CHAPTER clxv.

An Act for altering the gauge of the Chesham Boxmoor and Hemel Hempsted Steam Tramways and for changing the name of the Company; and for other purposes. A.D. 1889.

[12th August 1889.]

WHEREAS by the Chesham Boxmoor and Hemel Hempsted Steam Tramways Act 1888 (in this Act called the Act of 1888) the Chesham Boxmoor and Hemel Hempsted Steam Tramways Company (in this Act called the Company) were incorporated and empowered to make and maintain the tramways described in that Act and to use thereon steam as a motive power in addition to or in substitution for animal power:

And whereas it was originally intended that a considerable portion of the said tramways should be laid down upon and along public roads but in consequence of alterations made during the progress of the Bill for the said Act through Parliament a much smaller portion thereof was authorised to be so laid and the greater portion is intended to be constructed upon lands to be acquired by the Company for that purpose:

And whereas in anticipation of the tramways being laid in great part along public roads as aforesaid it was enacted by the Act of 1888 that the tramways should be constructed on the gauge of three feet six inches and that the carriages and trucks used thereon might extend twelve inches and the engines fourteen inches respectively but not more beyond the outer edge of the rail of the tramway but the tramways would be of greater public utility if they were constructed on the gauge of four feet eight and a half inches and if the Company were authorised subject as in this Act provided to use thereon engines carriages and trucks adapted for use upon railways:

And whereas it is expedient that the Company should be empowered to acquire the lands herein-after described and plans

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showing the said lands and a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of those lands have been deposited with the clerk of the peace for the county of Hertford and are hereinafter referred to as the deposited plans and book of reference:

And whereas it is expedient that the name of the Company should be changed and that they should be authorised to raise further capital and to create and issue debenture stock and that further powers should be conferred upon them as herein-after contained:

And whereas the objects aforesaid cannot be attained 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 as the Chesham Boxmoor and Hemel Hempsted Tramroads Act 1889 and this Act and the Act of 1888 as amended by this Act shall be construed together as one Act and may be cited as the Chesham Boxmoor and Hemel Hempsted Tramroads Acts 1888 and 1889: Provided always that wherever the provisions of the Act of 1888 and this Act are inconsistent the provisions of this Act shall prevail.

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):—

The provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (namely):—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;

The forfeiture of shares for non-payment of calls;

The remedies of creditors of the Company against the shareholders;

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

The conversion of borrowed money into capital;

The consolidation of shares into stock;

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

The making of dividends;

The giving of notices; and

The provision to be made for affording access to the special Act:

Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) Part III. (relating to debenture stock) and Part IV. (relating to change of name) of the Companies Clauses Act 1863:

The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction:

The expression "the Company" means the Company incorporated by the Act of 1888;

The expression "the tramroad" or "the tramroads" means the tramway or the tramways authorised by the Act of 1888 as varied by this Act; and

The expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act either wholly or partially incorporated herewith shall for the purposes of this Act be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Change of name.

4. From and after the passing of this Act the name of the Company shall be the Chesham Boxmoor and Hemel Hempsted Tramroads Company instead of their present name of the Chesham Boxmoor and Hemel Hempsted Steam Tramways Company and the provisions of section 43 of the Tramways Act 1870 shall cease to apply to the undertaking of the Company anything in the Act of 1888 to the contrary notwithstanding.

Power to purchase lands.

5. Subject to the provisions of this Act the Company may enter upon purchase and take and may hold and use for the purposes of their undertaking as authorised by the Act of 1888 and this Act the lands in the parish of Hemel Hempsted in the county of Hertford delineated on the deposited plans and described in the deposited book of reference.

For the protection of the London and North-western Railway Company.

6. Notwithstanding anything in this Act contained the Company shall not without the previous consent of the London and North-western Railway Company under their common seal take use or interfere with any lands or property of that company.

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Correction of errors in deposited plans and book of reference.

7. If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown upon the deposited plans or described in the deposited book of reference the Company after giving ten days notice to the owners lessees and occupiers of the lands in question may apply to two justices for the county of Hertford assembled and acting together for the correction thereof and if it appear to the justices that the omission misstatement or wrong description arose from mistake they shall certify the same accordingly and they shall in the certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described.

Deposit of certificate of correction.

8. The certificate of the justices shall be deposited with the clerk of the peace for the county of Hertford and a duplicate thereof with the parish clerk of the parish of Hemel Hempsted and the certificate and duplicate respectively shall be kept by such clerk of the peace and parish clerk respectively with the other documents to which the same relate and thereupon the deposited plans and book of reference shall be deemed to be corrected in accordance with the certificate and the Company may execute the works in accordance with the certificate.

Power to owners to grant easements.

9. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement right or privilege (not being an easement of water) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges as far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Period for compulsory purchase of lands.

10. The powers of the Company for the compulsory purchase of lands under the powers of this Act shall cease after the expiration of two years from the passing of this Act.

Restriction on taking houses of labouring class.

11. The Company shall not under the powers of 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 fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers:

The expression "labouring class" includes mechanics artisans 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 of such persons who may be residing with them. A.D. 1889.

Gauge and mode of formation of tramroads.

12. Section 46 of the Act of 1888 is hereby repealed and notwithstanding anything contained in that Act the tramroads shall be constructed with two rails on the gauge of four feet eight and a half inches and shall where laid in or across a street or road be laid and maintained in such a manner that the uppermost surface of the rails shall be on a level with the surface of the street or road and notwithstanding anything in the Tramways Act 1870 contained to the contrary the Company may use on such parts of the tramroads as will not be laid along or upon (otherwise than across) a public street or road engines carriages and trucks adapted for use upon railways but the Company shall not use upon such parts of the tramroads as are laid along or upon (otherwise than across) a public street or road engines carriages and trucks adapted for use upon railways or extending on either side as regards engines more than six inches and three quarters or as regards carriages and trucks more than four inches and three quarters beyond the outer edge of the rail of the tramroad.

Railway and Canal Traffic Acts 1854 1873 and 1888 to apply to Company.

13. The provisions of the Railway and Canal Traffic Act 1854 and the Railway and Canal Traffic Acts 1873 and 1888 shall apply to the Company as if they were a railway or canal company and to the tramroads authorised by this Act as if those tramroads were railways or canals: Provided that the time within which the revised schedule of maximum rates and charges prescribed by section 24 of the Railway and Canal Traffic Act 1888 shall be submitted to the Board of Trade shall be three years from the date of the passing of this Act or such further time as the Board of Trade may permit.

For the protection of the Postmaster-General.

14. The tramroads shall for the purposes of the conveyance of Her Majesty's mails and generally in relation to the rights powers and privileges of Her Majesty's Postmaster-General be deemed to be a railway and the enactments relating to the conveyance of mails by railways and to the rights powers and privileges conferred upon the Postmaster-General in relation to telegraphs shall apply to the tramroads and to the Company as if the tramroads were railways and the Company were a railway company. The expression "mails" in this section has the same meaning as in the Regulation of Railways Act 1873 and includes parcels within the meaning of the Post Office (Parcels) Act 1882. Section 83 of the Act of 1888 is hereby repealed.

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Power to raise additional capital.

15. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise any additional capital not exceeding in the whole twenty-four thousand pounds by the issue of new ordinary shares but the Company shall not issue any share of less nominal value than ten pounds nor shall any share vest in the person or corporation 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.

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

16. The capital in new shares created by the Company under this Act and the new shares therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the capital of the Company authorised by the Act of 1888 and the new shares were shares in that capital. The capital in new shares so created shall form part of the capital of the Company.

Dividends on new shares.

17. Every person who becomes entitled to new shares shall in respect of the same be a holder of shares in the Company and shall be entitled to a dividend with the other holders of shares of the same class or description proportioned to the whole amount from time to time called and paid on such new shares.

Power to borrow in respect of additional capital.

18. The Company may from time to time borrow on mortgage of their undertaking in respect of the additional capital of twenty-four thousand pounds which they are by this Act authorised to raise any further sum or sums not exceeding in the whole the sum of eight thousand pounds but no part of the said sum of eight thousand pounds shall be borrowed until the whole of the said additional capital is 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 the whole of the said capital has 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 that such capital was issued accepted and paid up bonâ fide and is held by the persons or corporations to whom the same was issued or their executors administrators successors or assigns and that such persons or corporations their executors administrators successors or assigns are legally liable for the same and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which shall be sufficient evidence thereof.

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19. Section 12 of the Act of 1888 with reference to the appointment of a receiver is hereby repealed and the mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than three thousand pounds in the whole.

For appointment of a receiver.

20. Section 13 of the Act of 1888 with reference to debenture stock is hereby repealed and 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 and of all mortgages at any time created and issued or granted by the Company under the Act of 1888 or this or any subsequent Act shall subject to the provisions of any subsequent Act rank pari passu (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages. Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Debenture stock.

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

Receipt clause in case of persons not sui juris.

22. All moneys raised under this Act whether by shares or debenture stock or borrowing shall be applied only to the purposes of the Company to which capital is properly applicable.

Application of moneys

23. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

Interest not to be paid on calls paid up.

24. The Company shall not out of any money by this Act authorised to be raised by them 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

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

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them to construct any other tramroad or to execute any other work or undertaking.

Provision as to general Tramroad Acts.

25. Nothing in this Act contained shall exempt the Company or their tramroads from the provisions of any general Act relating to tramroads 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 authorised to be taken by the Company.

Costs of Act.

26. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

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