CHAPTER clxv.

An Act to authorise the Halesowen and Bromsgrove Branch Railways Company to construct deviations of their authorised Railways; and for other purposes. [21st July 1873.] A.D. 1873.

WHEREAS by the "Halesowen and Bromsgrove Branch Railways Act, 1865," (herein-after called the "Act of 1865,") the Halesowen and Bromsgrove Branch Railways Company (herein-after called "the Company") were incorporated and authorised to make and maintain certain railways in the county of Worcester: 28 & 29 Vict. c. ccxxxiii.

And whereas by "The Halesowen and Bromsgrove Branch Railways Act, 1866," (herein-after called "the Act of 1866,") the Company were authorised to make and maintain certain other railways: 29 & 30 Vict. c. cccxvii.

And whereas by "The Halesowen and Bromsgrove Branch Railways Act, 1870," (herein-after called "the Act of 1870,") the capital of the Company was reduced, the periods for the compulsory purchase of certain lands by the Company and for the construction of works were extended, and the Company were authorised to abandon the railway secondly described in the Act of 1866: 33 & 34 Vict. c. cl.

And whereas considerable progress has been made in constructing the undertaking of the Company:

And whereas it is expedient that the Company be empowered to make the railways herein-after described, and to abandon so much of their authorised railways and works as will be rendered unnecessary by the construction of such railways:

And whereas it is expedient that the period limited by the Act of 1870 for the completion of the railways authorised by the Acts of 1865 and 1866 should be extended as herein-after mentioned:

And whereas it is expedient that powers should be conferred on the Company to divide their shares into preferred and deferred half shares, and that some of the powers and provisions of the recited Acts should be amended as herein-after mentioned:

And whereas plans and sections showing the lines and levels of the railways authorised by this Act, and also books of reference

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containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required, or which may be taken for the purposes or under the powers of this Act, were duly deposited with the clerk of the peace for the county of Worcester, and are herein-after respectively referred to as the deposited plans, sections, and books of reference:

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

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

Short title.

1. This Act may be cited as "The Halesowen and Bromsgrove Branch Railways Act, 1873."

Provisions of general Acts herein named incorporated.

2. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," "The Railways Clauses Consolidation Act, 1845," Part I. (relating to the construction of a railway) and Part II. (relating to extension of time) of "The Railways 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 have the same respective meanings; unless there be something in the subject or context repugnant to such construction:

The expression "the railway" or "the railways" means the railways authorised by this Act; the expression "superior courts" or "court of competent jurisdiction," or any other like expression in 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 was a simple contract debt and not a debt or demand created by statute.

Power to construct 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, sidings, 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 herein-before referred to and authorised by this Act are—

(A.) A railway 3 miles 7 furlongs and 9·60 chains in length,

commencing in the parish of Frankley in the county of Worcester at a point marked one mile and five furlongs from the commencement of the said authorised railway upon the plans deposited with the clerk of the peace for the county of Worcester with respect to the application to Parliament for the Act of 1865, and terminating in the township of The Hill and parish of Halesowen at the authorised point of termination of the same authorised railway, which deviation railway will be made or pass from, in, through, or into the parishes, townships, townlands, and extra-parochial or other places of Frankley, Bromsgrove, Romsley, Hunnington, Illey, Lappal, The Hill, and Halesowen, all in the county of Worcester:

(B.) A railway 2 furlongs and 9·90 chains in length wholly in the township of The Hill and parish of Halesowen, commencing by a junction with the herein-before described railway in a waste piece of ground adjoining the turnpike road leading from Halesowen to Bromsgrove at a point situate 120 yards or thereabouts, measured in a southerly direction, from the chimney stack of Messrs. Rose Brothers and Company's works, and terminating by a junction with the Company's Railway No. 1 authorised by the Act of 1866 at a point marked two furlongs from the commencement of that railway on the plans deposited with the said clerk of the peace for the county of Worcester in respect of the application to Parliament for that Act.

Power to cross a certain road on the level.

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 Railway No. 1 authorised by the Act of 1865 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 road next herein-after mentioned; (that is to say,)

No. on Deposited Plan.	Parish.	Description of Road.
28 upon plans of Railway No. 1 authorised by the Act of 1865 deposited with the clerk of the peace for the county of Worcester in respect of the application to Parliament for that Act.	Kings Norton -	Highway.

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Inclination of road.

6. In altering for the purposes of this Act the road next hereinafter 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.	Description of Road.	Intended Inclination.
16	Halesowen -	Turnpike road -	1 in 25.

For the protection of Ferdinando Dudley Lea Smith.

7. The Company shall not enter upon, take, or use, without the previous consent in writing of Ferdinando Dudley Lea Smith, any land belonging to him, save and except what is included within the limits of deviation shown upon the deposited plans and described in the deposited books of reference.

Lands for extraordinary purposes.

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

Powers for compulsory purchases limited.

9. 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.

Period for completion of works.

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

Parts of authorised railway and works to be abandoned.

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

1. So much of Railway No. 1 authorised by the Act of 1865 as lies between the points herein-before respectively described as the commencement and the termination of the Railway (A) by this Act authorised:
2. So much of Railway No. 1 authorised by the Act of 1866 as lies between the commencement thereof and the point herein-before described as the termination of the Railway (B) by this Act authorised.

Compensation for damage to land by entry, &c.

12. The abandonment by the Company, under the authority of this Act, of any portion of any railway or works 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 of 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 Act of 1865, the Act of 1866, and the Act of 1870.

Compensation to be made in respect of portions of railways abandoned.

13. Where, before the passing of this Act, any contract may have been entered into, or notice given by the Company for the purchasing of any land for the purposes of or in relation to any portions of the railways or works 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 injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice, and 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.

New lines of railway to be part of the Company's undertaking.

14. Subject to the provisions herein contained, the lands and property from time to time acquired by the Company by virtue of this Act, and the railways and works connected therewith by this Act authorised to be constructed, shall for all purposes of tolls, rates, and charges, and for all other purposes whatsoever, be part of the undertaking, railway, works, and property of the Company, as if the Company had by the Act of 1865 been authorised to acquire, make, and maintain the same.

Extension of time for completion of works.

15. The powers of the Company for the construction and completion of the railways authorised by the Act of 1865, and the Act of 1866, (except as to so much of Railway No. 1 authorised by the Act of 1866 as lies between the public road number 77, in the parish of Halesowen, on the plans deposited for the purposes of that Act and the termination of that railway,) and except in so far as any of the railways of the Company are authorised to be abandoned, shall be extended and enlarged until the expiration of three years from the first day of August one thousand eight hundred and

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seventy-three, and on the expiration of such extended period the powers of the Company in relation to the said railways and works shall cease to be exercised, except as to so much thereof as shall then be completed.

Providing for completion of the railways.

16. Whereas pursuant to the standing orders of Parliament, and to an Act of the ninth year of the reign of Her present Majesty, chapter twenty, a sum of stock equivalent to the sum of eight thousand eight hundred pounds was transferred to the Court of Chancery with respect to the railways authorised by the Act of 1865, and a sum of stock equivalent to the sum of three thousand two hundred and eighty-five pounds was transferred to the Court of Chancery with respect to the railways authorised by the Act of 1866; and whereas, in pursuance of the Acts of 1865 and 1866, bonds in twice the amount of the said respective sums of eight thousand eight hundred pounds and three thousand two hundred and eighty-five pounds were duly executed by the Company with sureties conditioned for payment to Her Majesty, her heirs and successors, of the said respective sums of eight thousand eight hundred pounds and three thousand two hundred and eighty-five pounds, if the Company should not, within the time limited for completion of the said respective railways, either open the same respectively for the public conveyance of passengers, or prove that they had paid up and expended as therein mentioned one half of the amount of share capital by the said Acts respectively authorised; and whereas the said bonds were duly deposited with the Solicitor to the Lords Commissioners of Her Majesty's Treasury, and they have not been cancelled, and are still in full force and effect, and the said stocks have been re-transferred to the depositors; and whereas the railways authorised by this Act are in substitution for portions of the railways authorised by the Acts of 1865 and 1866: Be it therefore enacted, that, notwithstanding anything contained in the said Act of the ninth year of the reign of Her present Majesty, chapter twenty, if the period limited by this Act shall have expired before the Company shall either have opened the railways authorised by the Acts of 1865 and 1866, as amended by the Act of 1870 and this Act, for the public conveyance of passengers, or have proved to the satisfaction of the Board of Trade that the Company have paid up one half of the amount of the capital authorised by their existing Acts to be raised by means of shares, and have expended for the purposes of such Acts a sum equal in amount to one half of such capital, the moneys to be recovered upon such bonds shall be applied in the manner herein-after specified; and the certificate of the Board of Trade that such proof has been given to their satis-

faction as aforesaid shall be sufficient evidence of the facts so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the first above-mentioned Act to the contrary notwithstanding. A.D. 1873.

Application of deposit.

17. The moneys recovered upon such bonds 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 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 the Acts of 1865 and 1866 and 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 aforesaid in such manner and in such proportions as to the Court of Chancery in England may seem fit; and if no such compensation shall be payable, or if a portion of the moneys recovered upon such bonds shall have been found sufficient to satisfy all just claims in respect of such compensation, then such moneys, or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty, and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Court of Chancery in England 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 Court, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver, or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

Power to divide shares.

18. Subject to the provisions of this Act, and the Act of 1865, and the Act of 1866, and the Act of 1870 respectively, the Company, with the authority of three fourths of the votes of the shareholders present, in person or by proxy, at a general meeting of the Company specially convened for the purpose, may from time to time divide any share in their capital into half shares, of which one shall be called "preferred half share," and the other shall be called "deferred half-share," but the Company shall not so divide any share under the authority of this Act unless and until not less than sixty per centum upon such share has been paid up, and upon every

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such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share (being the whole amount payable thereon), and the residue to the credit of the preferred half share.

Dividends on half shares

19. The dividend which would from time to time be payable on any divided share, if the same had continued an entire share, shall be applied in payment of dividends on the two half shares in manner following; (that is to say), first, in payment of dividend after such rate, not exceeding six per centum per annum, as shall be determined once for all at a general meeting of the Company specially convened for the purpose, on the amount for the time being paid up on the preferred half share, and the remainder, if any, in payment of dividend on the deferred half share; and the Company shall not pay any greater amount of dividend on the two half shares than would have from time to time been payable on the entire share if the same had not been divided.

Dividends on preferred shares to be paid out of the profits of the year only.

20. Each preferred half share shall be entitled out of the profits of each year to the dividend which may have been attached to it by the Company as aforesaid, in priority to the deferred half share bearing the same number; but if in any year ending the 31st day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half share for that year, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the Company.

Half shares to be registered and certificates issued.

21. Forthwith after the creation of any half shares the same shall be registered by the directors, and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued; and the directors shall issue certificates of the half shares accordingly, and shall cause an entry to be made in the register of the entire shares of the conversion thereof; but the directors shall not be bound to issue a certificate of any half share until the certificate of the existing entire share be delivered to them to be cancelled, unless it be shown to their satisfaction that such certificate is destroyed or lost, and on any certificate being so delivered up the directors shall cancel it.

Terms of issue to be stated in certificate.

22. The terms and conditions on which any preferred half share or deferred half share created under this Act is issued shall be stated on the certificate of each such half share.

Forfeiture of preferred shares.

23. The provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the forfeiture of shares for nonpayment

of calls, shall apply to all preferred half shares created under the authority of this Act, and every such preferred half share sha ll for that purpose be considered an entire share distinct from the corresponding deferred half share; and until any forfeited preferred half share shall be sold by the directors, all dividends which would be payable thereon, if the same had not been forfeited, shall be applied in or towards payment of any expenses attending the declaration of forfeiture thereof, and of the arrears of calls for the time being due thereon, with interest.

Preferred shares not to be cancelled or surrendered.

24. No preferred half share created under the authority of this Act shall be cancelled or be surrendered to the Company.

Half shares to be half shares in capital.

25. The several half shares under this Act shall be half shares in the capital of the Company, and every two half shares (whether preferred or deferred, or one of each,) held by the same persons shall confer such right of voting at meetings of the Company, and (subject to the provisions herein-before contained) shall confer and have all such other rights, qualifications, privileges, liabilities, and incidents as attach and are incident to an entire share.

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

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

Expenses of Act.

27. 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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