CHAP. cxv.

An Act for making a Railway from the Hereford, Ross, and Gloucester Railway, at Mitcheldean Road, to the Whimsey Branch of the Forest of Dean Railway; and other purposes. A.D. 1871.

[13th July 1871.]

WHEREAS the making of the railway herein-after described would be attended with great local and public advantage:

And whereas the persons in this Act named, with others, are willing at their own expense to construct such railway, and it is expedient that they should be incorporated into a company (herein-after referred to as "the Company"), and that powers should be conferred on them for that purpose:

And whereas plans and sections showing the line and levels of the railway, and a book of reference to such plans containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands in or through which the railway is to be made and maintained, have been deposited with the respective clerks of the peace for the counties of Gloucester and Hereford, and those plans, sections, and book of reference are in this Act referred to as the deposited plans, sections, and book of reference:

And whereas it is expedient that the Great Western Railway Company should be authorised to subscribe towards and hold shares in the capital of the Company, and to apply their corporate funds for such purposes, and that, in the event of their subscribing, the Great Western Railway Company should have power to appoint one or more of the directors of the Company:

And whereas it is expedient that the Company and the Great Western Railway Company should be empowered to make and carry into effect such agreements and arrangements as are herein-after expressed:

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

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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:

Short title.

1. This Act may be cited for all purposes as "The Mitcheldean Road and Forest of Dean Junction Railway Act, 1871."

Provisions of general Acts herein named incorporated.

2. "The Companies Clauses Consolidation Act, 1845," Part I. (relating to cancellation and surrender of shares) of "The Companies Clauses Act, 1863," "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," "The Railways Clauses Consolidation Act, 1845," 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 expression "the Company" means the Company incorporated by this Act; the expressions "the railway" and "the undertaking" mean respectively the railway and undertaking by this Act authorised; 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. Henry Crawshay, Edwin Crawshay, Alfred Goold, Edward Smith, 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 Mitcheldean Road and Forest of Dean Junction 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 railway according to deposited plans.

5. Subject to the provisions of this Act, the Company may make and maintain, in the lines and according to the levels shown on the deposited plans and sections, the railway 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 railway herein-before referred to and authorised by this Act is as follows,—

A railway, four miles and about five furlongs in length, commencing in the parish of Lea in the county of Hereford by a junction with the Hereford, Ross, and Gloucester Railway of the Great Western Railway Company, at or near the Mitcheldean Road station, and terminating in the township of East Dean in the county of Gloucester by a junction with and at or near to the northern terminus of the Whimsey Branch of the Great Western Railway Company's Forest of Dean Railway.

Not to take lands of Great Western Railway Company except for purposes of junctions.

6. Notwithstanding anything herein or in the incorporated Acts contained, it shall not be lawful for the Company, nor any person acting under or in execution of this Act, to enter upon, occupy, or use, either permanently or temporarily, any of the lands, works, or property of the Great Western Railway Company, or in any manner to alter, vary, or interfere with the railways, lands, works, or property of that Company, without their consent in writing, save only for the purpose of effecting the junctions and communications by this Act authorised.

Capital.

7. The capital of the Company shall be thirty thousand pounds in three thousand shares of ten pounds each.

Shares not to issue until one fifth paid up.

8. 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.

9. 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 four fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Power to Great Western Railway Company to subscribe to capital of Company.

10. The Great Western Railway Company may, with the authority of three fourths of the votes of their shareholders, present in person or by proxy at a general meeting of that Company specially convened for the purpose, from time to time subscribe any sum which they think fit towards the undertaking of the Company, not exceeding in the whole the sum of fifteen thousand pounds, and may, with the like authority, contribute and apply in payment of the said subscription any moneys which they are already authorised to raise and which may not be required by them for the purposes of

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their undertaking, and the Great Western Railway Company shall, in respect of any sums so subscribed and the corresponding shares in the Company to be held by them, have all the powers, rights, and privileges, and be subject to all the obligations and liabilities of proprietors of shares in the Company.

Power to Great Western Railway Company to appoint directors of the Company.

11. If the sum subscribed by the Great Western Railway Company shall amount to five thousand pounds, the directors of that Company may from time to time appoint one of their own body to be a director of the Company, or if the sum so subscribed shall amount to or exceed ten thousand pounds the directors of that Company may from time to time appoint two of their own body to be directors of the Company, and no other qualification than being a director of the Great Western Railway Company shall be requisite; and the Great Western Railway Company may at pleasure revoke any such appointment, and the persons so from time to time appointed by them shall accordingly be directors of the Company, and be entitled to vote at meetings of the Company on all questions not relating to the election of directors, and in all other respects the directors so appointed shall have the same powers and be subject to the same regulations and provisions, except as to retiring from office by rotation, as the other directors of the Company: Provided always, that all such appointments and revocations shall be testified in writing under the hand of the secretary of the said Company, which shall be delivered to the directors of the Company and shall be kept with their records, and an entry of every such appointment or revocation shall be made in the minutes of their proceedings.

Power to borrow on mortgage.

12. The Company may from time to time borrow on mortgage any sums not exceeding in the whole ten thousand pounds, but no part thereof shall be borrowed until the whole capital of thirty 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 fortieth section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that the whole of such capital 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.

For appointment of a receiver.

13. 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 principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one thousand pounds in the whole.

Application of moneys.

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

General meetings.

15. The first ordinary meeting of the Company shall be held within six months after the passing of this Act, and the quorum for general meetings, whether ordinary or extraordinary, shall be five shareholders, holding together not less than two thousand pounds in the capital of the Company.

Number of directors.

16. The number of the directors shall not be more than seven nor less than five, including any director or directors appointed by the Great Western Railway Company.

Qualification of directors.

17. The qualification of a director appointed by the shareholders shall be the possession in his own right of not less than thirty shares.

Quorum.

18. The quorum of a meeting of directors shall be three, but when the number of directors is not more than three the quorum shall be two.

First directors.

19. Henry Crawshay, Edwin Crawshay, Alfred Goold, and Edward Smith 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 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, or may appoint additional directors; 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 varying 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 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.

Election of directors.

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Lands for extraordinary purposes.

20. 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 three acres.

Powers for compulsory purchases limited.

21. 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.

Level crossing.

22. Subject to the provisions in "The Railways Clauses Consolidation Act, 1845," and in Part I. (relating to 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, carry the same with a single line of railway only, whilst the railway shall consist of a single line, and afterwards with a double line of railway only, across and on the level of the turnpike road, numbered on the deposited plans 65, in the township of East Dean.

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

23. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth and tenth years of Her present Majesty, chapter twenty, one thousand four hundred and thirteen pounds eight shillings, being five per centum upon the amount of the estimate in respect of the railway authorised by this Act, has been deposited with the Court of Chancery in England in respect of the application to Parliament for this Act: Therefore, notwithstanding anything contained in the said recited Act, the said sum so deposited 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 hereby authorised to be made, either open the railway for the conveyance of traffic, 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 conveyance of traffic, or have given such proof as aforesaid to the satisfaction of the Lords of the said Committee, the said sum of money deposited as aforesaid shall be applied in the manner herein-after specified, and the certificate of the Lords of the said Committee 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 said recited Act to the contrary notwithstanding.

Application of deposit.

24. The said sum of money deposited 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 sum of money 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 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 survivor or survivors of them; provided that, until the said sum of money shall have been repaid to the depositors, or shall have 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.

25. The railway shall be completed within five years from the passing of this Act, and if the railway 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 railway, or otherwise in relation thereto, shall cease to be exercised except as to so much thereof as shall then be completed.

Tolls.

26. The Company may demand and take for the conveyance of minerals, goods, and merchandise on their railway tolls, dues, and charges not exceeding the following; and such tolls, dues, and charges shall include the charge for locomotive power, but shall not include the charge for waggons or trucks:

1. For all coals, coke, culm, patent fuel, charcoal, and cinders, all lime and limestone, all stone being the produce of the Forest

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of Dean, all pitwood and cordwood, all bricks, tiles, slates, ironstone and iron ore, and all other ores and minerals, pig iron, all undressed materials for the repair of public roads and highways, clay, sand, and manure of all kinds, twopence per ton per mile:

2. For all bar iron, rod iron, hoop iron, and all similar descriptions of wrought iron, and ordinary iron castings, timber, bark, grain and flour, offals, oil cake, potatoes, hay, straw, farina, alkali (carried in bulk), threepence per ton per mile:
3. For all other merchandise, fourpence per ton per mile:
4. For articles conveyed on the railway for a less distance than three miles the Company may demand tolls and charges as for three miles: Provided that for articles conveyed on the railway of the Company from one point to another within the township of East Dean and the parish of Newland, or either of them, for a less distance than three miles, the Company may charge such a sum as may be mutually agreed upon between the freighter and the Company; or, in case of difference, such a sum as a referee, to be selected by the Company and the freighter, shall under the circumstances of each case award; and in the event of the Company and freighter failing to select a referee, then such a sum as a referee, to be nominated by the Board of Trade on the application of the Company or freighter, shall award; the expenses of any such referee to be borne and paid equally by the Company and freighter: Provided nevertheless, that as respects all articles conveyed on the railway of the Company from one point to another within the said township and parish, or either of them, for three miles and upwards, the same shall be liable to the like tolls and charges as articles of the same description conveyed for three miles and upwards into or out of the aforesaid township and parish, or either of them:
5. For a fraction of a mile beyond three miles or any greater number of miles, the Company may demand tolls on merchandise 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.

Regulations as to tolls, &c.

27. The following provisions and regulations shall be applicable to the fixing of the before-mentioned tolls and charges; (that is to say,)

For a fraction of a ton the Company may demand toll 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:

With respect to all articles, except stone and timber, the weight shall be determined according to 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 one ton weight, and so on in proportion for any smaller quantity.

Company may take increased charges by agreement.

28. Nothing herein contained shall be held to prevent the Company from taking any increased charge over and above the charges herein-before limited for the conveyance of goods of any description, by agreement with the owners of or persons in charge of such goods, by reason of any special service performed by the Company in relation thereto.

Rates for use of cranes, sidings, &c.

29. The following and no other charges may be levied by the Company in respect of the matters herein-after mentioned; (namely,)

For the use of cranes, drops, staiths, and weighing machines erected by the Company, the rates and sums following; viz.,

(A.) For all coal, coke, culm, patent fuel, charcoal, and cinders, lime and limestone, pitwood and cordwood, bricks, ironstone and iron ore, and all other ores and minerals, pig iron, all undressed materials for the repair of public roads and highways, clay, sand, and manure of all kinds, if the said matters and things have been or shall be conveyed on the railway of the Company, and have or shall become liable to the payment of not less than one shilling per ton for the use of the same, one penny per ton:

(B.) For all other matters and things the Company may charge such rates and sums of money as may be from time to time agreed on between the parties using the same and the Company, or as may be usual and reasonable:

(C.) The Company shall not charge any sum for the use of any weighing machine used for the purpose of ascertaining any toll payable to the Company:

(D.) For the use and occupation of any sidings for any of the articles herein-before enumerated, for the first three days no charge shall be made by the Company; for any space of time beyond three days, but not exceeding seven days, the Company may charge at the rate of one penny per ton for each day during which the sidings shall be occupied, and for every day beyond seven days after notice from the Company, the Company may charge at the rate of sixpence

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per ton for each day during which the sidings shall be occupied; provided that such use and occupation shall not have arisen from any neglect or default on the part of the Company.

Company to supply locomotive power.

30. The Company shall supply sufficient locomotive power for the conveyance of minerals and other matters upon the railway, and, after due notice shall have been given to them that a load of at least eighty tons is in readiness, they shall convey all minerals, goods, and merchandise, articles, empty waggons, trucks, and other matters upon and along the railway, and no engines, except those of the Company, or of the company working the railway, shall, unless with the previous consent in writing of the Company, be admitted upon the railway.

Charge for waggons or trucks.

31. The Company shall not be required to provide waggons or trucks, but in all cases in which any waggons or trucks are provided by the Company they may charge not exceeding one penny per ton per mile for the use thereof.

Agreements with the Great Western Railway Company as to laying down narrow gauge on Forest of Dean Railway.

32. It shall be lawful for the Company on the one hand, and the Great Western Railway Company on the other hand, to enter into and carry into effect contracts and arrangements as to the laying down of an additional line or lines of rails, on the narrow gauge system, on so much of the Forest of Dean Railway as is situate between the northern termini at Churchway and Whimsey respectively and the point where that railway crosses on the level the turnpike road leading from Cinderford to Coleford, at the south side of Cinderford Station, so as to admit of the user thereof by engines and carriages adapted to the narrow gauge, as well as engines and carriages adapted to the broad gauge, and as to the terms and conditions upon which such rails shall be laid down on the aforesaid portion of railway and branch, and the tolls and other payments to be made for the use of the same. And the Company and the Great Western Railway Company, or either of those companies, are hereby authorised and empowered to lay down such additional line or lines, under such restrictions, and upon and subject to such terms and conditions, as may be mutually agreed upon.

Traffic arrangements.

33. The Company and the Great Western Railway Company may from time to time enter into and carry into effect contracts, agreements, and arrangements with respect to the following purposes, or any of them, and any incidental matters; (that is to say,)

The maintenance, use, and working of the railway and works, or any part thereof:

The regulation, management, interchange, and transmission of traffic on their respective railways:

The supply and maintenance of engines, rolling stock, and plant:

The fixing, collection, payment, division, appropriation, and apportionment of the tolls and other income and profits arising under any such contract, agreement, or arrangement, and the employment of officers and servants:

And any such contract or agreement may be made for the same period of time with reference to all the purposes of the contract, or for different periods with reference to different purposes.

Tolls partly on railway and partly on Great Western Railway.

34. Where under this Act any traffic is conveyed for a distance less in the whole than three miles, partly on the railway by this Act authorised and partly on the Great Western Railway, tolls, rates, and charges may be demanded as for three miles only; and for every quarter of a mile or fraction of a quarter of a mile beyond three miles, tolls and charges as for a quarter of a mile only; and no other short-distance charge shall be made for the conveyance of traffic partly on the railway and partly on the Great Western Railway.

Interest not to be paid on calls paid up.

35. 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 or 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.

36. 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.

37. Nothing herein contained shall be deemed or construed to exempt the railway by this Act authorised to be made 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 and charges authorised by this Act.

Saving rights of the Crown.

38. Nothing contained in this Act, or in any of the Acts herein referred to, shall authorise the Company to take, use, or in any

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manner interfere with any land, soil, tenements, or hereditaments, or any rights of whatsoever nature belonging to, or enjoyed or exerciseable by the Queen's most Excellent Majesty in right of her Crown, and under the management of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, without the previous consent in writing of the same Commissioners, or one of them, on behalf of Her Majesty, first had and obtained for that purpose (which consent such Commissioners are hereby respectively authorised to give); and, as incidental to any such consent as aforesaid, the Company may enter into any agreement with the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, who respectively may, with the approval of the Commissioners of Her Majesty's Treasury, join in every such agreement, and the said Commissioners of Her Majesty's Woods, Forests, and Land Revenues, with the like approval, and the Company may respectively execute all necessary conveyances, leases, licenses, or other deeds of or relating to any land, hereditaments, or rights belonging to Her Majesty in right of her Crown, and under the management of the same Commissioners, and every agreement so entered into as aforesaid shall be performed by the same Commissioners and the Company respectively. And nothing in the said Act or Acts contained shall divest, take away, prejudice, diminish, or alter any estate, right, privilege, power, or authority now or from time to time vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

Power for Commissioners of Woods to grant lease to Company for 999 years.

39. The Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, may, if they or he shall so think fit, and with the previous consent of the Commissioners of Her Majesty's Treasury for the time being, demise and lease to the Company such land belonging to Her Majesty as may be required for the purposes of the works of the Company, for such term, not exceeding nine hundred and ninety-nine years, at such rent and subject to such covenants and conditions as may be agreed upon, and in addition to the rent to be reserved by such lease, the Company shall pay to the Crown the value of all timber or other trees on the land to be demised, and the costs of and incident to such lease shall be paid by the Company.

Expenses of Act.

40. All costs, charges, and expenses of and incidental 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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