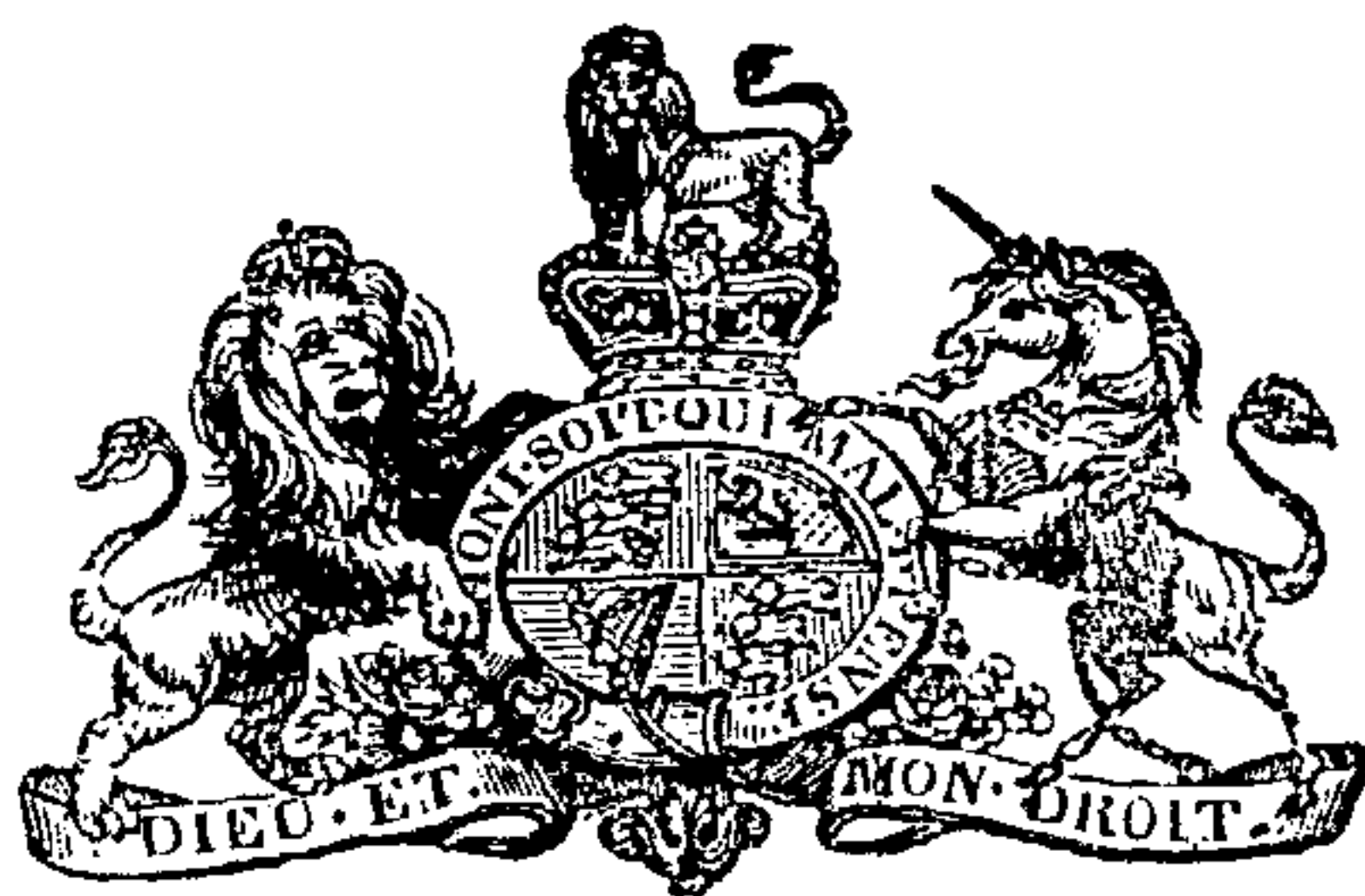


[51 & 52 VICT.]

*Birmingham and Henley-in-Arden Railway Act, 1888.*

[Ch. clxxxi.]



### CHAPTER clxxxi.

An Act to revive the powers and extend the periods for the compulsory purchase of Lands and for the construction of the Railway authorised by the Henley-in-Arden and Great Western Junction Railway Act 1873 and the Henley-in-Arden and Great Western Junction Railway (Revival of Powers) Act 1884 and for other purposes. A.D. 1888.

[7th August 1888.]

WHEREAS by the Henley-in-Arden and Great Western Junction Railway Act 1873 (in this Act referred to as "the Act of 1873") the Henley-in-Arden and Great Western Junction Railway Company were incorporated and were authorised to raise a capital of thirty thousand pounds by shares and to borrow not exceeding ten thousand pounds on mortgage and to make and maintain the railway and works in this Act referred to as the railway therein described :

And whereas by the Henley-in-Arden and Great Western Junction Railway (Revival of Powers) Act 1884 (in this Act referred to as "the Act of 1884") the powers for the compulsory purchase of lands and the period for the completion of the railway authorised by the Act of 1873 were revived and extended and the Henley-in-Arden and Great Western Junction Railway Company were authorised to change their name to that of the Birmingham and Henley-in-Arden Railway Company (in this Act called "the Company") :

And whereas the Company have not exercised any of the powers conferred upon them by the Acts of 1873 and 1884 and the periods for the compulsory purchase of lands and for the construction of the railway have expired :

And whereas it is expedient that the said powers should be revived and that the periods for the compulsory purchase of lands and for the completion of the railway should be limited as hereinafter provided :

[Price 6d.]

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A.D. 1888.

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And whereas plans and sections showing the lines 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 Warwick and 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 and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

Short title.

1. This Act may be cited for all purposes as the Birmingham and Henley-in-Arden Railway Act 1888.

Acts of 1873  
1884 and this  
Act to form  
one Act.

2. The Acts of 1873 and 1884 as varied or amended by this Act and this Act shall be read together and shall form one Act and may be cited together as the Birmingham and Henley-in-Arden Railway Acts 1873 1884 and 1888.

Incorporation  
of Part II. of  
Railways  
Clauses Act,  
1863.

3. Part II. (relating to extension of time) of the Railways Clauses Act 1863 so far as the provisions thereof are not expressly varied by this Act is incorporated with this Act.

Powers of  
Acts of 1873  
and 1884 re-  
vived and  
contracts  
continued.

4. All the rights powers and authorities conferred upon the Company by the Acts of 1873 and 1884 for the compulsory purchase of the lands delineated on the deposited plans and described in the deposited book of reference for the purposes of this Act and for the construction and completion of the railway shall be and the same are hereby revived and (except as herein-after provided) all restrictions contracts obligations and liabilities contracted or incurred by or imposed upon the Company under those Acts except the liability to pay the costs charges and expenses thereof under section fifty-nine of the Act of 1873 and section eighteen of the Act of 1884 shall be and the same are hereby continued.

Power to  
make rail-  
way and  
works.

5. The railway and works which the Company may under the powers of this Act and of the Acts of 1873 and 1884 as revived by this Act make or complete and maintain are—

A railway (three miles six chains and eighty links in length) wholly in the county of Warwick commencing in the parish of Rowington by a junction with the Birmingham and Oxford line of the Great Western Railway Company about one

hundred and twenty yards southward of the bridge carrying that line over the road leading from Rowington Green to Lowson Ford and terminating in the township of Henley-in-Arden in the parish of Wootton Wawen about eighty yards eastward of the house which was formerly used as the gate-house on the Birmingham and Stratford-on-Avon turnpike road at Henley-in-Arden until that road was disturnpiked together with all proper stations approaches junctions sidings roads works and conveniences connected therewith respectively.

A.D. 1888.

6. The railway shall be constructed and maintained in the lines and according to the levels shown on the deposited plans and sections and in accordance with the provisions of the Act of 1873 so far as the same are respectively applicable.

Railway to be constructed as provided by Act of 1873.

7. Sections 6 to 12 inclusive and 51 and 52 of the Act of 1873 and 8 of the Act of 1884 shall be as valid and binding as if they were re-enacted in this Act: Provided always that with respect to the junction therein and in this Act provided for the Great Western Railway Company may at any time or times hereafter should it be necessary for them to do so at their own expense alter or remove such junction and substitute a new junction therefor but so as such alteration or removal or substituted junction shall not stop the traffic of the railway by this Act authorised or unnecessarily interfere therewith or cause increased expense to the Company in the working or maintenance of the junction or the substituted junction as the case may be or the signals works and conveniences connected therewith.

For protection of Great Western Railway Company.

8. All moneys raised by the Company whether by shares debenture stock or borrowing shall be applied only for the purposes of the recited Acts of 1873 1884 and of this Act to which capital is properly applicable.

Application of capital.

9. The railway shall be completed within three years from the passing of this Act and on the expiration of such period the powers granted to the Company for making the same shall cease except as to so much thereof as shall then be completed.

Period for completion of railway.

10. The powers of the Company for the compulsory purchase of lands for the purposes of the railway may be exercised within but shall not be exercised after two years from the passing of this Act.

Period for compulsory purchase of land.

11. Whereas pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her present Majesty chapter twenty a sum of one thousand and thirty-

Deposit moneys not to be repaid until line opened.

A.D. 1888. — five pounds new three per centum annuities being five per centum upon the amount of the estimate then made in respect of the railway authorised by the Act of 1873 was deposited with the Court of Chancery in England in respect of the application to Parliament for the Act of 1873 as recited in the thirty-eighth section of that Act and a further sum of two hundred and eighty-two pounds being five per centum upon the amount of the excess over the former estimate of the estimate made in respect of the railway authorised by the Act of 1884 was deposited with the Paymaster General for and on behalf of the Supreme Court of Judicature in England in respect of the application to Parliament for that Act which two sums are herein collectively referred to as "the deposit fund" and are to be treated as one fund deposited in respect of the application for this Act: Be it enacted that notwithstanding anything contained in the Act of the ninth year of Her present Majesty or in the Acts of 1873 and 1884 the said deposit fund shall not be paid or transferred to or on the respective application of the person or persons or the majority of the persons named in the respective warrants or orders issued in pursuance of the said Act of the ninth year of Her present Majesty 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: Provided that if within such period as aforesaid the Company open any portion of the railway for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of the railway opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the railway so opened bears to the entire length of the railway the High Court of Justice in England shall on the application of the depositors or the majority of them order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of the Acts of 1873 1884 or of this Act having passed anything in the above-mentioned Act of the ninth year of Her present Majesty to the contrary notwithstanding.

Application  
of deposits.

12. If the Company do not previously to the expiration of the period limited for the completion of the railway complete the

A.D. 1888.

same and open it for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors 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 the Acts of 1873 1884 or of this Act and for which injury or loss no 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 of Justice in England 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 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 thinks fit to order on the application of the solicitor to 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 deposit fund has been repaid to the respective depositors or has become otherwise applicable as herein-before mentioned any interest or dividends accruing thereon respectively shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.

**13.** (1.) The Company shall not under the powers of the Act of 1873 or the Act of 1884 or this Act purchase or acquire in any city borough or other urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the 15th day of December next before the passing of this Act or of the respective former Acts by which such purchase or acquisition was originally authorised as the case may be were

Provision  
as to taking  
houses of  
labouring  
class.

A.D. 1888. — occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until—

(A.) They shall have obtained the approval of the Local Government Board to a scheme for providing new dwellings for such number of persons as were residing in such houses on the respective 15th day of December aforesaid or for such number of persons as the Local Government Board shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such persons and to all the circumstances of the case; and

(B.) They shall have given security to the satisfaction of the Local Government Board for the carrying out of the scheme:

(2.) The approval of the Local Government Board to any scheme under this section may be given either absolutely or conditionally and after the Local Government Board have approved of any such scheme they may from time to time approve either absolutely or conditionally of any modifications in the scheme:

(3.) Every scheme under this section shall contain provisions prescribing the time within which it shall be carried out and shall require the new dwellings proposed to be provided under the scheme to be completed fit for occupation before the persons residing in the houses in respect of which the scheme is made are displaced:

Provided that the Local Government Board may dispense with the last-mentioned requirement subject to such conditions (if any) as they may see fit:

(4.) Any conditions subject to which the Local Government Board may have approved of any scheme under this section or of any modifications of any scheme or subject to which they may have dispensed with the above-mentioned requirement shall be enforceable by a writ of Mandamus to be obtained by the Local Government Board out of the Queen's Bench Division of the High Court of Justice:

(5.) If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court of

Justice and shall be carried to and form part of the Consolidated Fund of the United Kingdom: A.D. 1888.

Provided that the Court may if it think fit reduce such penalty:

(6.) For the purpose of carrying out any scheme under this section the Company may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require and for the purpose of any such purchase sections 176 and 297 of the Public Health Act 1875 shall be incorporated with this Act and shall apply to the purchase of lands by the Company for the purposes of any scheme under this section in the same manner in all respects as if the Company were a local authority within the meaning of the Public Health Act 1875 and the scheme were one of the purposes of that Act:

(7.) The Company may on any lands belonging to them or purchased or acquired under this section or any provisional order issued in pursuance of this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell demise or let or otherwise dispose of such dwellings and any lands purchased or acquired as aforesaid and may apply for the purposes of this section to which capital is properly applicable or any of such purposes any moneys which they may be authorised to raise or apply for the general purposes of their undertaking:

Provided that all lands on which any buildings have been erected or provided by the Company in pursuance of any scheme under this section shall for a period of twenty-five years from the passing of this Act be appropriated for the purpose of dwellings and every conveyance demise or lease of such lands and buildings shall be indorsed with notice of this enactment:

Provided also that the Local Government Board may at any time dispense with all or any of the requirements of this sub-section subject to such conditions if any as they may see fit:

(8.) So much of section 157 of the Public Health Act 1875 as provides that the provisions of that section and of sections 155 and 156 of the same Act shall not apply to buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament shall not apply to buildings erected or provided by the Company for the purpose of any scheme under this section:

(9.) The Local Government Board may direct any inquiries to be held by their inspectors which they may deem necessary in relation to any scheme under this section and for giving effect to any of the provisions of this section and the inspectors of the Local Government Board shall for the purposes of any such inquiry have all such powers

A.D. 1888. — as they have for the purposes of inquiries directed by that Board under the Public Health Act 1875 :

(10.) The Company shall pay to the Local Government Board a sum to be fixed by that Board in respect of the preparation and issue of any provisional order in pursuance of this section and any expenses incurred by that Board in relation to any inquiries under this section including the expenses of any witnesses summoned by the inspector and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector :

(11.) For the purposes of this section the expression "labouring class" 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.

Saving  
rights of  
the Post-  
master-  
General.

14. The railway of the Company shall for the purposes of section 6 of the Telegraph Act 1878 be deemed to be an undertaking authorised by Act of Parliament passed after the 1st day of January 1878 and the Postmaster-General shall have the same rights powers and authorities in under upon along over and across the railway of the Company as are conferred upon him by that section with respect to undertakings mentioned or referred to in such section.

Provision as  
to general  
Railway  
Acts.

15. Nothing in the Acts of 1873 1884 or this Act contained shall exempt the Company or the railway of 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 authorised to be taken by the Company.

Costs of  
Act.

16. All the costs charges and expenses of and incidental 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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