

[41 VICT.] *Midland Railway (Additional Powers)* [Ch. xcvi.]  
Act, 1878.



### CHAPTER xcvi.

An Act for conferring additional powers on the Midland Railway Company for the construction of railways and other works, the acquisition of lands, and the raising of capital, and for vesting in them the undertaking of the Stonehouse and Nailsworth Railway Company; for conferring powers on the Sheffield and Midland Railway Companies Committee for the acquisition of a private railway and additional lands; and for other purposes.

A.D. 1878.

[17th June 1878.]

**W**HEREAS it is expedient that the Midland Railway Company (in this Act called "the Company") should be empowered to construct the new railways and other works in this Act mentioned, and also to make the new footpaths in this Act mentioned, and to stop up portions of existing footpaths, and also to acquire additional lands for extending their stations, sidings, warehouses, engine-sheds, workshops, coal depôts, and other works and conveniences for the accommodation of their traffic, and for other purposes connected with their undertaking:

New rail-ways and additional lands.

And whereas in the construction of the deviation of the Company's Bennerley and Bulwell line authorised by and described in the Midland Railway (Additional Powers) Act, 1873, (in this Act called the Company's Act of 1873,) the same, in passing through the parish of Bulwell, in the county of Nottingham, has been carried for a short distance beyond the limits of deviation shown on the deposited plans referred to in that Act, and it is expedient that the construction and maintenance by the Company of the said railway according to the altered line and levels should be authorised and confirmed:

Confirmation of works on portion of Bennerley and Bulwell deviation.  
36 & 37 Vict. c. cex.

And whereas it is expedient that the Sheffield and Midland Railway Companies Committee (whose undertaking belongs to the Company and the Manchester, Sheffield, and Lincolnshire Railway Company jointly) should be empowered to acquire for purposes connected with their undertaking certain lands in this Act mentioned,

Sheffield and Midland Committee.

[Ch. xcvi.] *Midland Railway (Additional Powers)* [41 VICT.]  
Act, 1878.

A.D. 1878. and that the said committee should also be empowered to acquire by agreement certain railways now in course of construction, called the West Widnes Railways :

Deposit of plans. And whereas plans and sections showing the lines and levels of the railways and other works by this Act authorised, and plans showing the lands required or which may be taken for the purposes or under the powers of 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 said lands were duly deposited with the clerks of the peace for the several counties within which the said railways and works will be made and the said lands are situate, and those plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books of reference respectively :

Revival of powers, Nottingham and Saxby. 35 & 36 Vict. c. cxviii. And whereas it is expedient that the powers granted by the Midland Railway (Nottingham and Saxby Lines) Act, 1872, (in this Act called the Company's Nottingham, &c. Act of 1872,) for the construction of so much of the Railway No. 1 thereby authorised as was not by the Company's Act of 1873 authorised to be abandoned should be revived :

Revival of powers, Bennerley and Bulwell. 35 & 36 Vict. c. cxl. And whereas it is also expedient that the powers granted by the Midland Railway (Additional Powers) Act, 1872, (in this Act called the Company's Powers Act of 1872,) for the construction of so much of the railway from Bennerley to Bulwell by that Act authorised as was not by the Company's Act of 1873 authorised to be abandoned should be revived :

Extension of time, Act of 1873. And whereas it is expedient that the period limited by the Company's Act of 1873 for the completion of the Heanor Branch Extension, the Doe Lea Extension, the deviation of the Company's Bennerley and Bulwell Line, and the deviation of the Company's Nottingham and Saxby Line by that Act respectively authorised should be extended :

Extension of time, Pleasley extension. 37 & 38 Vict. c. clx. And whereas it is expedient that the period limited by the Midland Railway (Additional Powers) Act, 1874, (in this Act called the Company's Act of 1874,) for the completion of the Pleasley Extension Railway by that Act authorised should be extended :

Abandonment of Alton branch. And whereas it is expedient that the Company should be empowered to abandon and relinquish the construction of the Alton Branch Railway authorised by their said Act of 1874 :

Stonehouse and Nailsworth Railway. 26 & 27 Vict. c. cxxxii. And whereas by the Stonehouse and Nailsworth Railway Act, 1863, (in this Act called the Stonehouse Act of 1863,) the Stonehouse and Nailsworth Railway Company (in this Act called the Stonehouse Company) was incorporated with power to construct a

[41 VICT.] *Midland Railway (Additional Powers)* [Ch. xcvi.]  
Act, 1878.

railway from Stonehouse to Nailsworth, and by certain heads of agreement scheduled to and confirmed by that Act the Company were authorised and required to maintain, manage, man, stock, work, and use in perpetuity the Stonehouse and Nailsworth Railway upon the terms and subject to the conditions expressed in such heads of agreement: A.D. 1878.  
—

And whereas by the Stonehouse and Nailsworth Railway Act, 1865, (in this Act called the Stonehouse Act of 1865,) the Stonehouse Company were empowered to extend their railway from Dudbridge to Stroud, and were further authorised to raise additional capital by the creation and issue of new shares, and by that Act the Company were authorised to subscribe towards the construction of the railway of the Stonehouse Company authorised by their said Act of 1865, and to hold shares in the undertaking of that Company to any extent not exceeding in the whole thirty-five thousand pounds: 28 & 29 Vict.  
c. clxxvii.

And whereas the Stonehouse Company have constructed the railway and works authorised by the Stonehouse Act of 1863, but have not constructed the railway authorised by the Stonehouse Act of 1865:

And whereas in pursuance of the powers conferred on them by the Stonehouse Acts of 1863 and 1865 the Company work and manage the railways of the Stonehouse Company so far as the same are completed, and have subscribed towards the undertaking of that Company:

And whereas the capital of the Stonehouse Company now consists of sixty-five thousand nine hundred and forty pounds ordinary share capital, divided into three thousand two hundred and ninety-seven shares of twenty pounds each, one thousand two hundred and fifty whereof, representing twenty-five thousand pounds, were subscribed for and are now held by the Company, and ten thousand pounds of preference share capital, divided into five hundred shares of twenty pounds each, the whole of which were subscribed for and are now held by the Company, and twenty-nine thousand pounds of loan capital, now represented by mortgages of the Stonehouse Company:

And whereas, besides the said twenty-nine thousand pounds of loan capital, the Stonehouse Company are indebted to various persons to an amount exceeding twenty thousand pounds, and their affairs have for a long time past been administered under the Chancery Division of the High Court of Justice, by whom a receiver was appointed in the suits of *Jewsbury v. The Stonehouse and Nailsworth Railway Company* and *Spain v. The Stonehouse and Nailsworth Railway Company*:

[Ch. xcvi.] *Midland Railway (Additional Powers)* [41 VICT.]  
*Act, 1878.*

A.D. 1878.

And whereas by the Company's Act of 1874 the Company were empowered, with the previous consent in writing of the Stonehouse Company under their common seal, to grant and issue in their own name and under their seal, and upon the security of their own undertaking, debentures or debenture stock in renewal of or in exchange or substitution for debentures of the Stonehouse Company, but that power has not been exercised :

And whereas it would be for the benefit of the shareholders, mortgagees, and creditors of the Stonehouse Company, as well as of public advantage, that the undertaking of the Stonehouse Company should be vested in the Company, and it is expedient that the same should be so vested upon the terms in this Act specified :

Additional capital.

And whereas it is expedient that the Company should be empowered to raise additional capital for the purposes of the railways and works by this Act authorised, and for the other objects sought to be effected thereby, and also for the making and enlargement of stations, sidings, warehouses, engine-sheds, workshops, coal depôts, and other works and conveniences for the accommodation of the increased and increasing traffic on their railways, and for completing the purchase of lands and buildings for any of the above-mentioned purposes, and for providing additional plant and rolling stock, block and interlocking signals, and for the general purposes of their undertaking :

Amendment of Acts.

And whereas it is expedient that some of the powers and provisions of the existing Acts relating to the Company should be altered, amended, extended, and enlarged, and that such further powers should be granted to the Company as are herein-after mentioned :

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 :

Short title.

1. This Act may be cited for all purposes as the *Midland Railway (Additional Powers) Act, 1878.*

Incorporation of general Acts.

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,)

8 & 9 Vict. c. 18.  
23 & 24 Vict. c. 106.  
32 & 33 Vict. c. 18.  
8 & 9 Vict. c. 20.

The Lands Clauses Consolidation Acts, 1845, 1860, and 1869 ;  
The Railways Clauses Consolidation Act, 1845 ;

[41 VICT.] *Midland Railway (Additional Powers)* [Ch. xcvi.]  
Act, 1878.

Part I. (relating to the construction of a railway), Part II. (relating to extension of time), and Part V. (relating to amalgamation) of the Railways Clauses Act, 1863; A.D. 1878.  
26 & 27 Vict.  
c. 92.

The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters; namely, 8 & 9 Vict.  
c. 16.

The transfer and 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 borrowed money into capital;

The consolidation of shares into stock;

The provision to be made for affording access to the special Act by all parties interested; 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. 26 & 27 Vict.  
c. 118.

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: Interpreta-  
tion of terms.

The expression "the railway" or "the railways" means the new railways 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 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:

The expressions "parish clerks" and "clerks of the several parishes" in sections seven, eight, and nine of the Railways Clauses Consolidation Act, 1845, shall, with reference to the Company and as regards those parishes or extra-parochial places in which by the standing orders of either House of Parliament plans, sections, and other documents are required to be deposited with the clerk of the vestry of the parish, or with the clerk of the district board for the district in which the parish or extra-parochial place is included, mean in the first case the vestry clerks of those parishes, and in the second case the clerks of those district boards respectively. 8 & 9 Vict.  
c. 20.

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

[Ch. xcvi.] *Midland Railway (Additional Powers) Act, 1878.* [41 VICT.]

A.D. 1878.  
ways accord-  
ing to de-  
posited plans.

deposited plans and sections thereof, the railways 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 those plans and described in the deposited books of reference relating thereto as may be required for that purpose.

The railways herein-before referred to and authorised by this Act are—

- (1.) The new railways at Burton-on-Trent (three in number), of the aggregate length of four furlongs and three chains, to be wholly situate in the parish of Burton-on-Trent, in the county of Stafford; (that is to say,

No. 1, commencing by a junction with the Company's Burton Extension Railway No. 4, authorised by the Company's Act of 1874, and terminating in the yard of Messieurs Robinson and Company's Union Street Brewery :

No. 2, commencing by a junction with Railway No. 1, above described, and terminating in the yard of Messieurs Charrington and Company's brewery, on the south side of Lichfield Street :

No. 3, commencing by a junction with Railway No. 1, and terminating in the premises known as Bell's Brewery, on the north-west side of Lichfield Street :

- (2.) The Kensington line (one furlong and one chain in length), situate wholly in the parish of Saint Mary Abbots, Kensington, in the county of Middlesex, commencing by a junction with the joint railway of the Metropolitan and Metropolitan District Railway Companies, at the southern end of the High Street, Kensington, Station, and terminating in the vacant piece of land lying on the south-west side of the said station near Kelso Place :
- (3.) The Swadlincote and Woodville Junction deviation (one mile one furlong and five chains in length), commencing in the parish of Ashby-de-la-Zouch, in the county of Leicester, by a junction with the Company's authorised Swadlincote and Woodville Junction Railway, and terminating in the parish of Church Gresley, in the county of Derby, by a junction with the Company's Woodville branch :
- (4.) The Walsall Wood Branch deviation (four furlongs eight chains and thirteen yards in length), to be wholly situate in the parish of Aldridge, in the county of Stafford, commencing by a junction with the Company's Walsall Extension Railway, and terminating in a field distin-

[41 VICT.] *Midland Railway (Additional Powers)* [Ch. xcvi.]  
Act, 1878.

guished by the number 29 in the parish of Aldridge on the deposited plans relating to the Walsall Wood Branch, referred to in the Company's Act of 1876. A.D. 1878.

The said railways and works 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 part of the Midland Railway vested in the Company by the Act (local and personal) 7 & 8 Vict. c. 18., entitled "An Act to consolidate the North Midland, Midland Counties, and Birmingham and Derby Junction Railways," and had formed part of the line of the Midland Railway at the time of the passing of the Act (local and personal) 9 & 10 Vict. c. 326., entitled "An Act to consolidate the Bristol and Gloucester and Birmingham and Gloucester Railway Companies with the Midland Railway Company."

5. Subject to the provisions in the Railways Clauses Consolidation Act, 1845, and in Part I. (relating to the construction of a railway) of the Railways Clauses Act, 1863, contained in reference to the crossing of roads on the level, the Company may, in the construction of the under-mentioned railways, carry the same with a single line only, whilst the railway shall consist of a single line, and afterwards with a double line only, across and on the level of the roads next herein-after mentioned; (that is to say,)

Power to cross certain roads on the level.  
8 & 9 Vict. c. 20.  
26 & 27 Vict. c. 92.

No. on deposited Plan.	Parish.	Description of Road.
<b>THE NEW RAILWAYS AT BURTON-ON-TRENT.</b>		
21	Burton-on-Trent - - -	Park Street.
24	Burton-on-Trent - - -	Lichfield Street.
38	Burton-on-Trent - - -	New Street.

Provided always, that the forty-seventh section of the Railways Clauses Consolidation Act, 1845, shall not apply to the crossing of roads on a level hereby authorised, but at the points at which the roads herein-before mentioned are so crossed on the level by the railway the Company shall erect and at all times maintain good and sufficient gates across the railway on each side of the roads, and shall employ proper persons to open and shut such gates, and shall use all signals requisite for safety at such crossings, and such gates shall be kept constantly closed across the railway, except during the time when engines or carriages passing along the railway shall have occasion to cross such roads, and the person intrusted with the care of such gates shall cause the same to be closed as soon as such engines and carriages shall have passed through the gates, under a penalty not exceeding forty shillings for any default therein. 8 & 9 Vict. c. 20.

[Ch. xcvi.] *Midland Railway (Additional Powers) Act, 1878.* [41 VICT.]

A.D. 1878.

Inclinations of certain roads.

6. In altering for the purposes of this Act the roads next herein-after mentioned, the Company may make the same of any inclinations not steeper than the inclinations herein-after mentioned in connexion therewith respectively; (that is to say,)

No. on deposited Plan.	Parish.	Description of Road.	Intended Inclination.
THE SWADLINCOTE AND WOODVILLE JUNCTION DEVIATION.			
101	Ashby-de-la-Zouch -	Turnpike -	1 in 26.
116	Ashby-de-la-Zouch -	Turnpike -	1 in 25.

Height and span of a certain bridge.

7. The Company may make the arch of the bridge for carrying the under-mentioned railway over the road next herein-after mentioned of any height and span not less than the height and span herein-after mentioned in connexion with that road; (that is to say,)

No. on deposited Plan.	Parish.	Description of Road.	Height.	Span.
THE WALSALL WOOD BRANCH DEVIATION.				
17	Aldridge - -	Public -	14 feet -	25 feet.

Running powers to London and North-western Company over the new railways at Barton.

8. The London and North-western Railway Company may, for obtaining access to the works and breweries which may be accommodated by the new railways at Burton-on-Trent by this Act authorised, pass over and use with their engines and carriages of every description, and with their clerks, officers, and servants, the said new railways, together with the watering places, water, booking offices, warehouses, wharves, sidings, works, and conveniences connected therewith (except stations and sidings used for station purposes), upon payment of interest at the rate of five pounds per centum per annum on one half of the Company's outlay upon the said new railways and the conveniences so to be used. In case of difference as to the amount of such outlay, the same to be settled by an arbitrator to be appointed by the Board of Trade at the request of either company. But the London and North-western Railway Company shall be entitled in account to one half of the net tolls which the Company may receive from any other company in respect of any use by such other company of the said new railways, or any of them, or any part thereof respectively. The London and North-western Railway Company to pay also a proportion according to user of the maintenance, signalling, rates, taxes, and other expenses relating to the said new railways and conveniences, such proportion to be settled, in case of difference, by arbitration as aforesaid.



[41 VICT.] *Midland Railway (Additional Powers)* [Ch. xcvi.]  
*Act, 1878.*

The London and North-western Railway Company, in exercising the running powers by this Act conferred upon them, shall at all times observe the regulations and byelaws for the time being in force on the said new railways, so far as such byelaws shall be applicable to that company.

A.D. 1878.

9. Notwithstanding anything in this Act, the London and North-western Railway Company may provide, as and whenever desired by them, all necessary stations and other conveniences upon and in connexion with the new railways at Burton, and the Company shall concur in and afford all reasonable facilities for the acquisition of land and the construction of such stations and conveniences and the necessary junctions in connexion therewith.

London and North-western Railway Company may provide stations, &c. on new railways at Burton.

10. The provisions of the Railways Clauses Consolidation Act, 1845, relating to alteration of gas pipes and interference with gas supply by the Company, contained in sections 18, 19, 20, 21, 22, and 23 of that Act, shall for the purposes of this Act extend and apply to the Commissioners for executing the town of Burton-upon-Trent Act, 1853, as if the said Commissioners were a gas company within the meaning of the same sections.

Burton-upon-Trent Town Commissioners to be deemed a gas company under 8 & 9 Vict. c. 20. 16 & 17 Vict. c. cxviii.

11. For the protection of the South Staffordshire Waterworks Company the following provisions shall be observed and have effect; that is to say,

For protection of South Staffordshire Waterworks Company.

- (1.) If the Company, in constructing the new railways at Burton-upon-Trent herein-before described, shall find it convenient to alter the level of the mains, pipes, and works of the South Staffordshire Waterworks Company laid in the streets in the said town called Park Street, Lichfield Street, and New Street, which will be crossed on a level by the proposed works of the Company, then in that case they shall not do anything to impede the passage of water into or through the same mains, pipes, and works until they have delivered to the Waterworks Company plans and drawings of so much of the works as will affect the before-mentioned mains and pipes, with specifications in writing describing the proposed manner of executing the same works, and shall have obtained from the principal engineer of the said Waterworks Company a certificate under his hand approving of such plans, specifications, and proposed manner of executing the said works, and the same shall be executed accordingly under the superintendence and to the satisfaction of such principal engineer, and in no other manner without the consent in writing of the said

[Ch. xcvi.] *Midland Railway (Additional Powers) Act, 1878.* [41 VICT.]

A.D. 1878.

Waterworks Company under its common seal: Provided also, that such engineer shall, within twenty-one days next after the delivery of such plans and specifications, signify his approval or disapproval thereof, and if disapproved the matter in question shall in such case be referred to and settled by arbitration in manner herein-after mentioned: Provided also, that if such engineer shall not, within thirty days next after the delivery of such plans and specifications, signify his approval or disapproval thereof in writing as herein-before required, he shall be deemed to have approved thereof, and the Company may thereupon proceed with the works in the same way as if they had obtained the certificate of approval:

- (2.) In case of any alteration to the existing mains and works, the Company shall bear and on demand pay to the Waterworks Company all costs and expenses they may sustain and be put to in such alteration and connecting the said altered main with their present main and works, and connecting and readjusting the service and other pipes and works of the Waterworks Company with the said altered main, and shall also pay and make compensation to the Waterworks Company for all loss they may sustain through loss of water or interference with their business, and indemnify them against all damages, penalties, and costs which may arise from interruption of supply, such sums, damages, and costs to be recoverable by the Waterworks Company in any court of competent jurisdiction:
- (3.) In case of disagreement between the principal engineer of the Waterworks Company and the engineer of the Company as to works to be done for the protection of the Waterworks Company, or as to the amount of costs and expenses or compensation to be paid to the Waterworks Company under this section, the same shall be settled as a competent engineer appointed on the application of either party by the President for the time being of the Institution of Civil Engineers shall direct or determine:
- (4.) If any interruption in the supply of water by the Waterworks Company shall be occasioned by the Company, or by the acts, neglect, or default of any of their contractors, agents, workmen, or servants, or any person in the employ of them or any or either of them, (other than such interruption, if any, as shall be requisite for the due

[41 VICT.] *Midland Railway (Additional Powers)* [Ch. xcvi.]  
*Act, 1878.*

execution of the works by these enactments authorised, and for which payment and compensation is to be made as herein-before provided,) the Company shall forfeit and pay to the Waterworks Company a sum equal to and after the rate of ten pounds for every hour during which such interruption shall continue, and shall save harmless the Waterworks Company from all damages, penalties, and costs in respect of such interruption, such sum, damages, penalties, and costs to be recoverable by the Waterworks Company in any court of competent jurisdiction, and the expense of all repairs or renewals of the mains or pipes of the Waterworks Company or any works in connexion therewith which may at any time hereafter be rendered necessary by the acts or defaults of the Company, their contractors, agents, workmen, or servants, or any person in the employ of them or any or either of them, shall be borne and paid by the Company, and may be recovered against them by the Waterworks Company in manner herein-before mentioned :

A.D. 1878.

- (5.) The Waterworks Company shall at all times have full and free right of access to the railway, and to the lands of the Company in which the mains of the Waterworks Company shall be laid, for the purpose of inspecting, repairing, altering, or enlarging such mains, or for any similar purpose connected with or arising out of their undertaking :
- (6.) Except as herein expressly provided, nothing in this Act shall extend or be construed to extend to prejudice, diminish, alter, or take away any of the rights, powers, privileges, or authorities of or belonging to or vested in the Waterworks Company.

**12.** Section 27 of the *Midland Railway (New Works, &c.) Act, 1876*, (for the protection of sewers of Metropolitan Board of Works, vestries, and district boards,) shall, so far as the same are or may become applicable, extend and apply to the Kensington line by this Act authorised, in as full and complete a manner as if that section were re-enacted in this Act with reference to the said Kensington line.

39 & 40 Vict.  
c. cxlv. s. 27.  
extended to  
this Act.

**13.** If the Company fail within the period limited by this Act to complete the new railways at Burton-on-Trent, or the Kensington line, or the Swadlincote and Woodville Junction deviation, or the Walsall Wood Branch deviation, they shall be liable to a penalty of fifty pounds a day for every day after the expiration of the

Company  
liable to  
penalty  
unless rail-  
ways opened.

[Ch. xcvi.] *Midland Railway (Additional Powers)* [41 VICT.]  
*Act, 1878.*

A.D. 1878. — period so limited until the railway or railways in respect of which the penalty has been incurred is or are completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per centum on the amount of the estimated cost of the railway or railways in respect of which the penalty has been incurred.

The said penalty may be applied for by any landowner or other person claiming to be compensated in respect of the railway or railways in reference to which the penalty has been incurred 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 the third section of the Act 17 & 18 Vict. cap. 31., known as 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 the said third section of the Act 17 & 18 Vict. cap. 31., 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 specified in such warrant or order, and shall not be paid thereout except as herein-after provided.

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 or railways in respect of which the penalty has been incurred 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.

14. 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 railways in respect of which the penalty has been incurred, 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 or railways, 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 said Chancery Division may seem fit.

Providing for application 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.

A.D. 1878.

15. The railways by this Act authorised shall be completed within the period of five years from the passing of this Act, and if not so completed, then on the expiration of that period the powers by this Act granted to the Company for making and completing the respective railways, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof respectively as is then completed.

Period for completion of railways.

16. The construction by the Company, in the line and according to the levels and in and through the lands shown on the deposited plans and sections relating thereto, of so much of the deviation of the Bennerley and Bulwell line of the Company described in and authorised by the Company's Act of 1873 as lies between the fields numbered respectively on the deposited plans referred to in that Act 19 and 152, in the parish of Bulwell, in the county of Nottingham, is hereby authorised and confirmed, and the Company may maintain that portion of the said railway as so constructed, and they may hold and use for that purpose the lands which they have acquired shown on the deposited plans and described in the deposited books of reference relating thereto.

Legalising construction of portion of Bennerley and Bulwell deviation railway in parish of Bulwell.

17. Subject to the provisions of this Act, the Company may make, in the lines shown on the deposited plans relating thereto, the new footpaths herein-after described, with all proper works and conveniences connected therewith, and they may exercise the other powers herein-after mentioned, and may enter upon, take, and use such of the lands delineated on the deposited plans and described in the deposited books of reference relating thereto as may be required for those purposes; (that is to say,)

Power to make new footpaths.

A.D. 1878.

- (1.) They may make a new footpath in the township or hamlet of Castle Bromwich, in the parish of Aston-juxta-Birmingham, in the county of Warwick, commencing by a junction with the existing public footpath which passes along the occupation road called Kitley Lane, at a point thereon ten chains and a half or thereabouts from the level crossing by that footpath of the Company's Birmingham and Derby Railway, and terminating by a junction with the same footpath at a point thereon ten chains and a half or thereabouts from the level crossing above described :

When and so soon as the new footpath is completed and opened to the public the Company may stop up so much of the existing footpath as lies between the commencement and termination of the new footpath, and thereupon all rights of way over the same are hereby extinguished :

- (2.) They may make a new footpath in the parish of Sileby, in the county of Leicester, commencing by a junction with the existing footpath leading from Sileby to Pawdy Lane, at a point thereon eleven chains or thereabouts from the level crossing by that footpath of the Company's main line of railway, and terminating by a junction with the public road leading from Sileby to Barrow-on-Soar, at a point thereon thirty-seven chains or thereabouts from the junction of that road with Church Street in the village of Sileby :

When and so soon as the new footpath is completed and opened to the public the Company may stop up and discontinue so much of the existing footpath as lies between its junction with the said public road from Sileby to Barrow-on-Soar and the commencement of the new footpath :

- (3.) They may make a new footpath in the parish of Manton, in the county of Rutland, commencing by a junction with the existing footpath leading from Manton, through or past the Company's Manton Station, to Wing, at a point thereon eleven chains and a half or thereabouts from the booking office of the said Manton Station, and terminating by a junction with the same footpath at or near the bridge carrying it over the River Chater :

When and so soon as the new footpath is completed and opened to the public the Company may stop up and discontinue so much of the said existing footpath as lies between the commencement and termination of the new footpath :

[41 VICT.] *Midland Railway (Additional Powers)* [Ch. xcvi.]  
*Act, 1878.*

(4.) They may make two new footpaths in the parish of Kettering, A.D. 1878.  
in the county of Northampton; (that is to say,)

Footpath No. 1, commencing by a junction with the existing footpath which crosses on the level the Company's main line of railway, one hundred and fifty yards or thereabouts south of the bridge carrying that railway over the public road from Rothwell to Kettering, at a point on that footpath ten chains or thereabouts from the said level crossing, and terminating by a junction with the same footpath at or near the junction therewith of the said public road from Rothwell to Kettering:

When and so soon as the new footpath is completed and opened to the public the Company may stop up and discontinue so much of the said existing footpath as lies between the commencement and termination of the new footpath No. 1:

Footpath No. 2, commencing by a junction with the existing footpath which crosses on the level the Company's main line of railway, two hundred yards or thereabouts north-west of the bridge carrying the public road from Kettering to Wellingborough over that railway, at a point on that footpath ten chains and a half or thereabouts from the said level crossing, and terminating by a junction with the same footpath at a point thereon one chain or thereabouts from the same level crossing:

When and so soon as the new footpath is completed and opened to the public the Company may stop up and discontinue so much of the said existing footpath as lies between the commencement and termination of the new footpath No. 2.

18. The new footpaths when completed shall be substituted for the portions of the existing footpaths by this Act authorised to be stopped up, and shall thenceforth have all the incidents, including the repair and maintenance thereof, which the said portions of footpaths would have had if this Act had not been passed: Provided always, that if any question shall arise between the Company and the trustees or other authority having the management of the said footpaths as to the due completion of the new footpaths respectively, such question shall from time to time be determined by two justices on the application of either of the parties in difference, and after not less than seven days notice to both parties of the sitting of the justices for the purpose, and the certificate of the justices of the due completion of the new footpaths shall be conclusive evidence of the fact so certified.

Provision for  
repair of new  
footpaths.

[Ch. xcvi.] *Midland Railway (Additional Powers)* [41 VICT.]  
Act, 1878.

- A.D. 1878. **19.** Subject to the provisions of this Act, the Company, in addition to the other lands which they are by this Act authorised to acquire, may from time to time enter upon, take, use, and appropriate to the purposes of extending their stations, sidings, warehouses, engine-sheds, workshops, coal depôts, and other works and conveniences for the accommodation of their traffic, and for other purposes connected with their undertaking, all or any of the lands and buildings following delineated on the deposited plans thereof and described in the deposited books of reference relating thereto; (that is to say,)
- Power to acquire lands for general purposes.
- Wetheral. Certain lands, houses, and buildings situate in the township and parish of Wetheral, in the county of Cumberland, adjoining and on the south-west side of the Company's railway from Settle to Carlisle, and near to the distance post on that railway marked sixty-five and a half miles :
- Keighley. Certain lands, houses, and buildings situate in the township and parish of Keighley, in the west riding of the county of York, adjoining and on the south-east side of the public road from Bradford to Keighley, near the junction therewith of Low Mill Road :
- Bradford. Certain lands, houses, and buildings situate in the township of Manningham, in the parish of Bradford, in the west riding of the county of York, lying between Thornton Road and Whetley Lane, near to the mills belonging to and in the occupation of Messieurs Illingworth :
- Toxteth Park. Certain lands, houses, and buildings situate in the township or extra-parochial place of Toxteth Park, in the county of Lancaster, bounded on the east by a new street called Cockburn Street, on the north by Beresford Road, and on the west by a new street called Grafton Street :
- Withington. Certain lands, houses, and buildings situate in the township of Withington, in the parish of Manchester, in the county of Lancaster, on both sides of Burton Lane, and near the junction of that lane with Lapwing Lane :
- Didsbury. Certain lands, houses, and buildings situate in the township of Didsbury, in the said parish of Manchester, on the south-west side of Barlow Moor Lane, and near to that part of the said lane which is distant one hundred and eighty-seven yards or thereabouts from the junction thereof with the Wilmslow turnpike road :
- Heaton Norris. Certain lands, houses, and buildings situate in the township of Heaton Norris, in the said parish of Manchester, on the south-east side of and adjoining the public road leading from Didsbury to Stockport, and on the north side of and near to the



[41 VICT.] *Midland Railway (Additional Powers)* [Ch. xcvi.]  
*Act, 1878.*

Company's Manchester South District Railway now in course of construction: A.D. 1878.

Certain lands, houses, and buildings situate in the parish of Mansfield, in the county of Nottingham, adjoining and on each side of the Company's railway from Nottingham to Mansfield, near the southern junction therewith of the Company's railway from Mansfield to Southwell: Mansfield.

Certain lands, houses, and buildings situate in the township of Branstone, in the parish of Burton-on-Trent, in the county of Stafford, on both sides of and adjoining the Company's Birmingham and Derby Railway: Branstone.

Certain lands, houses, and buildings situate in the township and parish of Tatenhill, in the county of Stafford, on both sides of and adjoining the Company's Birmingham and Derby Railway: Tatenhill.

Certain lands, houses, and buildings situate in the township of Dunstall, in the said parish of Tatenhill, on both sides of and adjoining the Company's Birmingham and Derby Railway: Dunstall.

Certain lands, houses, and buildings situate in the township of Barton-under-Needwood, in the said parish of Tatenhill, on both sides of and adjoining the Company's Birmingham and Derby Railway: Barton-under-Needwood.

Certain lands, houses, and buildings situate in the parish of Saint Margaret, Leicester, in the county of Leicester, lying on the north side of the Company's main line of railway and between that railway and the Humberstone Road: Leicester.

And the Company may widen to the extent of fifty feet the bridge carrying their main line of railway and sidings over Kent Street, in the said parish of Saint Margaret, and stop up and discontinue and appropriate to the purposes of their undertaking Walter Street, and so much of Bell Lane as lies south-east of its junction with Sussex Street:

Provided always, that in widening the bridge which carries the railway over Kent Street, the Company shall construct and maintain a free opening for light and air of the full width of that street, and of a length measured north from the north face of the bridge of not less than thirty feet on the west side, and twenty feet on the east side of the said street:

Certain lands, houses, and buildings situate in the parish of Saint Mark, Peterborough, in the county of Northampton, adjoining and on the west side of the Company's railway from Peterborough to Syston, and near to the bridge over that railway known as Westwood Bridge. Peterborough.

A.D. 1878.

As to works  
within the  
borough of  
Bradford.

20. The Company shall not extinguish, stop up, divert, or in any way interfere with the highway or public footpath now subsisting in the lands proposed to be acquired by the Company as hereinbefore mentioned, situate in the township of Manningham, in the parish of Bradford, in the west riding of the county of York, lying between Thornton Road and Whetley Lane, or any part thereof, save in accordance with the following provisions :

(1.) The Company shall, before interfering with such highway or footpath, deliver to the mayor, aldermen, and burgesses of the borough of Bradford (herein called "the corporation") a plan and section showing the proposed interference with such highway or footpath or part thereof, and of any new way and works to be substituted so as to provide accommodation for the public equal at least to the present accommodation afforded by the said highway or footpath. If for fourteen days after delivery of such plan and section no objection be made thereto by or on behalf of the corporation, the same shall be deemed and taken to be approved of by them, and shall in all respects be carried out by the Company. If within such fourteen days notice of objection be given to the Company or their engineer for the time being by the corporation or their borough surveyor for the time being, then such new highway or substituted works shall in all respects be made and completed by the Company in such manner, at such levels, of such width, in such course and direction, and subject to such stipulations as may be agreed upon between the said engineer and surveyor for the time being respectively, or failing their agreement, as may be directed by some person to be jointly appointed by them, or failing such joint appointment within three days after written request from either of them to the other, then as may be directed by some person to be appointed by the Board of Trade on the application of either party. The costs of any referee to be borne equally by the corporation and Company. Each of the parties to bear their own costs respectively :

(2.) Any substituted highway and all works connected therewith to be provided and made by the Company as aforesaid shall be completed and be dedicated for public use before the present highway or footpath shall be interfered with by the Company :

(3.) The corporation shall have full power at all times to enter upon any substituted highway or works by themselves, agents,

[41 VICT.] *Midland Railway (Additional Powers)* [Ch. xcvi.]  
*Act, 1878.*

and workpeople, and construct, lay down, repair, and maintain all such sewers, drains, water and gas mains as they may require : A.D. 1878.

(4.) If the Company shall in any way interfere with the said highway or footpath otherwise than as is herein-before mentioned, they shall be liable to a penalty not exceeding twenty pounds a day for every day during which such interference shall continue, the same to be recoverable by summary process before two justices of the peace. Any fines so recovered shall be paid to the credit of the borough fund of the said borough :

(5.) If by reason of any substituted works as aforesaid any additional expense for maintenance is occasioned beyond the cost of ordinary maintenance of a highway, the same shall be borne and paid by the Company :

(6.) The provisions in the Railways Clauses Consolidation Act, 1845, contained in the sections thereof numbered 18 to 22, both inclusive, shall apply to all drains, sewers, water-courses, conduits, mains, and pipes, sanitary, water, or gas works of the corporation. Whenever in those sections the words company, society, commissioners, or trustees are or any of them is used, the same shall for the purposes of this Act be held to extend to include and mean the corporation. 8 & 9 Vict.  
s. 20.

**21.** 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, hand-bills, 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 they have so made known their intention. Notice to be given of taking houses of labouring classes.

**22.** And whereas the construction of the works and the acquisition and appropriation by the Company of lands, houses, and buildings as by this Act authorised will involve a removal of some houses of the class referred to in the immediately preceding section, and it is expedient that provision should be made for the accommodation of such of the before-mentioned persons as may be displaced by such removal : Provision as to accommodation for persons belonging to labouring classes.

Therefore, before displacing any such person as aforesaid the Company shall provide sufficient accommodation elsewhere, unless the Company and such person otherwise agree : Provided always,

[Ch. xcvi.] *Midland Railway (Additional Powers)* [41 VICT.]  
*Act, 1878.*

A.D. 1878.

that if any difference arise as to the sufficiency of the accommodation proposed to be so provided by the Company, the same shall be determined by a justice.

The Company may, for the purpose of providing such accommodation, appropriate any lands for the time being belonging to them or which they have power to acquire, and may purchase lands by agreement, and may on any such lands erect labouring-class dwellings, and may let or otherwise dispose of such lands.

Period for compulsory purchase of lands.

**23.** The powers granted to the Company by this Act for the compulsory purchase of lands and buildings shall not be exercised after the expiration of three years from the passing of this Act.

Power to take easements, &c. by agreement.

**24.** 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 required for the purposes of this Act, in, over, or affecting lands, and the provisions of the Lands Clauses 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.

Owners may be required to sell parts only of certain lands and buildings.

**25.** And whereas in the exercise of the powers of this Act it may happen that portions only of certain lands, buildings, or manufactories shown on the deposited plans will be sufficient for the purposes of the Company, and that such portions may be severed from the remainder of the said properties without material detriment thereto :

8 & 9 Vict. c. 18.

Therefore, notwithstanding section ninety-two of the Lands Clauses Consolidation Act, 1845, unless the jury or the arbitrators or their umpire to whom the question of disputed compensation shall be submitted shall determine that such portions cannot be severed from the remainder of such properties without material detriment thereto, the owners of and persons interested in the lands, buildings, or manufactories described in the schedule to this Act, and whereof parts only are required for the purposes of this Act, may be required to sell and convey to the Company the portions only of the properties so required, without the Company being obliged or compellable to purchase the whole or any greater portion thereof, the Company paying for the portions required by them, and making compensation for any damage sustained by the owners thereof and other persons interested therein by severance or otherwise.

Power to Sheffield and Midland Railway Companies Committee

**26.** The Sheffield and Midland Railway Companies Committee may purchase by agreement and hold certain railways called the West Widnes Railways, now in course of construction, and situate in the townships of Widnes and Ditton, in the parish of Prescott,

[41. VICT.] *Midland Railway (Additional Powers)* [Ch. xcvi.]  
Act, 1878.

and in the township of Halewood, in the parish of Childwall, all in the county of Lancaster, viz. : A.D. 1878.

(1.) A railway commencing in the township of Widnes by a junction with the Railway (No. 1) authorised by the Sheffield and Midland Railway Companies Committee Act, 1875, at the termination thereof, and terminating in the township of Ditton by a junction with the Liverpool Extension Railway of the Cheshire Lines Committee :

to acquire  
West Widnes  
Railways.  
38 & 39 Vict.  
c. ciii.

(2.) A railway commencing by a junction with the railway last described, at the commencement thereof, and terminating in the township of Halewood, in the parish of Childwall, by a junction with the railway leading from the Ditton Brook Ironworks to the London and North-western Railway :

And the said railways, and the stations, sidings, works, and conveniences connected therewith, when so acquired by the said Committee, shall for the purposes of tolls and charges, and for all other purposes whatever, be deemed part of the Widnes undertaking belonging to the Company and the Manchester, Sheffield, and Lincolnshire Railway Company jointly, under the provisions of the Sheffield and Midland Railway Companies Committee Act, 1875.

38 & 39 Vict.  
c. ciii.

27. Subject to the provisions of this Act, the Sheffield and Midland Railway Companies Committee may purchase by compulsion or agreement and hold for purposes connected with their undertaking all or any of the lands, houses, and buildings following delineated on the deposited plans and described in the deposited books of reference; (that is to say,)

Power to  
Sheffield and  
Midland  
Railway  
Companies  
Committee  
to acquire  
additional  
lands.

Certain lands, houses, and buildings situate in the township of Widnes, in the parish of Prescott, in the county of Lancaster, on the south side of the railway of the Committee, and adjoining the north-east corner of the works and premises belonging or reputed to belong to Messieurs Pilkington and Sons.

28. The powers of the Sheffield and Midland Railway Companies Committee for the compulsory purchase of lands under this Act shall not be exercised after the expiration of three years from the passing of this Act.

Period for  
compulsory  
purchase of  
those lands.

29. Subject to the provisions of this Act, all rights of way over and along the several footpaths or other highways or portions thereof which may under the provisions of this Act be stopped up and discontinued, and over any of the lands which may under those provisions be purchased or acquired, shall be and the same are hereby extinguished, but this provision shall not apply to any lands which the Company may under the powers of this Act acquire for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act, 1845.

Extinguish-  
ment of  
rights of  
way, &c.

8 & 9 Vict.  
c. 20.

[Ch. xcvi.] *Midland Railway (Additional Powers) Act, 1878.* [41 VICT.]

A.D. 1878.

For protection of Corporation of Manchester.  
36 & 37 Vict. c. cexxii.

**30.** The provisions of the thirty-seventh section of the Manchester South District Railway Act, 1873, shall, so far as they may be applicable to any works to be executed by the Company upon lands to be acquired by them under the powers of this Act, apply to those works and be deemed to be incorporated with and to form part of this Act.

Revival of powers for construction of portion of Railway No. 1 authorised by 35 & 36 Vict. c. cxviii.

**31.** The powers granted by the Company's Nottingham, &c. Act of 1872 for the construction of so much of the Railway No. 1 thereby authorised as was not by the Company's Act of 1873 authorised to be abandoned (such portion of railway commencing in the parish of Saint Mary, Nottingham, in the town and county of the town of Nottingham, by a junction with the Company's Nottingham and Lincoln line, at a point thereon near the bridge which carries that line over the Nottingham Canal, and terminating in the parish of Upper Broughton, otherwise Broughton-Sulney, in the county of Nottingham, in a field numbered on the deposited plans referred to in the said Act of 1872 12 in that parish), but which portion of railway was not completed within the period limited by the first-mentioned Act for the completion thereof, are hereby revived, and may be exercised by the Company for the period of three years from the eighteenth day of July one thousand eight hundred and seventy-seven, and on the expiration of that period those powers shall cease to be exercised, except as to so much thereof as is then completed, and section 9 of the Company's Nottingham, &c. Act of 1872 shall be read and construed as if the period limited by this Act for the completion of the said portion of railway had been the period limited by the said Act of 1872.

Revival of powers for construction of portion of Bennerley and Bulwell line authorised by 35 & 36 Vict. c. cxl.

**32.** The powers granted by the Company's Powers Act of 1872 for the construction of so much of the railway from Bennerley to Bulwell by that Act authorised as was not by the Company's Act of 1873 authorised to be abandoned (such portion of railway commencing in the parish of Ilkeston, in the county of Derby, by a junction with the Company's Erewash Valley Railway at a point thereon sixty-one chains or thereabouts north of the booking office of the Ilkeston Junction Station, and terminating in the parish of Bulwell, in the county of Nottingham, in the field numbered on the deposited plans referred to in the first-mentioned Act 4 in that parish), but which portion of railway was not completed within the period limited by the first-mentioned Act for the completion thereof, are hereby revived, and may be exercised by the Company for the period of two years from the twenty-fifth day of July one thousand eight hundred and seventy-seven, and on the expiration of that period those powers shall cease, except as to so much thereof as is then completed; and section 19 of the Company's Powers Act of

[41 VICT.] *Midland Railway (Additional Powers)* [Ch. xcvi.]  
Act, 1878.

1872 shall be read and construed as if the period limited by this Act for the completion of the said portion of railway had been the period limited by the said Act of 1872.

A.D. 1878

**33.** The time limited by the Company's Act of 1873 for the completion of the Heanor Branch Extension, the Doe Lea Extension, the deviation of the Company's Bennerley and Bulwell line, and the deviation of the Company's Nottingham and Saxby line, by that Act respectively authorised, and the works connected therewith respectively, is hereby extended for the period of two years from the twenty-eighth day of June one thousand eight hundred and seventy-eight, and section 13 of that Act, so far as the same relates to the said extension and deviation railways respectively, shall be read and construed as if the period by this Act limited for the completion of the same respectively had been the period limited by the said Act of 1873.

Extension of time for completion of certain railways and works authorised by the Company's Act of 1873.

If the Heanor Branch Extension, or the Doe Lea Extension, or the deviation of the Company's Bennerley and Bulwell line, or the deviation of the Company's Nottingham and Saxby line, be not completed within the extended period by this Act limited, then on the expiration of that period the powers by this Act granted to the Company for making and completing the respective railways, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof respectively as shall then be completed.

**34.** The time limited by the Company's Act of 1874 for the completion of the Pleasley Extension Railway thereby authorised and the works connected therewith is hereby extended for the period of two years from the thirtieth day of July one thousand eight hundred and seventy-nine, and section 13 of that Act, so far as the same relates to the Pleasley Extension Railway, shall be read and construed as if the period by this Act limited for the completion thereof had been the period limited by the said Act of 1874.

Extension of time for completion of Pleasley Extension Railway.

If the Pleasley Extension Railway be not completed within the extended period by this Act limited, 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 shall then be completed.

**35.** The Company shall abandon the construction of the following portions of their authorised railways; (that is to say,)

Company to abandon portions of authorised railways.

- (1.) So much of their Swadlincote and Woodville Junction Railway as lies between the point in this Act before described as the commencement of the Swadlincote and Woodville Junction Deviation and the authorised termination of the said Swadlincote and Woodville Junction Railway:

[Ch. xcvi.] *Midland Railway (Additional Powers)* [41 VICT.]  
*Act, 1878.*

A.D. 1878.

(2.) So much of their Walsall Wood Branch as lies between the authorised commencement thereof and the termination of the Walsall Wood Branch Deviation :

(3.) The Alton Branch Railway authorised by the Company's Act of 1874.

Compensation for damage to land by entry for purposes of railways abandoned.

**36.** The abandonment by the Company, under the authority of this Act, of any portion of railway shall not prejudice or affect the right of the owner or occupier of any land to receive compensation 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 the line of railway, 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 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 Railways Clauses Consolidation Act, 1845, or the Company's Acts of 1874, 1875, and 1876.

8 & 9 Vict.  
c. 20.

Compensation to be made for non-completion of purchase, &c. for purposes of railways abandoned.

**37.** Where before the passing of this Act any contract has been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to any portion of railway 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, the Company shall be released from all liability to purchase or to complete the purchase of any such lands ; but, notwithstanding, 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. The amount and application of the compensation shall be determined in manner provided by the Lands Clauses Consolidation Act, 1845, as amended by any subsequent Act, for determining the amount and application of compensation paid for lands taken under the provisions thereof.

8 & 9 Vict.  
c. 20.

Vesting in Company of undertaking of Stonehouse Company.

**38.** As from the first day of July one thousand eight hundred and seventy-eight (which day is in this Act referred to as the vesting period) the heads of agreement scheduled to the Stonehouse Act of 1863 shall cease to be binding, except so far as regards the settlement of all accounts up to that date, and the undertaking of the Stonehouse Company (including the railway constructed under the powers of the Stonehouse Act of 1863, and all stations, sidings,



[41 VICT.] *Midland Railway (Additional Powers)* [Ch. xcvi.]  
Act, 1878.

approaches, buildings, fixed plant, warehouses, and other works, and all the lands, and other the rights, powers, privileges, property, estate, books, papers, and documents of the Stonehouse Company, but not moneys in their hands) shall be and is hereby absolutely vested in the Company as part of their undertaking upon and subject to the terms, conditions, and provisions herein-after set forth; (that is to say,)

A.D. 1878.

- (1.) As from the vesting period the Company may and shall exercise and fulfil in their own name and under their own seal, and in the names and under the hands of their directors, officers, and servants, all the rights, powers, liabilities, and obligations of the Stonehouse Company, whether with reference to the acquisition of lands, the construction and maintenance of works, the borrowing of money, the levying of tolls, rates, and charges, or otherwise, in like manner as those rights, powers, liabilities, and obligations are authorised and required to be exercised by the Stonehouse Company : Exercise by Company of powers of Stonehouse Company.
- (2.) Within one calendar month after the passing of this Act the Company shall pay to the Stonehouse Company the sum of twenty thousand seven hundred and sixty-eight pounds, to be applied by that Company in or towards payment of their debts and liabilities, as herein-after provided : Payment to be made by Company to Stonehouse Company for discharge of debts.
- (3.) Forthwith after the receipt of such money the directors of the Stonehouse Company shall apply the same in or towards payment of the debts and liabilities of the Stonehouse Company other than the principal and interest moneys payable in respect of the debentures for the time being of the Stonehouse Company, and notwithstanding the vesting the Stonehouse Company shall continue liable to and shall pay and discharge all their debts (except as aforesaid), obligations, and engagements incurred prior to the vesting period : Application thereof by Stonehouse Company.
- (4.) As from the vesting period the Company shall pay to or satisfy the respective holders of the mortgages granted by the Stonehouse Company the interest and principal secured by those mortgages, as and when such interest and principal respectively become due : Company to satisfy mortgages of Stonehouse Company.
- (5.) When and as the principal money secured by any mortgage of the Stonehouse Company becomes payable, the Company shall, in pursuance of the provisions of the Company's Act of 1874, if they do not pay off such principal money, grant and issue, in their own names and on the security of their Company to issue their mortgages or debenture stock in lieu of Stonehouse

A.D. 1878

Company's  
mortgages.

own undertaking, mortgages or debenture stock in substitution for the mortgage not so paid off:

Provided always, that the Company may (with the consent of the holder of any mortgage of the Stonehouse Company before any principal money so secured becomes due) grant and issue to the holder of the mortgage and in substitution for the same debenture stock of the Company:

Provided also, that the Company may issue debenture stock to the extent of the principal money secured by any mortgage of the Stonehouse Company paid off by them, and to that extent the power of the Company to exercise the borrowing powers of the Stonehouse Company shall be cancelled:

Shares held  
by Company  
in under-  
taking of  
Stonehouse  
Company  
cancelled,  
and share  
capital of  
that com-  
pany re-  
duced.

(6.) Upon the vesting of the undertaking of the Stonehouse Company in the Company under the provisions of this Act, the one thousand two hundred and fifty ordinary shares of twenty pounds each and the five hundred preference shares of twenty pounds each held by the Company in that undertaking shall be and the same are hereby cancelled, and as from the vesting period the share capital of the Stonehouse Company shall consist of forty thousand nine hundred and forty pounds, divided into two thousand and forty-seven ordinary shares of twenty pounds each:

Annual sums  
payable by  
Company to  
Stonehouse  
Company.

(7.) As from the vesting period the Company shall be liable to pay, and shall from time to time pay, to the Stonehouse Company the sums of money following; (that is to say,)

For the half year ending thirty-first December one thousand eight hundred and seventy-eight and for the year ending thirty-first December one thousand eight hundred and seventy-nine, the sum of one shilling:

For the year ending thirty-first December one thousand eight hundred and eighty and for all subsequent years, the sum of one thousand two hundred and twenty-eight pounds four shillings:

The said annual sums shall be payable by equal half-yearly payments on the fifteenth day of January and the fifteenth day of July in each year, without any deduction except for property tax:

Application  
thereof by  
Stonehouse  
Company.

(8.) The Stonehouse Company shall hold the sums of money so from time to time received by them in trust to apply the same as the income arising from the transferred undertaking if they were still in possession thereof would be applicable:

[41 VICT.] *Midland Railway (Additional Powers)* [Ch. xcvi.]  
Act, 1878.

(9.) The Midland Company may and shall, as soon as conveniently may be after the passing of this Act, appoint a fit and proper person on their staff to discharge and perform the secretarial and other duties required to be performed in respect of the Stonehouse Company's undertaking, and the Company shall pay to the Stonehouse Company all expenses necessarily incurred by them in the administration of their affairs after the date of the vesting period : A.D. 1878.

(10.) As from the vesting period the functions of the receiver appointed in the suits of *Jewsbury v. The Stonehouse and Nailsworth Railway Company* and *Spain v. The Stonehouse and Nailsworth Railway Company*, pending in the Chancery Division of the High Court of Justice, shall as regards all tolls, rates, or sums of money thereafter accruing absolutely cease, and upon the application of the Stonehouse Company the said Chancery Division may in its discretion provide out of any funds standing to the credit of the said suits or either of them, or in the hands of the receiver, for all or any part of the costs of such suits, and direct the balance of all such sums as aforesaid to be transferred to the persons entitled thereto, and thereupon the said Chancery Division shall discharge such receiver upon passing his accounts, and shall direct all further proceedings in the said suits to be stayed : Discharge of receiver and stay of proceedings in pending suits.

Provided always, that within three months from the vesting period the Company shall produce to the Commissioners of Inland Revenue a copy of this Act printed by Her Majesty's printer, and duly stamped with the ad valorem stamp duty of the same amount as would have been payable if the transfer of the undertaking had been by a deed of conveyance; and if the said Company shall not within the said period of three months produce to the said Commissioners such copy of this Act duly stamped as aforesaid, the ad valorem stamp duty, with interest thereon at the rate of five pounds per centum per annum from the passing of this Act, shall be recoverable from the Company with full costs of suit and all costs and charges attending the same.

**39.** The Company may from time to time raise by the creation and issue of new shares or stock such sums of money as they shall think necessary, not exceeding nine hundred thousand pounds, exclusive of the moneys which they are or may be authorised to raise by any other Act or Acts of Parliament; and the Company may create and issue such shares or stock either wholly or partially Power to Company to raise additional money by creation of shares or stock.

[Ch. xcvi.] *Midland Railway (Additional Powers)* [41 VICT.]  
*Act, 1878.*

A.D. 1878. — 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.

**40.** The Company shall not issue any new share created under the authority of this Act, nor shall any such share vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

As to amount and issue of new shares or stock.

**41.** If at the time of the creation of new shares or stock under this Act the then existing ordinary consolidated stock in the Company be at a premium or of greater actual value (according to the market price thereof in the City of London) than the nominal value thereof, such new shares may be of such amounts (not other than an integral number of pounds sterling per share) or such new stock may be so divided as will allow the same to be conveniently apportioned among the then holders of all shares or stock in the Company (other than and except shares or stock to which any guaranteed or preferential dividend of a fixed amount without further participation in the profits of the Company shall have been assigned) in proportion to the number of shares or amount of stock held by them respectively, and such new shares or stock may be either of one class or of different classes. The directors of the Company may from time to time (but subject to the provisions of this Act) fix the amounts and times of payment of the calls on the new shares created under the powers of this Act. And unless the Company shall at the time of the creation of the new shares or stock otherwise determine, every holder of shares or stock in the Company at the time of such creation as aforesaid (other than and except as aforesaid) shall in such proportion as aforesaid be entitled to an allotment of the new shares or stock according to the provisions of this Act, and upon such terms and conditions as the Company shall determine at the time of the creation of the new shares or stock; but no holder of any shares or stock entitled to a fixed amount of dividend without further participation in the profits of the Company shall be entitled to any apportionment of any such new shares or stock.

Votes in respect of new shares or stock.

**42.** The Company may from time to time, if they think fit, attach to all or any new shares or stock or any class of new shares or stock created under the powers of this Act any total or partial, permanent or temporary, restrictions of the rights of voting and other qualifications of the holders thereof.

Shares or stock of same class to have like privileges.

**43.** All new shares or stock of the same class created under this Act shall confer like privileges, and shall bear like dividends or interest, and be subject to like restrictions, if any.

[41 VICT.] *Midland Railway (Additional Powers)* [Ch. xcvi.]  
*Act, 1878.*

44. Subject to the provisions of this Act, all new shares or stock created under this Act shall vest in and belong to such of the then holders of shares or stock as shall accept the same and pay the first instalment on the shares or the amount of the stock at the time which shall be fixed by the directors, and specified in the letter offering the new shares or stock.

A.D. 1878.  
Vesting of  
new shares  
or stock.

45. If any holder of shares or stock for one month after such offer of new shares or stock fail to accept the same and pay the required sum in respect thereof, the Company may authorise the directors to dispose of the same in such manner as they may deem most for the advantage of the Company.

Shares or  
stock not  
accepted may  
be disposed  
of by Com-  
pany.

46. Except as by or under the powers of this Act otherwise provided, all new shares or stock issued under the powers of this Act shall, in proportion to the aggregate amount from time to time paid up on the new shares held by the same person at the same time, or to the amount of the stock so held, entitle the respective holders of such new shares or stock to the same dividends and profits and confer on them the like qualifications and the like rights of voting as the like amount paid up on the existing shares or stock of the Company, other than and except shares or stock to which any guaranteed or preferential dividend of a fixed amount without further participation in the profits of the Company shall have been assigned: Provided always, that, unless otherwise determined by the meeting sanctioning the new shares or stock, no person shall be entitled to vote in respect of any of the new shares or stock to which a fixed or preferential dividend or other special advantage shall be assigned.

Qualifica-  
tions of new  
shares or  
stock.

47. This Act or anything therein contained shall not prejudice or affect any preference or priority in the payment of interest or dividend on any other shares or stock which shall have been granted by the Company in pursuance of or which may have been confirmed by any previous Act of Parliament, or which may otherwise be lawfully subsisting, or any dividend on any Midland Railway debenture stock.

Saving  
rights of  
existing  
preference  
shareholders.

48. 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 and any other Act passed in the present session, whether before or after the passing of this Act, by which the Company may be authorised to raise capital by new shares or stock, 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

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

[Ch. xcvi.] *Midland Railway (Additional Powers)* [41 VICT.]  
*Act, 1878.*

A.D. 1878. — such other Acts and this Act respectively authorised to raise by means of new shares or stock.

Power to  
borrow on  
mortgage.

8 & 9 Vict.  
c. 16.

**49.** The Company may, in respect of the additional capital of nine hundred 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 three hundred thousand 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 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 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 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 capital is raised by means of shares, that such persons or corporations, or their executors, administrators, successors, 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 in reference to such capital has been given, which certificate shall be sufficient evidence thereof.

As to  
appointment  
of a receiver.

**50.** 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 interest or principal, or principal 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 mort-

[41 VICT.] *Midland Railway (Additional Powers) [Ch. xcvi.]*  
*Act, 1878.*

gages 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.

A.D. 1878.

51. All mortgages and bonds granted by the Company in pursuance of the powers of any Act of Parliament passed before the passing of this Act, and which shall be subsisting at the time of the passing thereof, shall, during the continuance of such mortgages and bonds, and subject to the provisions of the Acts under which such mortgages and bonds were respectively granted, have priority over any mortgages to be 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.

Existing mortgages to have priority.

52. 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.

Company may create debenture stock.  
26 & 27 Vict. c. 118.

53. All moneys raised under this Act, whether by shares, stock, debenture stock, or borrowing, shall be applied to the purposes of this Act and to the general purposes of the undertaking of the Company, and to no other purpose.

Application of moneys.

54. The Company may from time to time apply for or towards all or any of the purposes of this Act any sums of money which they have already raised or are authorised to raise by any of their Acts, and which are not required for the purposes to which they are by those Acts made specially applicable.

Company may apply corporate funds.

55. The Sheffield and Midland Railway Companies Committee may apply for or towards the purposes of this Act which they are empowered to carry into effect any moneys which they may have in their hands, and which are not by any Act relating to them made applicable to any special purpose, or which being so made applicable are not required for the special purpose.

Power for Sheffield and Midland Railway Companies Committee to apply funds to purposes of Act.

56. 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,

Interest not to be paid on calls paid up.

[Ch. xcvi.] *Midland Railway (Additional Powers)* [41 VICT.]  
Act, 1878.

A.D. 1878. 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.

8 & 9 Vict.  
c. 16.

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

**57.** 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.

Railways not  
exempt from  
provisions of  
any present  
or future  
general Rail-  
way Acts.

**58.** Nothing in this Act contained shall exempt the 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.

Expenses of  
Act.

**59.** 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.

---

SCHEDULE referred to in the foregoing Act.

---

*Describing Lands, Buildings, and Manufactories of which Portions only are required.*

Parish.	Numbers on deposited Plans.
Burton-on-Trent - - - -	22, 25, 37, 42, 47, 50, 79, 80, 81.
Ashby-de-la-Zouch - - - -	86, 89, 93, 94, 95, 96, 104a, 109, 128.
Church Gresley - - - -	50, 51.
Keighley - - - -	1, 2.