CHAPTER clxxiii.

An Act to incorporate a Company for making a Railway from the Shrewsbury and Hereford Railway at Leominster to join the Worcester, Bromyard, and Leominster Railway at Bromyard; and for other purposes. [30th July 1874.]

A.D. 1874.

WHEREAS the making of the railways herein-after described from the Shrewsbury and Hereford Railway at Leominster to join the authorised Worcester, Bromyard, and Leominster Railway at Bromyard would be of public and local advantage:

And whereas the persons in this Act named, with others, are willing at their own expense to construct the railway, and are desirous of being incorporated into a company for the purpose:

And whereas it is expedient that the Company incorporated by this Act, in this Act referred to as the Company, and the Great Western Railway Company (in this Act called "the Great Western Company") should be empowered to enter into working and other agreements as herein-after in that behalf expressed:

And whereas plans and sections showing the lines and levels of the railways authorised by this Act, and also books of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the 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 Hereford, 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:

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Short title.

1. This Act may be cited as the "Leominster and Bromyard Railway Act, 1874."

Provisions of certain general Acts incorporated.

2. "The Railways Clauses Consolidation Act, 1845," "The Companies Clauses Consolidation Act, 1845," and Part I. (relating to cancellation and surrender of shares) and Part III. (relating to debenture stock) of "The Companies Clauses Act, 1863," "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," and Part I. (relating to construction of a railway) and Part III. (relating to working agreements) 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 expressions "the railway" and "the undertaking" mean respectively the railway and the undertaking by this Act authorised; and for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute.

Company incorporated.

4. The Right Honourable Lord Bateman, Josiah Newman, Thomas Bristow Stallard, John Hungerford Arkwright, John Clowes, and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking, and their executors, administrators, successors, and assigns respectively, shall be and are hereby 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 and are hereby incorporated by the name of "The Leominster and Bromyard 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.

Power to make railways according to deposited plans.

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 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 railway (No. 1) eleven miles one furlong and seven chains in length, commencing in the township or chapelry of Ivington, in the parish of Leominster, at a point in a field five hundred and twenty-eight yards, or thereabouts, measured in a south-easterly direction, from the south side of the bridge which carries the Shrewsbury and Hereford Railway over the River Arrow, and which field was formerly called the Big Meadow, but is now called the Ryse, and terminating in the township of Linton, in the parish of Bromyard, by a junction with the railway of the Worcester, Bromyard, and Leominster Railway Company authorised by the Worcester, Bromyard, and Leominster Railway Act, 1873, and at the termination of the last-named railway, in a field at or near the turnpike road leading from Bromyard to Stourport, and which field is known as Pigeonhouse Meadow:

A railway (No. 2) one mile one chain and seventy links in length, commencing by a junction with railway (No. 1) at the commencement thereof, in the township or chapelry of Ivington, in the parish of Leominster, and terminating in the parish of Leominster by a junction with the Shrewsbury and Hereford Railway at a point thereon three hundred and ninety-six yards, or thereabouts, measured in a southerly direction, from the south end of the abutments of the bridge carrying the turnpike road leading from Leominster to Bromyard over that railway.

Lands of Worcester, Bromyard, and Leominster Railway Company or of Great Western and London and North-western Railway Companies not to be taken except for certain works.

6. Nothing in this Act contained shall extend or be deemed or construed to extend or authorise or enable the Company to take, enter upon, or use, either temporarily or permanently, any of the lands of the Worcester, Bromyard, and Leominster Railway Company, or, as the case may be, of the Great Western and London and North-western Railway Companies, or to alter, vary, or interfere with the railway of the Worcester, Bromyard, and Leominster Railway Company, or with the Shrewsbury and Hereford Railway of the Great Western and London and North-western Railway Companies, or any of the works of the Worcester, Bromyard, and Leominster Railway, or of the Shrewsbury and Hereford Railway, further or otherwise than is necessary for the construction of the respective junctions by this Act authorised with those railways respectively, without the consent in writing in every instance for that purpose first had and obtained of, as respects the Worcester, Brom-

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yard, and Leominster Railway, or any of the land and works connected therewith, of the Worcester, Bromyard, and Leominster Railway Company under their common seal, or, as respects the Shrewsbury and Hereford Railway, or any of the land or works connected therewith, of the Great Western and London and North-western Railway Companies under their respective common seals; and with respect to any lands of the Worcester, Bromyard, and Leominster Railway Company, or of the Great Western and London and North-western Railway Companies, as the case may be, which the Company are by this Act authorised to use, enter upon, or interfere with, the Company shall not purchase and take the same, but they may purchase and take, and the Worcester, Bromyard, and Leominster Railway Company, or, as the case may be, the Great Western and London and North-western Railway Companies, shall sell or grant accordingly, an easement or right of using the same in perpetuity for the purposes of this Act.

As to junctions with the Worcester, Bromyard, and Leominster Railway and Shrewsbury and Hereford Railway.

7. The junction of railway No. 1 by this Act authorised with the Worcester, Bromyard, and Leominster Railway shall be made only at such point as shall be agreed upon between the engineers for the time being of the Worcester, Bromyard, and Leominster Railway Company and the Great Western Railway Company, and the engineer for the time being of the railways by this Act authorised; and the junction of railway No. 2 with the Shrewsbury and Hereford Railway shall be made only at such point as shall be agreed upon between the engineer for the time being of that railway and the engineer for the time being of the railways by this Act authorised.

Saving rights of Worcester, Bromyard, and Leominster Railway Company and Great Western and London and North-western Railway Companies.

8. Nothing in this Act contained shall extend to prejudice, diminish, alter, or take away any of the rights, privileges, powers, or authorities of the Worcester, Bromyard, and Leominster Railway Company, or of the Great Western and London and North-western Railway Companies, except as is expressly enacted by this Act.

Capital.

9. The capital of the Company shall be two hundred and ten thousand pounds, in twenty-one thousand shares of ten pounds each.

Shares not to issue until one fifth paid.

10. The Company shall not issue any share created under the authority of this Act, nor shall any such 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 is paid in respect thereof.

Calls.

11. 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 fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipt clause in case of persons not sui juris.

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

Power to borrow on mortgage.

13. The Company may from time to time borrow on mortgage any sum not exceeding in the whole seventy thousand pounds, but no part thereof shall be borrowed until the whole capital of two hundred and ten thousand pounds 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 such 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 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.

Arrears may be enforced by appointment of a receiver.

14. 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. 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 seven thousand pounds in the whole.

Debenture stock.

15. The Company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863; but, notwithstanding anything therein contained, the interest of all debenture stock at any time created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Application of moneys.

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

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First ordinary meeting.

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

Number of directors.

18. The number of directors shall be six, but the Company may from time to time reduce the number, provided that the number be not less than three.

Qualification of directors.

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

Quorum of directors.

20. The quorum of a meeting of directors shall be three, but in case the number of directors shall be reduced to three the quorum shall be two.

First directors.

21. The Right Honourable Lord Bateman, John Hungerford Arkwright, John Clowes, Josiah Newman, Thomas Bristow Stallard, and one other person to be nominated by them or the majority of them, and consenting to such nomination, shall be the first directors of the Company, 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 nominated as aforesaid, 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 of "The Companies Clauses Consolidation Act, 1845," and the several persons elected at any such meeting, being neither removed nor disqualified nor having died or resigned, shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Election of directors.

Lands for extraordinary purposes.

22. 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 five acres.

Powers for compulsory purchases limited.

23. 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.

Inclination of roads.

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

RAILWAY No. 1.

No. on deposited Plan.	Parish.	Description of Road.	Intended Inclination.
18	Docklow - -	Public - -	1 in 15 on one side, and 1 in 20 on the other.
83	Bromyard - -	Turnpike - -	1 in 9 on one side, and level on the other.

Heights and spans of bridges.

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

RAILWAY No. 1.

No. on deposited Plan.	Parish.	Description of Road.	Height.	Span.
9	Stoke Prior - -	Public - - -	15 feet	20 feet.
25	Stoke Prior - -	Public - -	15 feet	20 feet.
13	Hatfield - -	Bridle road - -	15 feet	15 feet.
3A	Bredenbury - -	Public road - -	15 feet	15 feet.
52	Bromyard - -	Turnpike - -	15 feet	25 feet.

Widths of certain roadways.

26. The Company may make the roadway over the bridges by which the following roads will be carried over the railway of such width between the fences thereof as the Company think fit, not being less than the respective widths herein-after mentioned in connexion therewith respectively; (that is to say,)

No. on Plan.	Parish.	Description of Roadway.	Width of Roadway.
42	Stoke Prior - -	Public - -	15 feet.
11	Humber - -	Turnpike - - -	20 feet.
58	Stoke Prior - -		
18	Docklow - -	Public - - -	15 feet.
43	Docklow - -	Public - - -	12 feet.
20	Wackton - -	Public - - -	12 feet.
83	Bromyard - -	Turnpike - -	20 feet.

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Power to take easements, &c. by agreement.

27. 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, so 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.

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

28. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth year of the reign of Her present Majesty, chapter twenty, a sum of seven thousand seven hundred and ninety-nine pounds nine shillings Consolidated Three per Cent. Annuities, equal to seven thousand one hundred and fifty-six pounds, being five per cent. upon the amount of the estimate in respect of the railway, has been transferred to the Court of Chancery in England in respect of the application to Parliament for this Act: Be it enacted, that, notwithstanding anything contained in the said Act, the said sum so transferred as aforesaid in respect of the application for this Act shall not 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 completion of the railway, either open the railway for the public conveyance of passengers, or prove to the satisfaction of the Board of Trade 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 Board of Trade, the said stock transferred as aforesaid 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 satisfaction as aforesaid shall be sufficient evidence of the fact so certified; and it shall not be necessary to produce any certificate of this Act having passed, anything in the above-mentioned Act to the contrary notwithstanding.

Application of deposit.

29. The said stock transferred as aforesaid shall be applicable, and after due notice in the "London Gazette" shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the railway or 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 to the Court of Chancery in England may seem fit; and if no such compensation shall be payable, or if a portion of the said stock shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, 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; provided that until the said stock has been repaid to the depositors, or has become otherwise applicable as herein-before mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, 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.

Period for completion of works.

30. 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 is then completed.

Tolls for passengers.

31. The Company may demand and take in respect of the use of the railway any tolls not exceeding the following; (that is to say,)

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In respect of passengers and animals conveyed on the railway:

For any person conveyed in or upon any carriage, per mile twopence; and if conveyed in or upon any carriage belonging to the Company, an additional sum per mile of not exceeding one halfpenny:

For every horse, mule, ass, or other beast of draught or burden, per mile threepence; and if conveyed in or upon any carriage belonging to the Company, an additional sum per mile of not exceeding one penny:

For every ox, cow, bull, or head of neat cattle conveyed in or upon any carriage, per mile twopence; and if conveyed in or upon any carriage belonging to the Company, an additional sum per mile of not exceeding one penny:

For every calf, pig, sheep, lamb, or other small animal conveyed in or upon any carriage, per mile one halfpenny; and if conveyed in or upon any carriage belonging to the Company, an additional sum per mile of not exceeding one farthing.

Tolls for goods.

32. In respect of goods conveyed on the railway:

For all dung, compost, and all sorts of manure, lime and limestone, and all undressed materials for the repair of public roads or highways, per ton per mile one penny; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile of not exceeding one halfpenny:

For all coals, coke, culm, charcoal, and cinders, all stones for building, pitching, and paving, all bricks, tiles, slates, clay, ironstone, and iron ore, and pig iron, per ton per mile one penny halfpenny; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile of not exceeding one halfpenny:

For all sheet iron, hoop iron, bar iron, rod iron, and all similar descriptions of wrought iron, twopence; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile of not exceeding one halfpenny:

For all sugar, grain, corn, flour, hides, dyewoods, earthenware, timber, staves, and deals, metals (except iron), nails, anvils, vices, and chains, per ton per mile threepence; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile of not exceeding three farthings:

For all cotton, wool, drugs, manufactured goods, and articles of merchandise not included under any other head, per ton per mile threepence halfpenny; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile of not exceeding one penny:

For fish, feathers, canes, cochineal, household furniture, hats, shoes, toys, and all articles, matters, and things of a similar character, per ton per mile fourpence; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile of not exceeding one penny halfpenny:

For every carriage, of whatever description (not being a carriage adapted and used for travelling on a railway), and not weighing more than one ton, carried or conveyed on a truck or platform, per mile sixpence; and a sum of one penny halfpenny per mile for every additional quarter of a ton or fractional part of a quarter of a ton which any such carriage may weigh:

For every carriage, of whatever description, adapted and used for travelling on a railway, when not in use for the conveyance of traffic, per mile threepence.

Tolls for propelling power.

33. The toll which the Company may demand for the use of engines for propelling carriages on the railway shall not exceed one halfpenny per mile for each passenger or animal, or for each ton of goods, in addition to the several other tolls or sums by this Act authorised to be taken.

Regulations as to tolls.

34. The following provisions and regulations shall apply to the fixing of all tolls and charges payable under this Act; (that is to say,)

Short distances.

For all passengers, animals, or goods conveyed on the railway for a less distance than four miles the Company may demand tolls and charges as for four miles:

Fractional parts of a mile.

For a fraction of a mile beyond four miles, or beyond any greater number of miles, the Company may demand tolls and charges on animals and goods for such fraction in proportion to the number of quarters of a mile contained therein, and if there be a fraction of a quarter of a mile such fraction shall be deemed a quarter of a mile; and in respect of passengers, every fraction of a mile beyond an integral number of miles shall be deemed a mile:

Fractional parts of a ton.

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:

General weight.

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

Weight of stone and timber.

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 one ton weight, and so in proportion for any smaller quantity.

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Tolls for small parcels and single articles of great weight.

35. With respect to small parcels not exceeding five hundred pounds in weight, and single articles of great weight, notwithstanding anything in this Act, the Company may demand and take any tolls not exceeding the following; (that is to say,)

For the carriage of small parcels on the railway:

For any parcel not exceeding seven pounds in weight, threepence:

For any parcel exceeding seven pounds but not exceeding fourteen pounds in weight, fivepence:

For any parcel exceeding fourteen pounds but not exceeding twenty-eight pounds in weight, sevenpence:

For any parcel exceeding twenty-eight pounds but not exceeding fifty-six pounds in weight, ninepence:

For any parcel exceeding fifty-six pounds but not exceeding one hundred and twelve pounds in weight, one shilling and sixpence:

For any parcel exceeding one hundred and twelve pounds but not exceeding two hundred and twenty-four pounds in weight, three shillings:

For parcels exceeding two hundred and twenty-four pounds but not exceeding five hundred pounds in weight, the Company may demand any sum which they think fit:

Provided always, that articles sent in large aggregate quantities, although made up in separate parcels, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but that term shall apply only to single parcels in separate packages.

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 any 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 they from time to time may think fit, not exceeding sixpence per ton per mile:

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, or which, on account of the length thereof, may require more than one carriage, the Company may demand such sum as they may think fit.

Maximum rates for passengers.

36. The maximum rate of charge to be made by the Company for the conveyance of passengers upon the railway, including the tolls for the use of the railway, and for carriages and locomotive