CHAPTER xvii.

An Act to confer further powers upon the Wrexham and Ellesmere Railway Company and for other purposes. A.D. 1895.

[14th May 1895.]

WHEREAS it is expedient that the Wrexham and Ellesmere Railway Company (herein-after called "the Company") should be authorised to construct the railway and other works herein-after described:

And whereas it is expedient that the time limited by the Wrexham and Ellesmere Railway (Extension of Time) Act 1890 for the completion of the railways and works authorised by the Wrexham and Ellesmere Railway Act 1885 should be further extended:

And whereas it is expedient that the Company should be enabled to raise additional capital for the purposes of the new railway and works and to enable them to pay certain outstanding debts in respect of purchases of land and other debts incurred in the construction of the authorised railway and works:

And whereas maps plans and sections showing the line and levels of the railway authorised by 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 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 Salop 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:—

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Short title.

1. This Act may be cited as the Wrexham and Ellesmere Railway Act 1895.

Incorporation of Acts.

2. The Lands Clauses Acts the Railways Clauses Consolidation Act 1845 Part I. (relating to construction of a railway) and Part II. (relating to extension of time) of the Railways Clauses Act 1863 and Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by any subsequent Acts 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 railway" means the railway and works by this Act authorised;

The expression "the undertaking" means the undertaking of the Company;

"The Act of 1885" means the Wrexham and Ellesmere Railway Act 1885;

"The Act of 1890" means the Wrexham and Ellesmere Railway (Extension of Time) Act 1890:

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 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.

Power to make railway.

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 junctions 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 railway herein-before referred to and authorised by this Act is—

A loop line railway (thirty-one chains in length) wholly situate in the parish of Ellesmere in the county of Salop commencing by a junction with the authorised Wrexham and Ellesmere Railway now in course of construction at a point one hundred and eighty yards or thereabouts measuring along

the line of that authorised railway in a southerly direction from the bridge over the said authorised railway carrying the public highway leading from Ellesmere to St. Martin's known by the name of Elson Lane and terminating by a junction with the main line of the Cambrian Railways at a point six furlongs one hundred and seventy-four yards or thereabouts measuring along such main line in a westerly direction from the bridge over the said Cambrian Railways carrying the highway leading from the town of Ellesmere to Duddleston and St. Martin's known as the Duddleston Road Bridge.

Power to take easements &c. by agreement.

5. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which other than the parties to the agreement have an interest) 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.

Lands for extraordinary purposes.

6. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 shall not exceed two acres but nothing in that Act or in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them upon any land so taken.

Period for compulsory purchase of lands.

7. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Period for completion of railway.

8. If the railway is not completed within five 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 railway or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Railway to be part of Company's undertaking.

9. Subject to the provisions of this Act the railway shall for all purposes be and be deemed to be part of the undertaking of the Company.

For the protection of the town of Ellesmere.

10. For the protection of the Right Honourable Adelbert Wellington Brownlow Earl Brownlow his heirs successors in estate and assigns (all of whom are in this section included in the expression "the owner") and for the protection of the inhabitants

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of the town of Ellesmere the following provisions shall have effect (that is to say):—

(1.) The Company and all other companies working or using the railway shall cause a sufficient number of passenger and goods trains to run into and out of and stop at Ellesmere as shall from time to time be sufficient for the proper accommodation of the traffic to and from that town:

(2.) Any difference which may at any time arise between the Company on the one hand and the owner or any other person interested on the other hand with reference to this section shall be referred to and determined by an arbitrator to be appointed by the Board of Trade.

Deposit money not to be repaid except railway is opened.

11. Whereas pursuant to the Standing Orders of both Houses of Parliament and to the Parliamentary Deposits Act 1846 a sum of one hundred and ninety-four pounds being five per centum upon the amount of the estimate in respect of the railway has been deposited with the Paymaster-General for and on behalf of the Supreme Court in respect of the application to Parliament for this Act which sum is referred to in this Act as "the deposit fund" Be it enacted that notwithstanding anything contained in the said Act the deposit fund 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 (which persons survivors or survivor are or is in this Act referred to as "the depositors") unless the Company shall previously to the expiration of the period limited by this Act for completion of the railway open the same for the public conveyance of passengers and if the Company shall make default in so opening the railway the deposit fund shall be applicable and shall be applied as provided by the next following section.

Application of deposit.

12. If the Company do not previously to the expiration of the period limited for the completion of the railway complete the same and open it for the public conveyance of passengers then and in every such case the deposit fund shall be applicable and after due notice in the "London Gazette" shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or any portion thereof or who 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

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compensation or inadequate compensation has 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 may seem fit and if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall if a receiver has been appointed or the Company is insolvent or the railway has been abandoned be paid or transferred to such receiver or be applied in the discretion of the Court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid or re-transferred to the depositors Provided that until the deposit fund has been repaid or 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 depositors.

Power to Company to raise additional capital.

13. The Company may (subject to the provisions of Part II. of the Companies Clauses Act 1863) raise any additional capital not exceeding in the whole fifty thousand pounds by the 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 and 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 non-payment of calls;

The remedies of creditors of the Company against the shareholders;

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

The conversion of the borrowed money into capital;

The consolidation of the shares into stock;

The general meetings of the Company and the exercise of the right of voting by the shareholders;

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

shall extend and apply to the Company and to the additional capital which they are by this Act authorised to raise.

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Shares not to be issued till one-fifth part thereof shall have been paid.

14. The Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds nor shall any share vest in the person 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.

Receipt in case of persons not sui juris.

15. If any money is payable to a shareholder or mortgagee or debenture stockholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

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

16. Except as by this Act otherwise provided the capital in new shares or stock created by the Company 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 existing capital of the Company of the same class or description and the new shares or stock were shares or stock in that capital The capital in new shares or stock so created shall form part of the capital of the Company.

Dividends on shares or stock.

17. Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in 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 up 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.

18. 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.

New shares or stock issued under this Act and any other Act may be of same class.

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

Power to borrow.

20. The Company may in respect of the additional capital of fifty thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole sixteen thousand six hundred and sixty-six 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 of such 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 until stock for one-half of so much of the said 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 and to the extent aforesaid paid up 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 so far as the said additional 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.

For appointment of a receiver.

21. Every provision in any Act passed before the passing of this Act whereby the Company are authorised to raise by borrowing money for the purposes of the undertaking with respect to the appointment of a receiver is hereby repealed but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under any such provision The mortgagees of the undertaking 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 three thousand pounds in the whole.

Debenture stock.

22. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 and of section 25 of the Act of 1885 Notice of the effect of the said section shall be endorsed on all mortgages and certificates of debenture stock hereafter issued by the Company.

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Existing mortgages to have priority.

23. The principal moneys secured by all mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages have priority over the principal moneys secured by any mortgages granted by virtue of this Act.

Application of moneys raised under this Act.

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

Extension of time for completion of railway and works authorised by the Act of 1885.

25. The time granted by the Act of 1890 for the construction and completion of the railway and works authorised by the Act of 1885 is hereby further extended and enlarged for a period of three years from the thirty-first day of July one thousand eight hundred and ninety-five and on the expiration of that period the powers for those purposes shall cease.

Restriction on taking houses of labouring class.

26. The Company shall not under the powers of this Act or under the powers of any former Act extended by this Act purchase or acquire ten or more houses which on the fifteenth day of December next before the passing of this Act or of the former Act by which such purchase or acquisition was originally authorised as the case may be were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the respective fifteenth day of December aforesaid but have been or shall be subsequently so occupied :

For the purposes of this section the expression "labouring class" means and includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Interest on calls not to be paid out of capital.

27. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise 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.

28. 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.

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

Costs of Act.

30. 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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