



CHAPTER lxiii.

An Act to enable the Manchester South District Railway Company to abandon portions of their authorised undertaking, and to construct new Railways; and for other purposes. A.D. 1874.
[30th June 1874.]

WHEREAS by "The Manchester South District Railway Act, 1873," (herein-after called "the Act of 1873,") the Manchester South District Railway Company (herein-after called "the Company") were incorporated and authorised to make and maintain certain railways in the counties of Lancaster and Chester: 36 & 37 Vict.
c. ccxxii.

And whereas it is expedient that the Company be empowered to abandon the construction of portions of the said railways and to construct the railways herein-after described:

And whereas it is expedient that the Company be authorised to raise further moneys for the purposes of this Act:

And whereas it is expedient that the Company on the one hand, and the Cheshire Lines Committee (herein-after called "the Committee"), on the other hand, should be empowered to enter into agreements for the purposes herein-after mentioned:

And whereas plans and sections showing the lines and levels of the proposed railways, and the lands which the Company are by this Act empowered to acquire for the purposes thereof, and a book of reference to such plans containing the names of the owners or reputed owners, lessees or reputed lessees, and of the occupiers of the said lands, have been deposited with the respective clerks of the peace for the counties of Lancaster and Chester, and those plans, sections, and book of reference are herein-after respectively referred to as the deposited plans, sections, and book 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,

[Ch. lxiii.] *The Manchester South District* [37 & 38 VICT.]
Railway Act, 1874.

A.D. 1874. and Commons, in this present Parliament assembled, and by the
— authority of the same, as follows :

Short title. 1. This Act may be cited for all purposes as “The Manchester
South District Railway Act, 1874.”

Provisions
of certain
general Acts
incorporated. 2. The following enactments (as far as the same respectively
are applicable for the purposes of and not varied by or inconsistent
with this Act) are hereby incorporated with this Act; namely,
The Lands Clauses Consolidation Acts, 1845, 1860, and 1869;
The provisions of “The Companies Clauses Consolidation Act,
1845,” with respect to the matters following; (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 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;
“The Railways Clauses Consolidation Act, 1845;”
Part I. of “The Railways Clauses Act, 1863” (relating to the
construction of a railway);
Parts I., II., and III. of “The Companies Clauses Act, 1863,”
(relating respectively to cancellation and surrender of shares,
additional capital, and debenture stock).

Interpreta-
tion 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 some-
thing in the subject or context repugnant to such construction;
the expressions “the undertaking” and “the railway” in “The
Railways Clauses Consolidation Act, 1845,” mean respectively
the railways by this Act authorised; and for the purposes of this
Act the expression “superior courts” or “courts of competent
jurisdiction,” or any other like expression in this Act or any Act
wholly or partially incorporated herewith, shall be read and have
effect as if the debt or demand with respect to which the expression
is used were a common simple contract debt, and not a debt or
demand created by statute.

Power to
make rail- 4. Subject to the provisions of this Act, the Company may make
and maintain, in the line and according to the levels shown on the

deposited plans and sections, the railways herein-after described, with all proper stations, 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 railways herein-before referred to and authorised by this Act are,—

A.D. 1874.

ways accord-
ing to de-
posited plans.

(1.) A railway, two miles two furlongs and three chains in length, commencing in the parish of Wilmslow in the county of Chester by a junction with Railway No. 2, authorised by the Act of 1873, at a point on the centre line of that railway as shown on the plans deposited in respect of that Act distant four miles two furlongs and seven chains or thereabouts from the commencement thereof, and terminating in the said parish of Wilmslow, in a field belonging or reputed to belong to Sir Humphrey de Trafford, and occupied by Henry Lee :

(2.) A railway, two miles two furlongs and eight chains in length, commencing in the parish of Manchester in the county of Lancaster by a junction with Railway No. 1, authorised by the Act of 1873, in a field numbered 127 on the plans deposited in respect of that railway, and terminating in the said parish of Manchester by a junction with the Stockport, Timperley, and Altrincham Junction Railway.

5. The provisions contained in section thirty-seven of “The Manchester South District Railway Act, 1873,” for the protection of the gas and water pipes of the Corporation of Manchester shall, so far as they are applicable to the railways authorised by this Act, and are not inconsistent with sections eighteen to twenty-three inclusive of “The Railways Clauses Consolidation Act, 1845,” apply to the works hereby authorised and be deemed to be incorporated in and to form part of this Act.

For protec-
tion of gas
and water
pipes of Cor-
poration of
Manchester.

6. The Company may apply towards the purposes of this Act any moneys which they are already authorised to raise ; and in addition to such share capital as the Company are for the time being independently of this Act authorised to raise, they may, from time to time, by virtue of this Act, raise, for the purposes of this Act and the general purposes of their undertaking, such sums as they think requisite, not exceeding in the whole the sum of one hundred thousand pounds, by the creation of new shares or new stock, ordinary or preference, or partly ordinary and partly preference, as they may from time to time think fit.

Power for
Company to
raise addi-
tional share
capital.

7. Except as by or under the authority of this Act is otherwise provided, the additional share capital to be created by the Company

New shares
to be subject
to same pro-

A.D. 1874.

visions as
shares exist-
ing.

under this Act, and the shares therein and the holders of those shares respectively, shall be entitled and subject to the same powers, rights, privileges, and liabilities in all respects as if that new capital were part of the ordinary share capital of the Company existing at the passing of this Act, and those shares were shares in that ordinary capital.

Power to
borrow on
mortgage.

8. The Company may, in respect of the additional capital of one 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 thirty-three thousand three hundred 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 *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
principal
moneys
secured by
existing
mortgages.

9. 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.

Arrears may
be enforced
by appoint-
ment of a
receiver.

10. The mortgagees of the Company under this Act may enforce payment of arrears of interest or principal, or principal and interest, due on their respective 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 three hundred pounds in the whole. A.D. 1874.

11. 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. Power to create and issue debenture stock.

12. All moneys raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act and the several purposes of the undertaking of the Company only. Application of moneys.

13. The quantity of land to be taken by the Company by agreement under this Act for the extraordinary purposes mentioned in "The Railways Clauses Consolidation Act, 1845," shall not exceed three acres. Lands for extraordinary purposes.

14. 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. Powers for compulsory purchases limited.

15. If the railways authorised by this Act are 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 executing the same, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed. Period for completion of works.

16. The Company shall, not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers, make known their intention to take the same by placards, handbills, or other general notice placed in public view upon or within a reasonable distance from such houses, and the Company shall not take any such houses until they have obtained the certificate of a justice that it has been proved to his satisfaction that the Company have made known their intention to take the same in manner herein-before required. Notice to be given of taking houses of labouring classes.

17. 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" Power to take easements by agreement.

A.D. 1874.

Consolidation Acts Amendment Act, 1860," and of this Act, grant to the Company any easement, right, or privilege, not being an easement of water, required for the purposes of this Act, in, over, or affecting any such lands, and the provisions of the said Act 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.

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

18. Whereas pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth year of Her present Majesty, chapter twenty, a sum of four thousand nine hundred and eighty-five pounds five shillings and eightpence, being five per centum upon the amount of the estimate in respect of the railways hereby authorised to be made, after deducting the amount of the estimate of the railways hereby authorised to be abandoned, has been deposited with 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 sum so deposited 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 railways hereby authorised to be made, either open the said railways 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 said railways 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 deposited as aforesaid shall be applied in the manner herein-after specified; and the certificate of the Board of Trade that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the above-mentioned Act to the contrary notwithstanding.

Application
of deposit.

19. The said sum of money deposited 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

A.D. 1874.

rendered less valuable by the commencement, construction, or abandonment of the said railways authorised by this Act, 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 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 shall have been repaid to the depositors, or shall have 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.

20. The Company may demand and receive for and in respect of the railways authorised by this Act the same tolls, rates, and charges as they are now empowered to receive in respect of their existing undertaking, and such railways shall in all respects be deemed part of the undertaking of the Company.

Railways as to tolls and otherwise to form part of Company's undertaking.

21. The Company shall abandon the construction of such portions of the railways authorised by the Act of 1873 as are herein-after mentioned; (that is to say,)

Company may abandon portions of authorised railways.

1. The whole of the railway authorised to be made by the Act of 1873, and therein distinguished as Railway No. 4:
2. So much of the railway authorised to be made by the Act of 1873, and therein distinguished as Railway No. 2, as is situate

A.D. 1874.

between the point of commencement of the railway first herein-before described and by this Act authorised to be made and the point of termination of the said authorised Railway No. 2.

Compensation for damage to land by entry, &c. for purposes of railway abandoned.

22. The abandonment by the Company, under the authority of this Act, of any portion of any railways or works shall not prejudice or affect the right of the owner or occupier of any land to receive compensation in accordance with the provisions in that behalf of "The Lands Clauses Consolidation Act, 1845," for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels, or probing or boring to ascertain the nature of the soil, or setting out of the line of railway or other works, and shall not prejudice or affect the right of the owner or occupier of any land which may have been temporarily occupied by the Company, to receive compensation in accordance with the provisions in that behalf of "The Railways Clauses Consolidation Act, 1845," for such temporary occupation, or for any loss, damage, or injury which may have been sustained by such owner or occupier by reason thereof, or of the exercise, as regards such land, of any of the powers contained in the last-mentioned Act or the Act of 1873.

Compensation to be made in respect of works abandoned.

23. Where, before the passing of this Act, any contract may have been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to any portions of the works authorised to be abandoned by this Act, and which shall not be required for the purposes of any of the works by this Act authorised, full compensation shall be made by the Company to the owners and occupiers or other persons interested in such lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice; and the amount and application of the compensation shall be determined in manner provided by "The Lands Clauses Consolidation Act, 1845," for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Power to enter into agreements with the Cheshire Lines Committee.

24. The Company on the one hand and the Committee on the other hand, may, subject to the provisions of Part III. of "The Railways Clauses Act, 1863," as amended or varied by "The Regulation of Railways Act, 1873," from time to time enter into agreements with respect to the following purposes, or any of them; (that is to say,)

The use of the railways of the Company, or any of them, or any part thereof:

The arrangements for the conduct of the traffic on the railways of the Company, or any of them, or any part thereof: A.D. 1874.
 —

The payments and allowances to be made, and the conditions to be performed with respect to the matters aforesaid:

The interchange, accommodation, conveyance, and delivery of traffic coming from or destined for the undertakings of the Company and Committee, and the fixing and division between the Company and Committee of the receipts arising from such traffic.

25. Nothing herein contained shall be deemed or construed to exempt the railways authorised by this Act 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, authorised by this Act. Railways not exempt from provisions of present and future general Acts.

26. The Company shall not, out of any money by this Act authorised to be raised by preference shares or preferred half shares, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: 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." Interest not to be paid on calls paid up.

27. The Company shall not, out of any money by this Act authorised to be raised by preference shares or preferred half shares, 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 any company to construct any other railway or to execute any other work or undertaking. Deposits for future Bills not to be paid out of capital.

28. 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. Expenses of Act.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
 Printers to the Queen's most Excellent Majesty. 1874.