

[41 & 42 VICT.] *Leominster and Bromyard Railway* [Ch. CCXXV.]
Act, 1878.



CHAPTER CCXXV.

An Act to authorise the Leominster and Bromyard Railway Company to construct a new railway, to extend the time for the purchase of certain lands and completion of line authorised by former Act; and for other purposes. A.D. 1878.

[8th August 1878]

WHEREAS by the Leominster and Bromyard Railway Act, 1874, (in this Act called "the Act of 1874,") the Leominster and Bromyard Railway Company (in this Act called "the Company") were incorporated and were authorised to make a railway from the Shrewsbury and Hereford Railway at Leominster to join the Worcester, Bromyard, and Leominster Railway at Bromyard: 37 & 38 Vict. c. clxxiii.

And whereas it is expedient that the Company should be authorised to construct the railway at Leominster herein-after described:

And whereas the period limited by the Act of 1874 for the compulsory purchase of lands for the purposes of the railway authorised by the Act of 1874 expired on the thirtieth day of July one thousand eight hundred and seventy-seven, and it is expedient to revive and extend that period as regards certain of such lands:

And whereas the time for making the said railway will expire on the thirtieth day of July one thousand eight hundred and seventy-nine, and it is expedient that the said period be extended:

And whereas it is expedient that the Company be authorised to divide the shares in their capital into preferred and deferred half shares:

And whereas plans and sections showing the lines and levels of the railway 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, have been duly deposited with the clerk of the peace for the county of Hereford, and those documents are herein-after respectively referred to as the deposited plans, sections, and books of reference:

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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 :

Short title.

1. This Act may be cited as the *Leominster and Bromyard Railway Act, 1878.*

Incorporation of general Acts.

8 & 9 Vict. c. 16.
26 & 27 Vict. c. 118.
8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.
8 & 9 Vict. c. 20.

26 & 27 Vict. c. 92.

2. Sections 14 to 20 (both numbers inclusive) of the Companies Clauses Act, 1845, Part I. (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 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 as in those Acts, 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.

Reviving authorised power of purchase of lands.

4. The powers of the Act of 1874 with reference to the compulsory purchase or taking of lands are hereby revived, and shall continue to be in force until the thirtieth day of July one thousand eight hundred and eighty, so far as relates to the respective properties referred to on the deposited plans by the numbers set forth in the schedule hereto.

Extension of time for completion of railway.

5. The time limited by the Act of 1874 for the completion of the railway thereby authorised is hereby extended until the thirtieth day of July one thousand eight hundred and eighty-two.

Powers to cease on non-completion of authorised railway.

6. If the railway authorised by the Act of 1874 shall not be completed within the period limited by this Act, then on the expiration of such period the powers by the said Act and this Act granted to the Company shall cease to be exercised, except as to so much thereof as shall then be completed.

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7. 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 railway 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 book of reference as may be required for that purpose. The railway herein-before referred to and authorised by this Act is—

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Power to
make rail-
way accord-
ing to
deposited
plans.

A railway, five furlongs and eight chains in length, commencing in the parish of Leominster by a junction with Railway No. 2 authorised by the Act of 1874, and terminating in the borough of Leominster by a junction with the Shrewsbury and Hereford Railway at or near the northern end of the passenger platform of the Leominster Station.

8. The Company may apply for the purposes of the railway by this Act authorised such a part of the moneys which they are authorised to raise by the Act of 1874 as may not be required for the purposes of that Act.

Company
may apply
funds.

9. Subject to the provisions of this Act, 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 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.

Power to
divide
shares.

10. 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 half
shares.

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

Half shares to be registered and certificates issued.

Terms of issue to be stated on certificates.

Forfeiture of preferred shares.

8 & 9 Vict. c. 16.

Preferred shares not to be cancelled, &c.

Half shares to be half shares in capital.

11. 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 thirty-first 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.

12. 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.

13. 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.

14. 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 shall 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.

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

16. 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 person 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.

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17. Notwithstanding anything contained in section 13 of the Act of 1874, the Company may, when they have completed and opened for public traffic so much of the railway authorised by the said Act as lies between the commencement thereof at Leominster and Steen's Bridge, and have proved in manner provided by the said section that sixty thousand pounds, part of the capital of two hundred and ten thousand pounds which they are by the said Act authorised to raise by shares, has been issued and accepted, and one half thereof has been paid up, borrow a sum of twenty thousand pounds, part of the sum of seventy thousand pounds which they are by the said Act authorised to borrow.

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Power to borrow £20,000 when line opened to Steen's Bridge.

18. The powers of the Company for the compulsory purchase of lands for the railway to be made under this Act shall not be exercised after the expiration of two years from the passing of this Act.

Period for compulsory purchase of lands.

19. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act passed in the session of Parliament held in the ninth and tenth years of Her present Majesty, chapter twenty, a sum of seven thousand seven hundred and ninety-nine pounds nine shillings Consolidated Three per Centum Annuities, equal to seven thousand one hundred and fifty-six pounds, being five per centum upon the amount of the estimate in respect of the railway authorised by the Act of 1874, has been deposited with the Chancery Division of the High Court of Justice in respect of the application to Parliament for that Act (which sum is in this Act referred to as "the deposit fund"): And whereas the cost of the railway authorised by this Act will, together with the cost of the railway authorised by the Act of 1874, not exceed the estimate deposited with reference to that Act, and will be made out of funds belonging to the Company or under their control and not required for the purposes of the railway authorised by the Act of 1874: Be it enacted, that, notwithstanding anything contained in the said recited Act, the deposit fund 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 (which persons, survivors, or survivor are or is in this Act referred to as the "depositors"), unless the Company shall, previously to the expiration of the period limited by this Act for completion of the railways authorised by this Act and the Act of 1874 respectively, open the said railways for the public conveyance of passengers; provided that if within such periods as aforesaid the Company open any portion of the said railways for the public conveyance of passengers,

Deposit money impounded as security for completion of railways.

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then on production of a certificate of the Board of Trade specifying the length of the portion of the said railway opened as aforesaid, and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the said railway so opened bears to the entire length of the said railway authorised by this Act and the Act of 1874, the Chancery Division shall, on the application of the depositors, order the said portion of the deposit fund so specified in such certificate as aforesaid to be paid or transferred to the depositors, or as they shall direct, and the certificate of the Board of Trade shall, if signed by the secretary or by an assistant secretary of the said Board, be sufficient evidence of the facts therein certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the recited Act to the contrary notwithstanding.

Application
of deposit.

20. If the Company do not, previously to the expiration of the respective periods limited by this Act for the completion of the railway hereby authorised to be made and the railway authorised by the Act of 1874, complete the said railways and open them for the public conveyance of passengers, then and in every such case the deposit fund, or so much thereof as shall not have been paid to the depositors, shall be applicable, and after due notice in the London Gazette shall be applied, toward 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 to the Chancery Division may seem fit, and if no such compensation shall be payable, or if a portion of the deposit fund shall have been found sufficient to satisfy all just claims in respect of such compensation, then the deposit fund, or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty, and shall accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Chancery Division thinks fit to order on the application of the Solicitor to 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 Chancery Division, 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

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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 deposit fund 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 depositors.

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21. 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.

Period for completion of works.

22. The railway by this Act authorised shall, for the purposes of tolls and charges and all purposes whatsoever, be part of the railway of the Company as authorised by the Act of 1874, and the lands and property from time to time acquired by the Company under this Act and the railway and works herein-before described shall be part of the undertaking and property of the Company, as if the Company had by the Act of 1874 been authorised to acquire, make, and maintain the same.

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

23. Notwithstanding the passing of this Act, or anything herein contained, sections 6, 7, and 8 of the Act of 1874 shall continue as operative and binding in every respect as if this Act had not been passed, but they shall not be construed to extend to the railway by this Act authorised.

Certain sections of Act of 1874 to continue operative.

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

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

25. 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.

Expenses of Act.

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SCHEDULE referred to in the foregoing Act.

Parish.	Number on Plans deposited with reference to the Leominster and Bromyard Railway Act, 1874.	
Stoke Prior - -	6, 7, 9, 25, 42, 56, 57, 58.	
Humber - -	3, 4, 5, 8, 9, 9A, 9B, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19.	
Docklow - -	18, 37, 43, 44, 45, 46, 47, 48, 49, 50.	
Hatfield - -	25.	
Wackton - -	3A, 7A (Bridle Road), 19A, 20.	
Bredenbury - -	3A, 4.	
Bromyard - -	51, 52, 57, 59, 60, 62, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 86, 87.	