CHAPTER cix.

An Act to enable the Wolverhampton, Walsall, and Midland Junction Railway Company to make an additional Junction with the Midland Railway near Water Orton, and for other purposes relating to that Company. [7th July 1873.] A.D. 1873.

WHEREAS by "The Wolverhampton, Walsall, and Midland Junction Railway Act, 1872," the Wolverhampton, Walsall, and Midland Junction Railway Company (who are herein-after referred to as "the Company") were incorporated and authorised to construct the railways therein mentioned to connect the Wolverhampton and Walsall Railway with the Midland Railway near Water Orton in the county of Warwick and with the South Staffordshire Railway in the neighbourhood of Walsall in Staffordshire: 35 & 36 Vict. c. clxxxii.

And whereas the construction of the railway herein-after described would conduce to public and local convenience, and the Company are willing at their own expense to construct the same railway:

And whereas plans and sections showing the lines and levels of the railway authorised by this Act and of the lands in or through which the same is to be made and maintained, 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 the purposes or under the powers of this Act, were duly deposited with the clerk of the peace for the county of Warwick, and are herein-after respectively referred to as the deposited plans, sections, and book 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,

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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 Wolverhampton, Walsall, and Midland Junction Railway Company's Act, 1873."

Provisions of general Acts herein named incorporated.

2. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869:"

"The Railways Clauses Consolidation Act, 1845:"

Part I. of "The Railways Clauses Act, 1863," (relating to "construction of a railway"):

The clauses and provisions of "The Companies Clauses Consolidation Act, 1845,"

With respect to the following matters:

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

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

The forfeiture of shares for nonpayment of calls;

The remedies of the creditors of the Company against shareholders;

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

The conversion of the borrowed money into capital;

The consolidation of shares into stock;

The giving of notices; and

The provision 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;

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

Interpretation of terms.

Same meaning to words in this Act as in incorporated Acts, &c.

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 railway" means the railway by this Act authorised; and the expression "superior courts" or "courts of competent jurisdiction," or other like expressions 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. 1873.

Power to execute works according to deposited plans.

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 railway 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 book of reference as may be required for that purpose. The railway herein-before referred to and authorised by this Act is—

A railway, five furlongs one chain and twenty links in length, commencing by a junction with the authorised line of the Wolverhampton, Walsall, and Midland Junction Railway in a piece of land or field numbered on the plans deposited for that undertaking 37 in the parish of Curdworth, and terminating by a junction with the Tame Valley branch of the Midland Railway in the parish of Curdworth aforesaid or Aston-juxta-Birmingham, or one of them, about seven hundred and ninety yards, measured in a westerly direction, from the centre of the bridge which carries the said railway over the Fordrift from Park Hall to Park Lane. The said railway will be wholly within the county of Warwick.

Lands for extraordinary purposes.

5. The quantity of land to be taken by the Company by agreement under the powers of this Act for the extraordinary purposes mentioned in "The Railways Clauses Consolidation Act, 1845," shall not exceed one acre.

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 expiration of two years from the passing of this Act.

Power to take easements, &c. by agreement.

7. Persons empowered by "The Lands Clauses Consolidation Act, 1845," to sell and convey or release lands may, if they think fit, subject to the provisions of that Act and of "The Lands Clauses Consolidation Acts Amendment Act, 1860," and of this Act, grant to the Company any easement, right, or privilege required for the purposes of this Act in, over, or affecting any such lands, and the provisions of the said Acts with respect to lands and rentcharges, so far as the same are applicable in this behalf, shall extend and apply to such grants and to such easements, rights, and privileges as aforesaid respectively.

For protection of Midland

8. The powers of this Act so far as they affect the Midland Railway Company shall, unless with the previous consent of the

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same Company in writing under their common seal, be exercised only subject to and in accordance with the following provisions:

Railway Company.

Limiting interference with land, &c.

1. The Company shall not take, use, enter upon, or interfere with any railway, siding, or other work belonging to or leased or worked by the Midland Railway Company (all which matters are herein-after included in the expression "the Midland Railway"), except only so far as shall be necessary for the purpose of making and maintaining the railway as the same is according to this Act to be constructed.

Company to acquire easement only.

2. With respect to any land of the Midland Railway Company which the Company is by this Act authorised to use, enter upon, or interfere with, the Company shall not purchase or take the same, but the Company may purchase and take, and the Midland Railway Company may and shall sell and grant accordingly, an easement or right of using the same for the purposes for which but for this enactment the Company might purchase and take the same.

Junctions with Midland Railway.

3. The junction of the railway with the Midland Railway shall be effected at such points within the limits of deviation shown on the deposited plans, and in such manner, and according to such mode of construction as shall be reasonably approved of by the principal engineer for the time being of the Midland Railway Company.

Plans, &c. of works to be approved.

4. The railway, where the same will interfere with the Midland Railway, shall, subject to the foregoing provisions of this enactment, be constructed according to plans, sections, and specifications to be previously approved by the principal engineer for the time being of the Midland Railway Company, who shall report thereon within one month after the same shall have been submitted to him, and any difference thereon between him and the principal engineer for the time being of the Company shall (subject as aforesaid) be determined by arbitration in the manner herein-after provided.

Rails not to be disturbed.

5. Except so far as may be necessary for the purpose of effecting the junction with the Midland Railway before mentioned, the Company shall not remove or disturb any of the rails of the Midland Railway.

Traffic not to be obstructed.

6. The Company shall not in any manner, in the construction of the railway, obstruct or interfere with the free, uninterrupted, and safe use of the Midland Railway Company, or any traffic thereon.

Company to pay costs of inspection

7. The Company shall bear and on demand pay to the Midland Railway Company the expense of the employment by that

Company during the execution of any work affecting the Midland Railway of a sufficient number of inspectors, watchmen, and signalmen to be appointed by that company for watching and signalling the same with reference to and during the execution of any such work of the Company, and for preventing, as far as may be, all interference, obstruction, danger, and accident from any of the operations, or from the acts or defaults of the Company or their contractors, or any person in the employ of the Company or of their contractors, with reference thereto or otherwise. during progress of works.

Compensation for injury.

8. If by reason of the execution of any of the works, or any proceedings of the Company, or the failure of any such works, or any act or omission of the Company or of their contractors, or of any person in the employ of the Company or of their contractors, or otherwise, the Midland Railway shall be injured or damaged, such injury or damage shall be forthwith made good by the Company at their own expense, or in the event of their failing so to do, then the Midland Railway Company may make good the same and recover the expense thereof, with full costs against the Company, in any court of competent jurisdiction; and if any interruption shall be occasioned to the traffic of or upon the Midland Railway by reason of any of the matters or causes aforesaid, the Company shall pay to that company all costs and expenses to which that company may be put, as well as full compensation for the loss and inconvenience sustained by them by reason of any such interruption, such costs, expenses, and compensation to be recoverable with full costs by that company from the Company in any court of competent jurisdiction.

Signals, &c. at junctions.

9. The Midland Railway Company may from time to time, either on their own lands or on the lands of the Company, erect such signals and conveniences incident to the junction by this Act authorised with the Midland Railway, and may from time to time appoint and remove such watchmen, switchmen, or other persons as may be necessary for the prevention of danger to or interference with the traffic at and near such junction. The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the Midland Railway Company, and all the expenses of erecting and maintaining, and, if necessary, of altering from time to time, those signals and conveniences (unless such alterations shall be made for the convenience of the Midland Railway Company), and of employing those watchmen, switch-

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men, and other persons, and all incidental current expenses, shall at the end of every half year be repaid by the Company to the Midland Company, and in default thereof may be recovered from them with full costs of suit in any court of competent jurisdiction.

Arbitration.

10. If any difference shall arise between the Company and the Midland Railway Company as to the true intent and meaning of the matters provided for in the several sections of this enactment, or the mode of giving effect thereto, or the reasonableness of any demand made by the Midland Railway Company by virtue thereof, every such difference shall be from time to time determined by arbitration in the manner prescribed by "The Railways Clauses Consolidation Act, 1845," with respect to the settlement of disputes by arbitration.

Power to use portion of Midland Railway.

9. The Company and all other companies and persons lawfully using their railway may run over and use, with their engines and carriages of every description, and with their clerks, officers, and servants, so much of the Midland Railway as lies between the junction therewith of the railway hereby authorised and the Castle Bromwich Station on the Tame Valley branch of the Midland Railway, together with the stations, watering-places, booking offices, warehouses, landing-places, sidings, works, and conveniences connected with the said portion of railway.

Terms of such use.

10. The terms, conditions, and regulations of the said use, and the tolls or other consideration to be paid for the same, shall, if not agreed upon with the Midland Railway Company, be from time to time determined by an arbitrator to be appointed by common consent, or, in default of such consent, to be appointed by the Board of Trade on the application of either party, and the decisions of such arbitrator shall be binding and conclusive on the parties in difference, and the costs and expenses of such arbitration shall be defrayed as the arbitrator shall direct; and either of the said parties who shall refuse or neglect to perform, observe, and conform to any decision given or regulation made by any such arbitrator in the premises shall forfeit and pay to the other party any sum not exceeding fifty pounds for every such offence, and twenty pounds for every day during which such offence shall continue.

Byelaws to be observed.

11. In using or traversing the said portion of railway, and in using the stations and conveniences thereof in accordance with the provisions herein-before mentioned, the Company shall at all times observe the regulations and byelaws for the time being in force on the undertaking so used, so far as such byelaws shall be applicable to the Company exercising the said powers.

Deposit money not to be repaid until line opened or half the capital paid up and expended.

12. Whereas, pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth and tenth years of Her present Majesty, chapter twenty, a sum of seven hundred and thirty-six pounds, being equal in value to five per centum upon the amount of the estimate in respect of the railway authorised by this Act, has been paid to Her Majesty's Paymaster General on behalf of the Court of Chancery in England in respect of the application to Parliament for this Act: Be it enacted, that, notwithstanding anything contained in the said Act, the said sum so paid as aforesaid in respect of the application for this Act shall not be paid or transferred to 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, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the railway, either open the same for the public conveyance of passengers, or prove to the satisfaction of the Board of Trade that the Company have paid up one half of the amount of the capital by this Act authorised to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital; and if the said period shall expire before the Company shall either have opened the railway for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Board of Trade, the said sum of money paid as aforesaid shall be applied in the manner hereinafter 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 above-mentioned Act to the contrary notwithstanding.

Application of deposits.

13. The said sum of money so paid 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, or abandonment of the railway, 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 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 Court of Chancery in England may seem

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fit; and if no such compensation shall be payable, or if a portion of the said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, 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 Court of Chancery in England 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 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 sum of money has been repaid 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.

Period for completion of works.

14. If the railway is not completed within four 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.

Railway as to tolls, &c. to form part of original railway.

15. The Company may demand and take in respect of the railway hereby authorised the same tolls and charges as they are authorised to receive for and in respect of the Wolverhampton, Walsall, and Midland Junction Railway, as if the railway hereby authorised were part of such undertaking; and the railway hereby authorised shall in all respects be deemed a part of the Wolverhampton, Walsall, and Midland Junction Railway.

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

16. It shall be lawful for the Company to apply towards the construction of the railway 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 from time to time, subject to the provisions of Part II. of "The Companies Clauses Act, 1863," raise, in addition to the sums of money which they are already authorised to raise, any additional sum or sums not exceeding in the whole twenty thousand pounds by the issue, at their option,

of new ordinary shares or new preference shares, or by either of those methods respectively, which shares shall form part of the general capital of the Company.

Shares not to issue until one fifth paid up.

17. The Company shall not issue any share created under the authority of this Act, nor shall any such share 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 shall have been paid in respect thereof.

As to votes of proprietors of such shares.

18. 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 thereby would have entitled them to if the same had been original shares of the Company.

Power to borrow on mortgage.

19. The Company may from time to time borrow on mortgage any sums not exceeding in the whole six thousand six hundred pounds, but no part thereof shall be borrowed until the whole capital of twenty thousand pounds is 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 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 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 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.

Existing mortgages to have priority.

20. 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 money secured by any mortgages granted by virtue of this Act.

Debenture stock.

21. The Company may create and issue debenture stock, subject to the provisions of Part III. of "The Companies Clauses Act, 1863;"

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but, notwithstanding anything therein contained, the interest of all debenture stock at any time created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Application of moneys.

22. All moneys raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act only.

Interest not to be paid on calls paid up.

23. 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 capital.

24. 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.

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

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

Expenses of Act.

26. 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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