgage of their undertaking, but no part of that sum shall be borrowed until the whole of the additional capital by this Act authorised to be raised by new shares is subscribed for, issued, and accepted, and one half

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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 all such additional capital have been subscribed for, issued, and accepted, and that one half of such additional capital 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 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.

Existing mortgages to have priority.

13. Provided always, that all mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and which shall be subsisting at the time of the passing thereof, shall during the continuance of such mortgages have priority over any mortgages to be granted by virtue of this Act.

Application of sums raised under this Act.

14. All and every part of the sums of money which the Company are by this Act authorised to raise by new shares or on mortgage shall be applied only to the purposes of the railways, roads, and works authorised by this Act and by the Wolverhampton and Walsall Railway Acts, 1865, 1866, and 1867.

Preference may be attached to existing capital.

15. The Company may attach to any shares which they are already authorised to create, but which have not been already issued, any preferential dividend or other advantage, provided that such preferential dividend shall not exceed the rate of six per centum per annum; and the provisions contained in "The Companies Clauses Act, 1863," with relation to preference shares or stock, shall apply to any preference assigned by virtue of this Act, as though the shares to which that preference may be assigned formed part of "additional capital," instead of forming part of the capital which the Company are already authorised to issue.

Powers for compulsory purchases limited.

16. 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 one year from the passing of this Act.

Period for completion of works.

17. If the works hereby authorised shall not be completed within two years from the passing of this Act, then on the expiration of such period the powers by this Act granted to the Company for executing the said works or otherwise in relation thereto shall

cease to be exercised, except as to so much thereof as shall then be completed.

Extending time for purchase of certain lands.

18. The powers of the Company for the purchase or taking of the lands shown on the deposited plans in the parish of Walsall Foreign and in the parish of Rushall are hereby extended until the first day of August one thousand eight hundred and seventy-one.

Extending time for completion of railways.

19. The time granted by the several Acts relating to the Company, and bearing its name, passed in the years 1865, 1866, 1867, and 1868, for constructing and completing the works by those Acts respectively authorised, shall be respectively extended until the first day of December one thousand eight hundred and seventy-two.

Penalty if railway is not made within extended time.

20. If the Company fail within the period limited by this Act to complete the railways authorised by the said Acts, the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the said railways are completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the works; and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act, and in the same manner as the penalty provided in the third section of the Act seventeenth and eighteenth Victoria, chapter thirty-one, known as "The Railway and Canal Traffic Act, 1854;" and every sum of money recovered by way of such penalty as aforesaid shall be paid, under the warrant or order of such court or judge as is specified in the said third section of the Act seventeenth and eighteenth Victoria, chapter thirty-one, to an account opened or to be opened in the name and with the privity of the Accountant General of the Court of Chancery in England, in the bank named in such order, and shall not be paid thereout except as herein-after provided; but no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company was prevented from completing or opening such line by unforeseen accident or circumstances beyond their control; provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Application of moneys.

21. Every sum of money so recovered by way of penalty as aforesaid shall be applicable, and after due notice in the "London Gazette" shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction,

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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, and for which injury or loss no compensation or inadequate compensation shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Chancery in England may seem fit, and if no such compensation shall be payable, or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum or sums of money recovered by way of penalty, or such portion thereof as may not be required as aforesaid, shall be paid to the company from whom such penalty was recovered.

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 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 in the capital by this Act authorised to be raised: Provided always, that this Act shall not prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with "The Companies Clauses Consolidation Act, 1845."

Deposit for future bills not to be paid out of capital raised under this Act.

23. 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.

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

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

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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