CHAPTER clxvii.

An Act to authorise the Great Northern Railway Company to construct Railways in Nottinghamshire and Leicestershire. [6th August 1872.]

A.D. 1872

WHEREAS the construction of the railways herein-after mentioned in the counties of Nottingham and Leicester would be attended with great local and public advantage, and the Great Northern Railway Company are willing, at their own expense, to construct the said railways:

And whereas plans and sections showing the lines and levels of the railways, and also a book of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required or which may be taken for the purposes of the railways, have been deposited with the respective clerks of the peace for the counties of Nottingham and Leicester, and are herein-after referred to respectively as the deposited plans, sections, and books of reference:

And whereas the purposes aforesaid cannot be effected without the authority of Parliament:

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

Short title.

1. This Act may be cited for all purposes as "The Great Northern Railway (Newark and Melton) Act, 1872."

Provisions of general Acts herein named incorporated.

2. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869;"

"The Railways Clauses Consolidation Act, 1845," and (so far as applicable) Part I. of "The Railways Clauses Act, 1863," relating to "construction of a railway;" and

A.D. 1872.

The clauses and provisions of "The Companies Clauses Consolidation Act, 1845,"

With respect to the distribution of the capital of the Company into shares;

The transfer or transmission of shares;

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

The forfeiture of shares for nonpayment of calls;

The remedies of the creditors of the Company against shareholders;

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

The conversion of the borrowed money into capital;

The consolidation of shares into stock; and

The provisions to be made for affording access to the special Act by all parties interested;

And also Parts I., II., and III. of "The Companies Clauses Act, 1863," relating respectively to the cancellation and surrender of shares, to additional capital, and to debenture stock;

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 have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Company" means the Great Northern Railway Company; the expressions "the railways" and "the undertaking" mean respectively the railways and undertaking by this Act authorised; the word "shares" includes stock; and the expression "superior courts" or "court of competent jurisdiction," or any other like expression in any Act wholly or partially incorporated with this Act, 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.

Power to make railways according to deposited plans.

4. 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 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 book of reference as may be required for that purpose.

The railways herein-before referred to and authorised by this Act are the following; (namely,)

Railway No. 1—Newark to Bottesford :—

A railway, about nine miles in length, commencing in the parish of Newark in the county of Nottingham by a junction with the main line of the Great Northern Railway near the point where the bridge carrying the turnpike road from Newark to Sleaford passes over that railway, and terminating in the parish of Bottesford in the county of Leicester by a junction with the Nottingham and Grantham branch of the Great Northern Railway near the level crossing of that railway by the road leading from Bottesford to Orston.

Railway No. 2—Bottesford to Melton Mowbray :—

A railway about fourteen miles and seven furlongs in length, commencing by a junction with Railway No. 1 in the said parish of Bottesford, and terminating in the parish of Melton Mowbray in the county of Leicester on the north side of the Cattle Market of Melton Mowbray.

Railway No. 3 :—

So much of Railway No. 3 shown on the deposited plans as lies between the commencement thereof in the parish of Melton Mowbray by a junction with Railway No. 2, and the point in or near the field numbered on the deposited plans 185 in the same parish, described on the said plans as "commencement of Railway No. 7." The said portion of railway will be about six furlongs in length.

Railway No. 4—Western branch to Great Northern Railway at Bottesford :—

A railway about four furlongs in length, commencing by a junction with the said Nottingham and Grantham branch at the termination of Railway No. 1, as herein-before described, in the said parish of Bottesford, and terminating by a junction with Railway No. 2 in the same parish.

Railway No. 5—Eastern branch to Great Northern Railway at Bottesford :—

A railway about four furlongs in length, commencing by a junction with the said Nottingham and Grantham branch in the same parish of Bottesford, and terminating by a junction with Railway No. 2 in the same parish.

Railway No. 6—Waltham branch :—

A railway two and a half miles in length, commencing by a junction with Railway No. 2 in the parish of Scalford, or of Rothley (detached), or one of them, in the county of Leicester, and terminating in the parish of Waltham on the Wolds in the

A.D. 1872.

county of Leicester on the east side of the road leading from Waltham on the Wolds to Eaton.

Railway No. 7—Branch to the Midland Railway at Melton Mowbray :—

A railway about two furlongs in length, commencing by a junction with Railway No. 3 in the parish of Melton Mowbray in a field adjoining the River Eye or the River Wreake, and terminating by a junction with the Syston and Peterborough branch of the Midland Railway on the west side of the turnpike road leading from Melton Mowbray to Leicester.

The said railways will be in Nottinghamshire and in Leicestershire.

Provided that nothing contained in this Act or in the deposited plans or books of reference shall authorise the Company to construct any other part of the railway numbered 3 on the said plans than is herein-before described, or any part of the railway numbered 8, or to enter upon or take any lands for the purpose of the said Railway No. 3 southward of the junction thereof with Railway No. 7, or for the purpose of Railway No. 8.

Lands for extraordinary purposes.

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

Powers for compulsory purchases limited.

6. 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 three years from the passing of this Act.

Regulating inclination of a road.

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

No. on deposited plan.	Parish or township.	Description of road.	Intended inclination.
16	Barkstone - -	Public road -	1 in 13 on one side, and level on the other.

Power to cross certain roads on the level.

8. 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 railways carry the same with a double line of railway only across and on the level of the roads next herein-after mentioned ; (that is to say,)

Railway No. 1.

No. on deposited plan.	Parish.	Description of road.
12	Balderton - - - -	Public road.
27	Balderton - - - -	Public road.

Railway No. 2.

No. on deposited plan.	Parish.	Description of road.
19	Harby - - - - -	Public road.

Height and span of bridges.

9. The Company may make the arches of the bridges for carrying the railway over the railway and canal next herein-after mentioned of any heights and spans not less than the heights and spans herein-after mentioned in connexion with the said railway and canal respectively; (that is to say,)

Railway No. 2.

No. on deposited plan.	Parish.	Description of road.	Height.	Span.
8	Bottesford	Nottingham and Grantham Railway -	15 feet	28 feet.
13	Redmill -	Nottingham and Grantham Canal - -	10 feet	25 feet.

For protection of Great North Road.

10. Notwithstanding anything contained in the deposited plans and sections, the Company, in carrying the Great North Road, numbered 65 in the parish of Newark, over the railway, shall not reduce the present width of the carriage-road and footpaths, and the gradients of the altered road shall not be steeper than 1 in 40 on each side of the bridge.

As to fences of railway.

11. The fences of the railways to be erected and maintained by the Company in pursuance of the 10th section of the Act for the better regulation of railways (5 and 6 Victoria, cap. 55.) shall, at intervals of not more than two furlongs, and for a space of at least twenty yards, not exceed three feet in height.

Notice to be given of taking houses of labouring classes.

12. 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, handbills, 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

A.D. 1872.

of a justice that it has been proved to his satisfaction that the Company have made known their intention to take the same in manner herein-before required.

Railways, as to tolls, &c., to form part of original railway.

13. The Company may demand and take in respect of the railways the same tolls and charges as they are authorised to receive for and in respect of the Great Northern Railway as if they were part of such undertaking, and the said railways shall in all respects be deemed parts of the Great Northern Railway.

Imposing penalty unless railway opened.

14. If the Company fail within the period limited by this Act to complete the railways, the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railways 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 estimated cost of the railways; and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act, and in the same manner as the penalty provided in the third section of the Act 17 & 18 Vict. c. 31., known as the "Railway and Canal Traffic Act, 1854;" and 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. c. 31., to an account to be opened, in the name and with the privity of the Accountant General of the Court of Chancery in England, in the bank named 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 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.

Application of penalty.

15. Every sum of money so recovered by way of penalty 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 said railways, or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, 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 the Court of Chancery in England may deem fit; and if no such compensation shall be payable, or if a portion of the said 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 be paid to the Company.

Period for completion of railways.

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

For protection of Midland Railway Company.

17. The powers of this Act with respect to the purchase and acquisition of lands otherwise than by agreement for the purposes of Railway No. 7, and with respect to the making and maintaining of that railway, shall, unless with the previous consent of the Midland Railway Company (herein-after called "the Midland Company") in writing under their common seal, be exercised only subject to and in accordance with the following provisions:

Limiting interference with land, &c.

1. The Company shall not, without in every case the previous consent of the Midland Company, take, use, enter upon, or interfere with any land, railway, siding, or other work from time to time belonging to or leased or worked by that company, except only so far as shall be necessary for the purpose of making and maintaining the said railway as the same is according to this Act to be constructed:

Company to acquire easement only.

2. With respect to any land of the Midland Company which the Company is by this Act authorised to use, enter upon, or interfere with, the Company shall not purchase or take the same, but the Company may purchase and take, and the Midland Company may and shall sell and grant accordingly, an easement or right of using the same for the purposes for which, but for this enactment, the Company might purchase and take the same:

Junction with Midland Railway.

3. The junction of Railway No. 7 with the Midland Railway shall be effected at such point within the limits of deviation shown on the deposited plans, and in such manner, and according to such mode of construction as shall be reasonably required and approved of by the principal engineer for the time being of the Midland Company:

Rails not to be disturbed.

4. Except so far as may be necessary for the purpose of effecting the junction of Railway No. 7, the Company shall not remove, disturb, or otherwise interfere with any of the rails of the

A.D. 1872.

Midland Company's railways, sidings, or other works; and any rails so removed, disturbed, or otherwise interfered with shall forthwith be restored and made good by the Company, and at their expense, to the reasonable satisfaction in all respects of the engineer of the Midland Company:

Traffic not to be obstructed.

5. The Company shall not in any manner in the execution of any of their works obstruct or interfere with the free, uninterrupted, and safe user of any railway, siding, or other work of the Midland Company, or any traffic thereon:

Company to pay costs of inspection during progress of works.

6. The Company shall bear, and on demand pay to the Midland Company, the expense of the employment by that company, during the execution of any work affecting any railway, siding, or other work of that company, of a sufficient number of inspectors, watchmen, and signalmen, to be appointed by that company, for watching and signalling the same, with reference to and during the execution of any such work of the Company, and for preventing, as far as may be, all interference, obstruction, danger, and accident from any of the operations or from the acts or defaults of the Company or their contractors, or any person in the employ of the Company or of their contractors, with reference thereto, or otherwise:

Compensation for injury.

7. If by reason of the execution of any of the works or any proceedings of the Company, or the failure of any such works, or any act or omission of the Company or of their contractors, or of any person in the employ of the Company or of their contractors, or otherwise, any railway, siding, or other work of the Midland Company shall be injured or damaged, such injury or damage shall be forthwith made good by the Company at their own expense, or in the event of their failing so to do, then the Midland Company may make good the same, and recover the expense thereof, with full costs, against the Company in any court of competent jurisdiction; and if any interruption shall be occasioned to the traffic of or upon any such railway, siding, or other work of the Midland Company by reason of any of the matters or causes aforesaid, the Company shall pay to that company all costs and expenses to which that company may be put, as well as full compensation for the loss and inconvenience sustained by them by reason of any such interruption; such costs, expenses, and compensation to be recoverable, with full costs, by that company from the Company in any court of competent jurisdiction:

Signals, &c. at junction.

8. The Midland Company may from time to time, either on their own lands or on the lands of the Company, erect such signals

and conveniences incident to the junction by this Act authorised of Railway No. 7 with the Midland Railway, and may from time to time appoint and remove such watchmen, switchmen, or other persons as may be necessary, for the prevention of danger to or interference with the traffic at and near that junction:

The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the Midland Company; and all the expenses of erecting and maintaining, and, if necessary, of altering from time to time those signals and conveniences, unless such alterations shall be made for the convenience of the Midland Company, and of employing those watchmen, switchmen, and other persons, and all incidental current expenses, shall at the end of every half year be repaid by the Company to the Midland Company, and in default thereof may be recovered from them, with full costs of suit, in any court of competent jurisdiction:

Arbitration.

9. If any difference shall arise between the Company and the Midland Company as to the true intent and meaning of this enactment, or the mode of giving effect thereto, the same shall be from time to time determined by arbitration in the manner prescribed by "The Railways Clauses Consolidation Act, 1845," with respect to the settlement of disputes by arbitration.

As to lands common to Company and to Midland Railway Company.

18. And whereas the lands required for the purposes of this Act, and the works to be executed in pursuance of this Act, may be in some instances identical with the lands which the Midland Company are authorised to purchase, and may interfere with the works which the same Company are authorised to execute under the powers of "The Midland Railway (Nottingham and Saxby Lines) Act, 1872," and it is fitting that provision should be made as to the purchase and ownership of the said lands, and the compensation to be paid to the owners, lessees, and occupiers of the said lands, and the method and expense of executing the said works and incidental thereto: Wherefore, in order to prevent any dispute as to the property in the said lands, and the nature and extent of the tenure thereof, by the two companies, and the payments to be made by them respectively for the purchase or use of the same, or for the interference therewith, and also to prevent any dispute as to the method or the cost of executing the said works in the execution of which both companies may be concerned, be it enacted, that if any difference shall arise between the two companies respecting any of the matters aforesaid such differences shall from time to time be settled by an arbitrator to be appointed by the common consent of both companies,

A.D. 1872.

or, in default of such consent, to be appointed by the Board of Trade on the application of either company.

Company may apply their funds towards purposes of Act, and may raise additional capital.

19. It shall be lawful for the Company to apply towards the construction of the railways any of the moneys which they are already authorised to raise, and which may not be required by them for the purposes for which the same were authorised to be raised; and the Company may for the same purposes from time to time raise, in addition to the sums of money which they are already authorised to raise, any further sums, not exceeding in the whole four hundred thousand pounds, by the creation of new shares in their undertaking, which shares shall form part of the general capital of the Company; and the Company may create and issue such shares either wholly or partially as ordinary, or wholly or partially as preferential shares, as they may think fit.

Shares not to issue until one fifth paid up.

20. 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 part of the amount of such share shall have been paid in respect thereof.

As to votes of proprietors of such shares.

21. The proprietors of any shares to be issued under the authority of this Act shall be entitled to such number of votes in respect thereof as the nominal amount represented thereby would have entitled them to if the same had been original shares of the Company.

Power to borrow on mortgage.

22. The Company may from time to time, under the powers of this Act, borrow any additional sum of money, not exceeding one hundred and thirty-three thousand pounds, by mortgage of their undertaking, but no part of that sum shall be borrowed until 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 additional capital by this Act authorised to be raised by new shares has been subscribed for, 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 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 shall be sufficient evidence thereof.

Existing mortgages to have priority.

23. All mortgages granted by the Company in pursuance of any Act of Parliament, and which shall be subsisting at the time of the passing of this Act, shall during the continuance of such mortgages have priority over any mortgages to be granted by virtue of this Act; but 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.

Arrears may be enforced by appointment of a receiver.

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

Debenture stock.

25. The Company may create and issue debenture stock.

Application of sums raised under this Act.

26. All and every part of the sums of money which the Company are by this Act authorised to raise by new shares, debenture stock, or mortgage shall be applied only to the purposes authorised by this Act.

Interest not to be paid on calls paid up.

27. The Company shall not, out of any money by this Act authorised to be raised by calls, debenture stock, or 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."

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

28. The Company shall not, out of any money by this Act authorised to be raised, pay or deposit any sum which, by any standing order of either House of Parliament now or hereafter in force, may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking.

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

29. Nothing herein contained shall be deemed or construed to exempt the railways from the provisions of any general Act relating to railways, or to 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

A.D. 1872.

maximum rates of fares and charges, or of the rates for small parcels.

Expenses of Act.

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

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1872.