CHAP. xiii.

An Act to authorise the construction of a Railway from the Midland Railway at Chesterfield to Brampton, and Branch Railways or Tramways connected therewith, in the county of Derby; and for other purposes. [12th May 1870.] A.D. 1870.

WHEREAS the construction of a railway from the Midland Railway at Chesterfield to Brampton, both in the county of Derby, with branches or tramways connected therewith, would be of great public and local advantage:

And whereas the several persons in this Act mentioned, with others, are willing to carry the provisions thereof into effect if authorised by Parliament so to do:

And whereas plans and sections of the intended railway, branches or tramways, and works, showing the lines and levels thereof, and the lands which may be taken under the powers of this Act, and a book of reference to those plans containing the names of the owners or reputed owners, lessees or reputed lessees, and of the occupiers of those lands, have been deposited with the clerk of the peace for the county of Derby, and the said plans, sections, and book of reference are in this Act respectively referred to as the deposited plans, sections, and book of reference:

And whereas the objects of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as The Chesterfield and Brampton Railway Act, 1870. Short title.

2. The Companies Clauses Consolidation, Act, 1845, Part I. (relating to cancellation and surrender of shares) of The Companies 8 & 9 Vict., cc. 16., 18., 20., 23 & 24 Vict. c. 106.,

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26 & 27 Vict. cc. 92., 118., and 32 & 33 Vict. c. 18. incorporated.

Clauses Act, 1863, The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, The Railways Clauses Consolidation Act, 1845, and Part I. (relating to the construction of a railway) of The Railway Clauses Act, 1863, are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Company" shall mean the Company incorporated by this Act, the expression "the railway" or the "undertaking" shall mean the railways and tramways or undertaking by this Act authorised, or any part thereof, and 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 common simple contract debt, and not a debt or demand created by statute.

Company incorporated.

4. Ralph Ward Jackson, William Charles Ward Jackson, William Elliott Duncan, and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a company for the purpose of making and maintaining the railway, and for other the purposes of this Act, and for those purposes shall be incorporated by the name of the Chesterfield and Brampton Railway Company, and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

Company may make railways.

5. Subject to the provisions of this Act, the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the railways or tramways herein-after described, with all proper stations, approaches, works, and conveniences connected therewith, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference, as may be required for that purpose. The railways and tramways herein-before referred to and authorised by this Act are,—

No. 1. A railway one mile one furlong and three chains in length, commencing in the parish of Chesterfield in the county of Derby by a junction with the Midland Railway at a point one hundred and eighty yards, or thereabouts, in a southerly direction from the south end of the passenger platform for the down

line thereof of the Chesterfield station, and terminating in the said parish of Chesterfield, in property in the occupation of Ralph Ward Jackson and William Charles Ward Jackson, one hundred and fifty yards, or thereabouts, in a southerly direction from the Brampton chain toll bar, on the turnpike road leading from Chesterfield to Baslow:

No. 2. A railway or tramway about ten chains in length, commencing in the said parish of Brampton by a junction with the said railway No. 1, in land belonging or reputed to belong to the said Ralph Ward Jackson and William Charles Ward Jackson, at a point fifty yards or thereabouts in a southerly direction from the bridge carrying the public road called Boythorpe Lane over the river Hipper, and terminating in the said parish of Chesterfield in the yard of the gasworks of the Chesterfield Waterworks and Gas Company:

No. 3. A railway or tramway about four chains in length, commencing in the said parish of Brampton by a junction with the said railway or tramway No. 2 in land belonging or reputed to belong to the said Chesterfield Waterworks and Gaslight Company, at a point eleven yards or thereabouts in a westerly direction from the bridge carrying the public highway called Wheatbridge Road over the stream called Linacre Brook, or Holme Brook, and terminating in the premises of the Brampton Brewery Company:

No. 4. A railway or tramway about seven chains in length, commencing in the said parish of Chesterfield by a junction with the said railway No. 1 in ground belonging or reputed to belong to Mr. George Elliott, at a point seventy-seven yards, or thereabouts, in a westerly direction from where the said ground abuts on the said public road called Boythorpe Lane, and terminating at or near the corn mill belonging or reputed to belong to the said George Elliott, in the occupation of Thomas Irving, in the said parish of Chesterfield.

Capital.

6. The capital of the Company shall be ten thousand pounds, in one thousand shares of ten pounds each.

Shares not to be issued until one fifth part paid up.

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

Calls.

8. One fifth of the amount of a share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and three fourths of the amount of a share

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shall be the utmost aggregate amount of calls in any year upon any share.

Power to borrow on mortgage.

9. The Company may from time to time borrow on mortgage any sum not exceeding in the whole three thousand three hundred pounds, but no part thereof shall be borrowed until the whole capital of ten thousand pounds is subscribed for, issued, and accepted, and one half thereof is paid up, and the Company have proved to the justice who is to certify under the 40th section of The Companies Clauses Consolidation Act, 1845, before he so certifies, that the whole of the 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 has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide and is held by the subscribers or their assigns, and that such subscribers or their assigns are legally liable for the same; and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

Arrears may be enforced by appointment of a receiver.

10. The mortgagees of the Company may enforce payment of arrears of principal and interest due on their mortgages by the appointment of a receiver, and in order to authorise the appointment of a receiver the amount owing to the mortgagees by whom the application for a receiver shall be made shall not be less than one thousand pounds in the whole.

Application of moneys.

11. All moneys raised under this Act, whether by shares or borrowing, shall be applied for the purposes of this Act only.

First ordinary meeting.

12. The first ordinary meeting of the Company shall be held within six months next after the passing of this Act.

Advertisements.

13. The newspapers for advertisements shall be any newspaper published and circulated in the county of Derby.

Number of directors.

14. The number of directors shall be four, but it shall be lawful for the Company from time to time to reduce the number, provided that the reduced number be not less than three.

Qualification of directors.

15. The qualification of a director shall be the possession in his own right of not less than twenty shares.

Quorum of directors.

16. The quorum of a meeting of directors shall be three, and if the number of directors be reduced to three the quorum shall be two.

First directors.

17. Ralph Ward Jackson, William Charles Ward Jackson, and William Elliott Duncan shall be the first directors of the Company,

Election of future directors.

and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the shareholders present, in person or by proxy, may either continue in office the directors appointed by this Act, or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present, in person or by proxy, shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions in The Companies Clauses Consolidation Act, 1845, contained; and the several persons elected at any such meeting, being neither removed nor disqualified nor having resigned, shall continue to be directors until others are elected in their stead, in manner provided by the same Act.

Lands for extraordinary purposes.

18. The quantity of land to be taken by agreement by the Company for the extraordinary purposes mentioned in The Railways Clauses Consolidation Act, 1845, shall not exceed two acres.

Period for compulsory purchase of lands.

19. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of one year from the passing of this Act.

Period for completion of works.

20. The railway shall be completed within one year from the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for executing the railway, or otherwise in relation thereto shall cease to be exercised, except as to so much thereof as shall then be completed.

Junction with Midland Company's railway.

21. The junction of the railway by this Act firstly authorised with the Midland Railway, and all openings in the rails of the last-mentioned railway, and all other works required for effecting such junction, shall be effected in the best and most approved manner and under the superintendence and to the satisfaction in all respects of the engineer for the time being of the Midland Railway Company.

Saving rights of Midland Railway Company.

22. Provided always, that, except as is by this Act expressly provided, this Act or anything herein contained shall not take away, diminish, alter, or prejudice any of the rights, powers, privileges, or authorities of the Midland Railway Company.

As to level crossing of roads.

23. Subject to the provisions of The Railways Clauses Consolidation Act, 1845, with respect to the crossing of roads on the level, the Company may carry the railway or tramway by this Act secondly authorised with a single line of railway across and on the level of the parish road called Wheatbridge Road, and numbered 5

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on the deposited plans relating thereto, in the parish of Brampton, and also across and on the level of the turnpike road numbered 55 on the deposited plans relating thereto, in the parish of Chesterfield; but such railway or tramway shall not be used across the said parish road and turnpike road with locomotive engines, or carriages drawn or propelled by steam or atmospheric agency, or drawn by ropes in connexion with stationary engines, or otherwise than by ordinary animal traction; and subject to the same conditions, the Company may also carry the railway by this Act firstly authorised with a double line of railway across and on the level of the parish road numbered 42 on the deposited plans relating thereto, in the parish of Chesterfield.

Engines, &c. not to stand on level crossings.

24. It shall not be lawful for the Company to allow any engine, carriage, or truck in shunting to stand across such level crossings, or any of them.

Gates to be erected at level crossings.

25. The 47th section of The Railways Clauses Consolidation Act, 1845, shall not apply to the railways by this Act authorised: Provided always, that at the point at which the said parish road numbered 42 on the deposited plans relating thereto, in the parish of Chesterfield, so crossed on the level by the said firstly-authorised railway, the Company shall erect and maintain good and sufficient gates across that railway on each side of the same parish road, and shall employ proper persons to open and shut such gates, and such gates shall be kept constantly closed, except during the time when traffic passing along that railway shall have to cross such parish road; and the persons entrusted with the care of such gates shall cause the same to be closed as soon as such traffic shall have passed through the gates, under a penalty not exceeding forty shillings for each and every default therein.

Deposit money not to be repaid until line opened or half the capital paid up and expended, &c.

26. Whereas pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth year of Her present Majesty, chapter twenty, a sum of three hundred and fifty pounds, being five per centum on seven thousand pounds, the amount of the estimate of the expense of the railway by this Act authorised, has been deposited in the names of Ralph Ward Jackson and William Charles Ward Jackson (being subscribers to the undertaking), with the Court of Chancery in England in respect to the application to Parliament for this Act: Therefore, notwithstanding anything contained in the said recited Act, the said sum so deposited as aforesaid, or the interest or dividends thereof, shall not, except upon the execution and deposit of such bond as herein-after mentioned, be paid or transferred to or on the application of the person or persons, or the majority of the persons, named in the warrant or order issued

in pursuance of the said Act, or the survivors or survivor of them, unless the Company shall, previously to the expiration of the period limited by this Act for the completion of the railway, either open the railway for the public conveyance of passengers, or prove to the satisfaction of the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations that the Company have paid up one half of the amount of the capital by this Act authorised to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital; and if the said period shall expire before the Company shall either have opened the railway for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Lords of the said Committee, the sum so deposited as aforesaid, and the interest and dividends thereof, shall immediately from and after the expiration of the said period be forfeited to Her Majesty, and be paid and transferred by the officer or person in whose name they shall then be deposited or invested to the account of Her Majesty's Exchequer, and when so paid and transferred shall be carried to and form part of the consolidated fund of the United Kingdom of Great Britain and Ireland; provided that at any time after the passing of this Act, if a bond in twice the amount of the sum so deposited shall have been executed by the Company with one or more surety or sureties (such bond to be prepared to the satisfaction of, and such surety or sureties to be approved by, the solicitor to the Lords Commissioners of Her Majesty's Treasury) conditioned for the payment to Her Majesty, her heirs or successors, of the sum so deposited if the Company shall not within the time limited for the completion of the railway either open the railway for the public conveyance of passengers, or prove to the satisfaction of the Lords of the said Committee that the Company have paid up one half of the amount of the capital by this Act authorised to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital, and if such bond shall have been deposited with the solicitor to the said Lords Commissioners, then such sum of money, and the interest or dividends thereof, shall be paid to or on the application of the person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivors or survivor of them, and it shall not be necessary to produce any certificate of this Act having passed, anything in the said recited Act to the contrary notwithstanding; and the moneys to be recovered upon such bond shall be dealt with in like manner as the said sum of money, and the interests or dividends thereof, would have been dealt with under this Act if such bond had not been executed and

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deposited as aforesaid; and the certificate of the said solicitor to the said Lords Commissioners that such bond has been executed and deposited as aforesaid, and the certificate of the Lords of the said Committee that such proof has been given to their satisfaction as aforesaid, shall respectively be sufficient evidence of the facts so certified.

Tolls.

27. It shall be lawful for the Company to levy and demand for the use of the railway or of any part of the railway, and of carriages and locomotive power, sums not exceeding the following; (that is to say,)

For every passenger conveyed in or upon a first-class carriage, sixpence:

For every passenger conveyed in or upon a second-class carriage, fourpence:

For every passenger conveyed in or upon a third-class carriage, threepence:

For parcels not exceeding seven pounds in weight, twopence:

For parcels exceeding seven pounds but not exceeding fourteen pounds in weight, threepence:

For parcels exceeding fourteen pounds but not exceeding twenty-eight pounds in weight, fourpence:

For parcels exceeding twenty-eight pounds but not exceeding fifty-six pounds in weight, sixpence:

For all coals, coke, embers, charcoal, stone, ironstone, iron ore, and all other ores and minerals, pig iron, bar iron, rod iron, and all other descriptions of cast and wrought iron, lead, and other metals, stone, clay, and limestone, lime, and all undressed materials for the repair of public roads or highways, dung, compost, and all sorts of manure, all descriptions of grain, flour, hides, dry goods, and all sorts of earthenware, timber, and deals, sixpence per ton:

For all cotton and other wools, silk, drugs, manufactured goods, and all other wares, merchandise, fish, articles, matters, or things, ninepence per ton.

With respect to all articles except stone and timber, the weight shall be determined by the usual avoirdupois weight:

With respect to stone and timber, fourteen cubic feet of stone, forty cubic feet of oak, mahogany, teak, beech, or ash, and fifty cubic feet of any other timber, shall be deemed a ton weight, and so in proportion for any smaller quantity:

For a fraction of a ton the Company may demand tolls according to the number of quarters of a ton in such fraction, and if there be a fraction of a quarter of a ton such fraction shall be deemed a quarter of a ton:

For the carriage of single articles of great weight on the railway:

For the carriage of any one boiler, cylinder, or single piece of machinery, or single piece of timber or stone, or other single article the weight of which, including the carriage, shall exceed four tons but shall not exceed eight tons, the Company may demand such sum as the Company think fit, not exceeding one shilling per ton:

For the carriage of any single piece of timber, stone, machinery, or other single article the weight of which, with the carriage, shall exceed eight tons, the Company may demand such sum as they think fit.

Passengers' luggage.

28. Every passenger travelling upon the railways may take with him his ordinary luggage, not exceeding one hundred and twenty pounds in weight for first-class passengers, one hundred pounds in weight for second-class passengers, and sixty pounds in weight for third-class passengers, without any charge being made for the carriage thereof.

Charges for passengers not to apply to special trains.

29. Provided that the restriction as to the charges to be made for passengers shall not extend to any special train that may be required upon the railways, but shall apply only to the ordinary and express trains appointed or to be appointed from time to time by the Company for the conveyance of passengers and goods upon the railways.

As to junctions with Midland railway.

30. The railway shall be made in such line or direction on the property of the Midland Railway Company within the limits defined on the deposited plans, and shall join the railway of that company at such points, in such manner, and with such connecting lines of approach and other works as shall be approved by the engineer of that company, and the several provisions in the Railways Clauses Act, 1863, as to junctions shall extend and apply as well to that portion of the railway, and to those connecting lines and works, as to the junctions with the Midland railway, and the Company shall not purchase or take compulsorily any land or property of the Midland Railway Company, nor (save only so far as may be necessary for the purpose of constructing, maintaining, and using the railway on the property of that company, and the said junctions, connecting lines, and works as aforesaid) shall the Company, or any person in the execution of this Act, in any manner, either temporarily or permanently, enter upon, use, or interfere with any of the lands or property of the Midland Railway Company, except with their consent in writing first obtained.

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Interest not to be paid on calls paid up.

31. The Company shall not, out of any money by this Act authorised to be raised by calls or by borrowing, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always, that this Act shall not prevent the Company from paying to any shareholder such interest on money advanced by him, beyond the amount of the calls actually made, as is in conformity with The Companies Clauses Consolidation Act, 1845.

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

32. 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.

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

33. Nothing herein contained shall be deemed or construed to exempt the railway from the provisions of any general Act relating to railways, or the better and more impartial audit of the accounts of railway companies, now in force or which may hereafter pass during this or any future session of Parliament, or from any future revision or alteration, under the authority of Parliament, of the maximum rates of fares and charges, or of the rates for small parcels, authorised by this Act.

Costs of Act.

34. 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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