



CHAPTER lvii.

An Act for empowering the Lancashire Union Railways Company to connect their Railway with the North Union Railway, and to raise additional Capital; and for other purposes.

A.D. 1877.

[28th June 1877.]

WHEREAS it is expedient that the Lancashire Union Railways Company (in this Act called the Company) should be empowered to make a new railway to connect their railway with the North Union Railway, and to raise capital for that purpose and for general purposes connected with their undertaking:

And whereas plans and sections showing the line and levels of the new railway by this Act authorised, 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 for that purpose, were duly deposited with the clerk of the peace for the county of Lancaster, which plans, sections, and books of reference are in this Act respectively referred to as the deposited plans, sections, and books of reference:

(Plans and sections deposited.)

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,)

1. This Act may be cited for all purposes as the "Lancashire Union Railways Act, 1877."

2. The following Acts and parts of Acts are (except where expressly varied by this Act) incorporated with and form part of this Act; (that is to say,)

Certain provisions of general Acts herein named incorporated.

The Lands Clauses Consolidation Acts, 1845, 1860, and 1869:

The Railways Clauses Consolidation Act, 1845, and Part I. (relating to construction of a railway) of the Railways Clauses Act, 1863:

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A.D. 1877. The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters; (namely,
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;
The conversion of the borrowed money into capital;
The consolidation of shares into stock;
The general meetings of the Company;
The making of dividends;
The giving of notices;
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.

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 railway" means the railway by this Act authorised:

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 for the purposes of this Act 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 according to deposited plans.

4. Subject to the provisions of this Act, the Company may make and maintain, in the line shown on the deposited plans and according to the levels shown on the deposited 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 deposited 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 railway (one mile three furlongs and forty-five links in length) commencing in the parish of Wigan, in the county of Lan-

caster, by a junction with the railway of the Company south-east of the point where the public carriage-road called Sennicar Lane crosses that railway, and terminating in the parish of Standish, in the same county, by a junction with the North Union Railway at or near the southern end of the Standish Station. A.D. 1877.

The said railway shall, for the purposes of tolls and charges, and for all other purposes whatsoever, be part of the undertaking of the Company as if the same had been authorised by the Lancashire Union Railways Act, 1864.

5. Notwithstanding anything in this Act contained, the Company shall not, without the consent in writing of the Wigan Coal and Iron Company, Limited, enter upon or take any part of the lands numbered on the deposited plans 11, in the township of Haigh and parish of Wigan, coloured pink on the plan signed by Mr. Alfred Hewlett on behalf of the Wigan Coal and Iron Company, Limited, and by Mr. William Baker on behalf of the Company. For the protection of the Wigan Coal and Iron Company, Limited.

6. And whereas the railway by this Act authorised will, if constructed in the manner shown upon the deposited plans and sections, cross, in the parish of Standish and township of Standish with Langtree, the large main conduit or pipe belonging to the mayor, aldermen, and burgesses of the borough of Wigan (herein-after called "the corporation"), by means of which water is conveyed from their reservoirs at or near Worthington, in the county of Lancaster, to the borough of Wigan, for the supply of water to the inhabitants and the neighbourhood thereof; and it is expedient therefore that provision be made for preventing the supply of water by the corporation being interrupted or interfered with by the execution of the powers of this Act: Therefore, in constructing the railway under the powers of this Act the Company shall conform to and observe the following regulations, stipulations, and provisions; (that is to say,) For the protection of the Corporation of Wigan.

(1.) They shall not in any manner interfere with or disturb the said main pipe or conduit of the corporation in the parish of Standish and township of Standish with Langtree, except as herein-after mentioned:

(2.) They shall cause to be constructed, and shall for ever maintain, a culvert or archway under the railway for the purpose of containing so much of such main pipe or conduit as shall be covered by the embankment of the proposed railway, the internal diameter of such culvert or archway being not less than six feet, such culvert or archway to be constructed in the form and of materials to be approved by and to the reasonable satisfaction of

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the engineer of the corporation; and the corporation may, by their servants, agents, and workmen, at all reasonable times have free access to the said main pipe or conduit for the purpose of inspecting, examining, repairing, or renewing the same:

- (3.) In the construction of such culvert or archway, no change in the present direction of the main pipe shall be made other than by a curve having a radius of not less than two hundred feet:
- (4.) In such culvert or archway the Company shall lay a pipe or conduit of the same dimensions as the present line of pipes, each length of pipe to be properly supported to the reasonable satisfaction of the engineer of the corporation, and the pipe or conduit so laid shall be of one uniform gradient between the points of junction with the existing pipe, and the levels of those points of junction shall remain unaltered:
- (5.) In constructing the proposed railway and works under the provisions of this section, the supply of water to the said inhabitants shall not be interrupted:
- (6.) Before commencing any work provided for by this section, drawings thereof shall be submitted by the Company for the approval of the engineer of the corporation:
- (7.) The Company shall indemnify the corporation against any damages, costs, or expenses which the corporation shall be called upon to pay and shall pay or incur by reason of the exercise of any of the powers of this Act, and the corporation shall not be liable for any damages, costs, charges, or expenses which may arise to the works of the Company or to any traffic on the railway by reason of the bursting or leaking of any such main pipe or conduit, unless such bursting or leaking occurred from the neglect or default of the corporation, their servants, agents, or workmen:
- (8.) The provisions of the Railways Clauses Consolidation Act, 1845, contained in the sections of that Act 18 to 23 inclusive shall (subject nevertheless to the special provisions herein contained in reference to the said main pipe or conduit) apply to the mains and pipes, water-courses, and water pipes of the Corporation; and whenever in those sections the words "company" or "society" are used, the same shall for all the purposes of this Act be held to extend to and include the corporation.

7. If in the execution of the works by this Act authorised the Company desire to alter, remove, or otherwise interfere with any telegraph poles, wires, or telegraph apparatus belonging to Her Majesty's Postmaster General, and not situate upon the Company's railway or works connected therewith, the following provisions for the protection of Post Office telegraphs shall apply; (that is to say,)

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For protection of Post Office telegraphs.

- (1.) Before the Company alter, remove, or interfere with any such telegraph poles, wires, or telegraph apparatus, the Company shall give to the Postmaster General one calendar month's previous notice in writing of such intended alteration, removal, or other interference, specifying all requisite and proper particulars relating thereto; and if the Postmaster General shall, before the expiration of one calendar month after the service upon him of the said notice from the Company, give the Company notice of his intention so to do, he may execute at the cost of the Company, and thereafter at his own expense maintain, the works specified in the Company's notice, and such other works, substituted wires, and conveniences as may be reasonably required for making good the telegraph poles, wires, or telegraph apparatus so required to be altered, removed, or interfered with, using all due despatch in the execution thereof, and not interfering with or obstructing the use of the railway. If at the expiration of one calendar month the Postmaster General shall not have commenced such works, then such alteration, removal, or interference may be carried out by the Company, but so as to cause no impediment or obstruction whatsoever to the due transmission of messages along such wires, or, at the option of the Postmaster General, along substituted wires to be provided by the Company at their own expense to the satisfaction in all respects of the Postmaster General:

(Notice to be given before interfering with telegraphs.)

- (2.) Subject to the provisions of this section, the Company shall from time to time make full compensation to Her Majesty's Postmaster General for any expense, loss, or damage which he is put to or sustains by reason of any such alteration, removal, or other interference with any telegraph post, wire, apparatus, or work of the Postmaster General causing any interruption of or impediment to postal telegraphic communication; and the Company shall, in addition to making compensation as aforesaid, be liable to forfeit a sum not exceeding twenty pounds for every twenty-four

(Compensation by Company to Postmaster General, and penalty.)

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hours during which that interruption or impediment continues. The amount of any such expense, loss, damage, or forfeiture shall be a debt due from the Company to the Crown, and be recoverable accordingly with costs, or the same may be recovered with costs on behalf of the Postmaster General as a penalty is recoverable from the Company :

(Saving for Telegraph Act and agreements.)

(3.) Nothing in this Act relating to Her Majesty's Postmaster General shall take away, abridge, or prejudicially affect any right, power, estate, or interest of the Postmaster General or of the Company under or by virtue of the Telegraph Act, 1868, or any agreement between the Company and the Postmaster General.

Power to grant easements.

8. Persons empowered by the Lands Clauses Consolidation 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 required for the purposes of this Act in, over, or affecting lands, and the provisions of the Lands Clauses Consolidation Acts with respect to lands and rentcharges, as far as the same are applicable in this behalf, shall extend and apply to such grants, easements, rights, and privileges as aforesaid respectively.

Powers for compulsory purchases limited.

9. The powers of the Company for the compulsory purchase of lands under the powers of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Period for completion of works.

10. 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 same, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Imposing penalty unless railway opened.

11. If the Company fail within the period limited by this Act to complete the railway, 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 railway is 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 railway.

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, or by the Solicitor of Her Majesty's Treasury, and in the same manner as the penalty provided in section 3 of the Railway and Canal Traffic Act, 1854.

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 that section, to an account opened or to be opened in the name and with the privity of Her Majesty's Paymaster General, on behalf of the Chancery Division of the High Court of Justice, in the bank and to the credit named in such warrant or order, and shall not be paid thereout except as herein-after provided. A.D. 1877.

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 the railway by unforeseen accident or circumstances beyond their control; provided that want of sufficient funds shall not be held to be a circumstance beyond their control.

12. 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, 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 conferred upon the Company by this Act of taking property for the purposes of such railway, 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 Chancery Division of the High Court of Justice may seem fit. Providing
for applica-
tion of
penalty.

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 either be forfeited to Her Majesty, and accordingly be paid to or for the account of Her Majesty's Exchequer in such manner as the said Chancery Division 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 said Chancery Division, 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 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.

13. The quantity of land to be taken by the Company for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act, 1845, shall not exceed one acre. Lands for ex-
traordinary
purposes.

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For the protection of the North Union Railway Joint Fund.

14. Whereas the railway by this Act authorised will form a junction with the North Union Railway, of which the London and North-western Railway Company (herein-after called the North-western Company) and the Lancashire and Yorkshire Railway Company are joint owners, and the receipts whereof are paid into a joint fund, under the provisions of a certain agreement now subsisting in relation thereto: And whereas under an agreement with the Company the North-western Company work the Lancashire Union Railways, of which undertaking the railway will form part: Be it enacted, that as regards all traffic which arising at places beyond is destined for places beyond the Lancashire Union Railways, and for which the portion of the North Union Railway between Standish and Springs Branch Junctions shall form a part of the shortest route, and which traffic but for the construction of the railway would have passed over the said portion of the North Union Railway, the North-western Company shall make good to the said joint fund the loss occasioned to the joint fund by reason of such traffic passing over the railway and the Lancashire Union Railways instead of passing over the said portion of the said North Union Railway; and in case of difference as to such loss the same shall from time to time be settled by arbitration in the manner prescribed by the Railways Clauses Consolidation Act, 1845, for the settlement of disputes by arbitration, and the arbitrator shall take as the measure of such loss the amount which would have been payable to such joint fund in respect of the distance between Standish and Springs Branch Junctions in case this Act had not been passed, and the cost of any such arbitration shall be in the discretion of the arbitrator.

Power to raise additional capital by creation of shares or stock.

15. The Company at any time and from time to time may raise for the purposes of this Act and for the general purposes of their undertaking, by the creation and issue of shares or stock, such capital as they shall think necessary, not exceeding seventy-five thousand pounds, in addition to the capital which they are authorised to raise by their existing Acts, and the Company may raise and issue such shares or stock either wholly or partially as ordinary or wholly or partially as preferential shares or stock, as they may think fit.

Shares not to issue until one-fifth part paid up.

16. The Company shall not issue any share created under the authority of this Act, 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.

Except as otherwise provided,

17. The capital created by the Company under this Act, and the shares or stock therein and the holders thereof respectively (except

any capital and shares or stock therein to which a preferential dividend is attached, and the holders of those shares and that stock respectively), shall be subject and entitled to the same powers, provisions, forfeitures, liabilities, rights, privileges, and incidents whatsoever in all respects as if that capital were part of the now existing ordinary capital of the Company, and those shares and that stock were shares and stock in that ordinary capital.

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new capital to be subject to same incidents as ordinary capital.

18. Every person who becomes entitled to a share or any stock created by the Company under this Act shall in respect of the same be a holder of shares or stock in the Company, and shall be entitled to a dividend, either preferential or ordinary, as the case may be, 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 stock.

Dividends on new shares or stock.

19. The holders of the shares or stock created under this Act shall have rights of voting and qualifications in respect thereof on the principle that each sum of one hundred pounds paid up in respect of the shares or stock held by any such holder shall be deemed equivalent to one original share of one hundred pounds in the capital of the Company as prescribed by their Act of Incorporation :

Votes and qualifications in respect of new shares or stock.

Provided that no person shall be entitled to vote in respect of any less amount than one hundred pounds paid up :

Provided also, that (unless otherwise specified in any resolution of the Company) no person shall be entitled to vote in respect of any share or stock created or issued under this Act to which a preferential dividend shall be assigned.

20. If any money is payable to a holder of shares or stock in the Company being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Receipt clause in case of persons not sui juris.

21. The Company may, in respect of the additional capital of seventy-five thousand pounds which they are by this Act authorised to raise, from time to time borrow on mortgage for the purposes of this Act and for the general purposes of their undertaking any sum not exceeding in the whole twenty-five thousand pounds, but no part thereof shall be borrowed until shares for so much of the capital by this Act authorised to be raised as is to be raised by means of shares are 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 shares for the whole of such capital have been issued and accepted, and that one half thereof has

Power to borrow on mortgage.

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been paid up, and that not less than one-fifth part of the amount of each separate share 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 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 paid up bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, or assigns, and also, if such capital is raised by shares, that such persons or corporations, or their executors, administrators, or assigns, are legally liable for the same.

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.

Arrears may be enforced by appointment of a receiver.

22. Every provision in any Act passed before the present session of Parliament whereby the Company is authorised to raise by borrowing money for the purposes of their undertaking with respect to the appointment of a receiver for enforcing payment by the Company of arrears of principal money, or principal money and interest, shall be and the same 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 Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver; and 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.

Company may create debenture stock.

23. 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.

Existing mortgages to have priority.

24. All mortgages or bonds granted or to be granted under the authority of any former Act relating to the Company shall, during the continuance thereof, and subject to the provisions of the Acts under which such mortgages or bonds were respectively granted,

have priority over any mortgages granted by virtue of this Act; and 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.

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25. All moneys raised under this Act, whether by shares, stock, debenture stock, or borrowing, shall be applied only to the purposes of this Act and to the general purposes of the Company.

Application of moneys.

26. The Company may apply to any of the purposes to which the moneys by this Act authorised to be raised are made applicable any of the moneys which they now have in their hands, or which they have power to raise by shares, debenture stock, or mortgage, by virtue of any Acts relating to the Company, and which may not be required for the purposes to which they are by any such Acts made specially applicable.

Power to apply corporate funds to purposes of Act.

27. 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.

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 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.

Deposits for future Bills not to be paid out of capital.

29. 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 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 to be taken by the Company.

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

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.

Expenses of Act.

