ANNO DECIMO & UNDECIMO

VICTORIÆ REGINÆ.

****

Cap. ccxxiii.

An Act for enabling the *Birkenhead, Lancashire, and Cheshire Junction* Railway Company to make a Deviation in the *Chester* Branch of their Railway, and for other Purposes. [22d *July* 1847.]

WHEREAS an Act was passed in the last Session of Parliament, intituled *An Act for making a Railway from the* Chester and Birkenhead *Railway to the* Manchester and Birmingham *Railway, with Branches therefrom, to be called "The* Birkenhead, Lancashire, and Cheshire Junction *Railway:*" And whereas it is expedient that the *Birkenhead, Lancashire, and Cheshire Junction* Railway Company thereby incorporated should be authorized to make a Deviation of the *Chester* Branch of the said Railway as authorized by the said recited Act, and to make a Railway from the proposed Extension of the *Chester and Birkenhead* Railway at or near *Bridge End* to or near certain Land and Premises belonging to the *Birkenhead* Dock Company or the Corporation of *Liverpool*, all within the Township or Chapelry of *Birkenhead:* And whereas it is also expedient that Power should be given to the said Company to divert the public Road leading from the Turnpike Road at or near the *Sutton Bridge* of the *Weaver* Canal in the Township of *Sutton* to another public Road which leads from the said Turnpike Road to *Rock Savage*

9 & 10 Vict. c. 91.

and *Runcorn* in the Parish of *Runcorn*, all in the County of *Chester*: And whereas it is also expedient that Power should be given to the said Company to purchase certain Land and Property situate at *Bridge End* in the Township or Chapelry of *Birkenhead*, and to construct a Station thereon: And whereas it is also expedient that some of the Powers and Provisions of the said recited Act should be amended and enlarged; but the Purposes aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all the Provisions contained in the said recited Act (so far as the same are or may be applicable and now in force, and except such of them as are by this Act repealed, altered, or otherwise provided for,) shall extend to this Act, and to the several Purposes thereof, and to the several Matters and Things hereby authorized to be done, as fully and effectually as if the said Provisions were re-enacted in this Act in reference to such Purposes, Matters, and Things, and the said recited Act and this Act shall be construed and read together as forming One Act.

Provisions of recited Act extended to this Act.

Alteration in Line of Railway and new Railway to be made according to deposited Plans.

II. And whereas Plans and Sections showing the proposed Alteration in the Line and Levels of the said *Chester* Branch, and also showing the Line and Levels of the proposed Railway by this Act authorized to be made, together with a Book of Reference to the said Plans containing the Names of the reputed Owners and Lessees and of the Occupiers of the Lands which may be required to be taken for the Purposes of the same Works respectively, have been deposited with the respective Clerks of the Peace for the County of *Chester* and the County of the City of *Chester*; be it enacted, That, subject to the Powers of Deviation contained in the "Railways Clauses Consolidation Act, 1845," it shall be lawful for the Company, by and out of any Monies which they are authorized to raise by the said recited Act, to make and maintain the Alteration herein-after mentioned in the Line of the said *Chester* Branch as authorized by the said recited Act, and as delineated on the Plans therein referred to, and also the new Railway herein-after mentioned, with all proper Works and Conveniences connected therewith respectively, in the Line or Course and upon the Lands delineated on the said Plans and referred to in the said Book of Reference, and according to the Levels defined on the said Sections, and to enter upon, take, and use such of the said Lands as may be required for such Purposes respectively.

Power to construct a Station at Bridge End and to take Lands.

III. And be it enacted, That it shall be lawful for the Company to construct a Station, with all necessary Roads and Approaches thereto, and other Works connected therewith for the Use of their Railway, upon certain Land and Property situate at *Bridge End* in the Township or Chapelry of *Birkenhead* in the Situation shown upon the Plans deposited as herein-before mentioned, and to enter upon, take, and use the said Lands and Property, or such Portion thereof as may be required for such Purpose; and all Contracts and Agreements made and entered into before the passing of this Act in reference to the

Purchase of the said Land and Property shall and they are hereby declared to be as valid and effectual as if the same had been made and entered into after the passing of this Act, and under the Authority thereof.

Repealing Provisions in recited Act against taking Land, &c. of Chester and Birkenhead Railway Company.

IV. And be it enacted, That so much of the said recited Act as prohibited the said Company from entering upon, taking, or using any of the Land or Property of the *Chester and Birkenhead* Railway Company, or which the said last-mentioned Company might have the Right to purchase, or in any Manner altering, varying, or interfering with the *Chester and Birkenhead* Railway, or any of the Works appertaining thereto, save only for the Purpose in the said Act mentioned, shall, so far as relates to the before-mentioned Land and Property at *Bridge End* proposed to be taken for the said intended Station, be and the same is hereby declared to be repealed.

Line or Course of Alteration and new Railway.

V. And be it enacted, That the Alteration in the Line of the said Branch as authorized by the said recited Act, and the new Railway to be made under the Authority of this Act, shall be the following; (that is to say,)

A Deviation of the *Chester* Branch of the said Railway as authorized by the said Act, commencing at or near the *Chester and Birkenhead* Railway Station in the Parish of *Saint Oswald* in the County of the City of *Chester*, and terminating by a Junction with the Main Line of Railway at or near a Field (N° 29 on the said Plan of the said Main Line) in the Township of *Helsby* and Parish of *Frodsham* in the County of *Chester*; which said Deviation Line of Railway will pass from, in, through, or into the several Parishes, Townships, and extra-parochial or other Places of *Saint Oswald*, *Saint John the Baptist*, and *Great Boughton*, in the County of the City of *Chester*; *Saint Oswald*, *Saint John the Baptist*, *Great Boughton*, *Newton* otherwise *Newton by Chester*, *Hoole*, *Plemstall* otherwise *Plemondstall*, *Guilden Sutton*, *Mickle Trafford*, *Bridge Trafford*, *Wimbolds Trafford*, *Barrow*, *Thornton* otherwise *Thornton in the Moors*, *Dunham on the Hill*, *Hapsford*, *Frodsham*, and *Helsby*, or some of them, in the County of *Chester*:

A Railway or Branch Railway to commence by a Junction with the proposed Extension of the *Chester and Birkenhead* Railway at or near to *Bridge End* in the Township or Chapelry of *Birkenhead* in the County of *Chester*, and to terminate at or upon the South-east Side of Land and Premises belonging to the *Birkenhead* Dock Company, or to the Corporation of *Liverpool*, one or both of them, in the Township or Chapelry of *Birkenhead* aforesaid, which said Railway or Branch Railway will be wholly within the Township or Chapelry of *Birkenhead* aforesaid.

As to Side Cuttings on the Property of Sir R. Brooke, Bart.

VI. And be it enacted, That before the Company shall enter upon any Lands belonging to Sir *Richard Brooke* Baronet, his Heirs or Assigns, for the Purpose of making Side Cuttings therein, or of taking Materials for making the said Railway therefrom, they shall give to the said Sir *Richard Brooke*, his Heirs or Assigns, or his or their Agent,

Agent, Seven Days Notice in Writing of their Intention so to do; and if the said Sir *Richard Brooke*, his Heirs or Assigns, or his or their Agent, shall within Seven Days from the Receipt of such Notice fix and determine the Place or Places where such Side Cuttings may be made within his Property, not being at a greater Distance than One hundred Yards from the Line of the said Railway, then it shall not be lawful for the Company to make Side Cuttings or take Materials from any other Part of the Property of the said Sir *Richard Brooke*, his Heirs or Assigns, other than at the Place or Places so fixed and determined upon for such Purposes; but if the said Sir *Richard Brooke*, his Heirs or Assigns, or his or their Agent, shall not within the Period aforesaid fix and determine a Place or Places for the Purposes aforesaid, then it shall be lawful for the Company to make Side Cuttings, and take Materials for making the Railway from any Part of the Property of the said Sir *Richard Brooke*, his Heirs or Assigns, subject to the Provisions of the "Railways Clauses Consolidation Act," 1845: Provided always, that the Lands of the said Sir *Richard Brooke*, his Heirs or Assigns, which shall be used by the Company for Side Cuttings or for Spoil Banks, shall be sloped and re-soiled by the Company under the Direction of the Agent or Surveyor of the said Sir *Richard Brooke*, his Heirs or Assigns.

Company to abandon a Portion of the Chester Branch.

VII. And be it enacted, That the said Company shall and they are hereby required to abandon such Part of the *Chester* Branch of their Railway, and the Works connected therewith as authorized by the said recited Act, being the Line of Railway thirdly therein described, as by reason of the Deviation by this Act authorized will be rendered unnecessary; and all the Powers and Authorities vested in the Company by the said recited Act for making and maintaining such Part of the said Branch Railway shall from and immediately after the passing of this Act cease and determine.

Power to divert a certain public Road.

VIII. And be it enacted, That it shall be lawful for the Company to divert or alter to the Extent and in the Manner shown upon the Plans and Sections deposited as herein-before mentioned the public Road leading from the Turnpike Road at or near the *Sutton Bridge* of the *Weaver* Canal in the Township of *Sutton* in the Parish of *Runcorn* in the County of *Chester*, to another public Road which leads from the said Turnpike Road to *Rock Savage* and *Runcorn* in the said Parish of *Runcorn*, and to stop up and discontinue so much of the said public Road as will become unnecessary in consequence of such Diversion.

A certain Road may be crossed on the Level.

IX. And be it enacted, That, subject to the Provisions in the Railway Clauses Consolidation Act, 1845, contained in reference to the crossing of Roads on the Level, it shall be lawful for the Company in the Construction of the Railways by this Act authorized to be made to carry the same across the Highway herein-after mentioned on the Level thereof; (that is to say,)

A Highway, Number 2, in the Township of *Dunham on the Hill* and Parish of *Thornton in the Moors*, in the Plan and Book of Reference of the said intended Works deposited as herein-before mentioned.

X. And

Company to erect a Station or Lodge at Point of crossing, and to abide by Regulations of Commissioners of Railways.

X. And be it enacted, That for the greater Convenience and Security of the Public the Company shall erect and permanently maintain either a Station or Lodge at the Point where the said Railway crosses the before-mentioned Road on the Level, and the said Company shall be subjected to and shall abide by all such Rules and Regulations with regard to the crossing of such Road on the Level, or with regard to the Speed at which Trains shall pass such Road, as may from Time to Time be made by the Commissioners of Railways; and if the said Company shall fail to erect or at all Times maintain any such Station or Lodge, or appoint a proper Person to watch or superintend the Crossing at such Point or Station, or to observe or abide by any such Rule or Regulation as aforesaid, they shall for every such Offence be liable to a Penalty of Twenty Pounds, and also to a daily Penalty of Ten Pounds for every Day such Offence shall continue after such Penalty of Twenty Pounds shall have been incurred.

Limiting Period for compulsory Purchase of Lands.

XI. And be it enacted, That 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.

XII. And be it enacted, That the said Railways and Works hereby authorized shall be completed within Five Years from the passing of this Act, and on the Expiration of such Period the Powers by this or the said former Act granted to the Company for executing the same shall cease to be exercised, except as to so much of the same as shall then be completed.

Deposits for future Bills not to be paid out of the Company's Capital.

XIII. And be it enacted, That it shall not be lawful for the said Company, out of any Money by this Act or any other Act relating to the said Railway Company authorized to be raised for the Purposes of such Act or Acts, to pay or deposit any Sum of Money which by any Standing Order of either House of Parliament, now in force or hereafter to be in force, may be required to be deposited in respect of any Application to Parliament for the Purpose of obtaining an Act authorizing the said Company to construct any other Railway or execute any other Work or Undertaking.

Power to enter into Contracts with the London and North-western Railway Company for the Use of their Railway.

XIV. And be it enacted, That it shall be lawful for the said *Birkenhead, Lancashire, and Cheshire Junction* Railway Company, and the *London and North-western* Railway Company, to make and enter into such mutual Contracts and Agreements as they shall respectively deem advisable for and in respect of the working, Use, and Occupation by the said *Birkenhead, Lancashire, and Cheshire Junction* Railway Company of the *London and North-western* Railway, or any of the Branches thereof, or any Part or Parts thereof respectively, and of the Stations, Works, and Conveniences connected therewith respectively, or any of them, or any Part or Parts thereof, and for and in respect of the Amount of Tolls, Rates, and Duties to be paid to the said *London and North-western* Railway Company by the said *Birkenhead, Lancashire, and Cheshire Junction* Railway

Company in respect of the Engines, Carriages, and Waggons of the last-mentioned Company passing upon, along, or over, or using the Railways, Branch Railways, Stations, Works, and Conveniences of the said *London and North-western* Railway Company, or any of them, or any Part or Parts thereof respectively, and for and in respect of the Division or Apportionment of the Tolls, Rates, and Duties received by the *Birkenhead, Lancashire, and Cheshire Junction* Railway Company for Passengers, Cattle, and Goods carried on or conveyed by them upon or along the Railways and Branch Railways of the *London and North-western* Railway Company, or any of them, or any Part or Parts thereof respectively; and every Contract or Agreement in relation to the Matters aforesaid which before the passing of this Act shall have been made or entered into by or on behalf of the said Two Companies, and under their respective Corporate Seals, shall be as valid and binding in all respects, and be as enforceable by and against the said Companies respectively, as if the same had been made subsequently to the passing of this Act, and under the Authority hereof: Provided always, that no such Contract or Agreement shall in any Manner alter, affect, increase, or diminish any of the Tolls, Rates, or Duties which the said *London and North-western* Railway Company shall for the Time being be authorized to take, demand, recover, or receive of or from any Person or any other Company, but that all other Persons and Companies shall, notwithstanding any such Contract or Agreement, be entitled to the Use and Benefit of the said Railways, Branch Railways, Stations, Works, and Conveniences upon the same Terms and Conditions, and on Payment of the same Tolls, Rates, and Duties, as they would have been in case no such Contract or Agreement had been entered into.

Company not to take Property or interfere with the Works of the London and North-western Railway Company.

XV. And be it enacted, That, notwithstanding any thing in this Act contained, it shall not be lawful for the *Birkenhead, Lancashire, and Cheshire Junction* Railway Company, or for any other Company, or for any Person, under or in execution of this Act, or for any other Purpose, or in any Manner, either permanently or temporarily to enter upon, take, or use any of the Land or Property of the *London and North-western* Railway Company, or which they have Power to take under their Acts of Parliament, or in any Manner to alter, vary, or interfere with the said *London and North-western* Railway, or any of the Works appertaining thereto, save and except for the Purpose of making a Junction with the *Chester and Birkenhead* Railway, without the previous Consent in Writing on each Occasion of the said *London and North-western* Railway Company.

Saving Rights of the London and North-western Railway Company.

XVI. And be it enacted, That nothing in this Act contained shall prejudice, diminish, alter, or take away any of the Rights, Privileges, Powers, Franchises, or Authorities of, or vested in or belonging to, the said *London and North-western* Railway Company, but all their Rights, Privileges, Powers, Franchises, and Authorities under their several Acts of Parliament and otherwise are hereby expressly saved and reserved not only as against and with respect to the said *Birkenhead, Lancashire, and Cheshire Junction* Railway Company.

XVII. And

As to Junction with the Manchester South Junction and Altrincham Railway.

XVII. And be it enacted, That the Junction of the Railway authorized by the said recited Act to be made and maintained with the *Manchester South Junction and Altrincham* Railway in the Township of *Timperly* and Parish of *Bowden* in the County of *Chester*, and all such Openings in the Ledges or Flanches of the *Manchester South Junction and Altrincham* Railway as may be necessary or convenient for effecting such Junction, shall be made and effected, under the Direction and Superintendence of the Engineer for the Time being of the said *Manchester South Junction and Altrincham* Railway, at the Expence of the *Birkenhead, Lancashire, and Cheshire Junction* Railway Company, and shall for ever afterwards be maintained and kept in perfect Order and Repair by and at the Expence of the *Birkenhead, Lancashire, and Cheshire Junction* Railway Company; and that nothing in the said recited Act or in this Act contained shall extend to authorize the *Birkenhead, Lancashire, and Cheshire Junction* Railway Company to purchase or take any of the Lands or Grounds of the *Manchester South Junction and Altrincham* Railway Company, or to authorize the *Birkenhead, Lancashire, and Cheshire Junction* Railway Company to alter or vary or interfere with the *Manchester South Junction and Altrincham* Railway, or any of the Works thereof, except so far and in such Manner as may be necessary for effecting the Junction of the said *Birkenhead, Lancashire, and Cheshire Junction* Railway with the said *Manchester South Junction and Altrincham* Railway.

Communication between Lands of J. W. Patten, Esq., to be preserved.

XVIII. And whereas the Archway under the *London and Northwestern* Railway in the Parish of *Warrington* adjoining Field Number 37 on the Plans referred to in the said recited Act belongs to and gives the Means of Communication between the Lands of *John Wilson Patten* Esquire lying on either Side of the last-named Railway; be it enacted, That in constructing the Branch Railway authorized by the said recited Act convenient Means of Communication shall be preserved for the said *John Wilson Patten*, or the Owner of the Lands for the Time being lying on either Side of the said Branch Railway, and for his and their Tenants, and for their Waggons and Cattle.

No Station or any Waggon or Carriages to be left on the Line within Sight of Bank Hall.

XIX. And be it enacted, That the said Company shall not erect any Station, Watchbox, or other Building within Sight of the Windows of *Bank Hall*, or leave any Waggons or Carriages on the said Line within Sight of the said Mansion between the proposed Communication under the said Branch Railway in the said Field Number 37 and the Junction of the Embankment of the said Branch Railway and the Embankment of the Main Line of the said Railway in Field Number 54 in the Parish of *Warrington* for a longer Time than is absolutely requisite for the proper Management of the Traffic of the Line; and a Penalty of Five Pounds shall be paid to the said *John Wilson Patten*, his Heirs or Assigns, for every Hour during which the said Waggons or Carriages shall be so left on the said Portion of the said Branch Railway.

Company not to purchase certain Lands

XX. And be it enacted, That the said Company shall not be enabled to exercise a Right of Purchase of any Land belonging to the said

without the Consent of J. W. Patten, Esq.

said *John Wilson Patten* within Sight of *Bank Hall*, except so much as may be required for the Formation of the Main Line of Railway and Branch Railway respectively authorized by the said recited Act, without the Consent of the said *John Wilson Patten*, his Heirs or Assigns.

Power to substitute solid Embankments for Arches or Viaducts, and open Cuttings for Tunnels, with Consent.

XXI. And be it enacted, That, notwithstanding any thing in the Railways Clauses Consolidation Act, 1845, contained, it shall be lawful for the Company in the Construction of that Part of the Railway and Works by the said recited Act authorized to be made which is intended to be made through the respective Properties of Sir *Arthur Ingram Aston* G.C.B. and *John Wilson Patten* Esq. in all or any Cases in which an Arch or Viaduct shall be marked on the Plans and Sections referred to in the said recited Act to make a solid Embankment instead of an Arch or Viaduct, and also in all or any Cases in which a Tunnel shall be marked on the said Plans and Sections to make an open Cutting instead of a Tunnel, provided the Owner, Lessee, and Occupier of the Land in which any such solid Embankment or open Cutting is intended to be made shall consent in Writing that the same shall be so made.

Not to make Embankment over River Weaver without Consent.

XXII. Provided always, and be it enacted, That it shall not be lawful for the Company to make a solid Embankment instead of an Arch or Viaduct in, over, or across the River *Weaver* and the *Weston* Canal in the said County of *Chester*, or either of them, without the Consent in Writing first had and obtained of the Trustees of the River *Weaver* Navigation to be signified in Writing by their Clerk.

As to Construction of Bridges over the River Weaver and Weston Canal.

XXIII. And whereas by the said "*Birkenhead, Lancashire, and Cheshire Junction* Railway Act, 1846," the Company were required in carrying the said Railway over the River *Weaver* and *Weston* Canal in the said County of *Chester* respectively to construct Viaducts or Bridges for such Purposes in the Manner, Form, and Dimensions therein specified: And whereas it has been found expedient by the said Company that the Viaducts or Bridges required for such Purposes should be constructed otherwise than is so provided, and the Trustees of the River *Weaver* Navigation are consenting that Alterations should be made in the Manner of constructing the said Viaducts or Bridges, and in the Form and Dimensions thereof, and also that some of the Restrictions in the said Act contained with reference to the constructing of the said Viaducts or Bridges should be relaxed: Be it therefore enacted, That it shall be lawful for the said Company to construct the Viaducts or Bridges over the said River *Weaver* and *Weston* Canal in such Manner and of such Form and Dimensions as may be consented to and approved of by the said Trustees of the River *Weaver* Navigation, such Consent to be first had and obtained, and to be signified in Writing by the Clerk of the said Trustees; and the said Company shall at all Times for ever after the Construction of the Works which may be made and formed by the said Company, and approved of by the said Trustees as aforesaid, keep the same Works in such Order and Repair as required by the said recited Act, with such Powers for the said River *Weaver* Trustees to compel such

Repairs, and to make the same at the Expence of the said Company, and to recover such Expence as in the said recited Act contained with respect to the Repairs therein mentioned.

Saving the Rights of the Trustees of the River Weaver.

XXIV. Provided always, and be it enacted, That nothing herein contained shall be deemed or construed to prejudice, diminish, alter, or take away any of the Rights, Properties, Privileges, Powers, or Authorities of the Trustees of the said River *Weaver* Navigation, and their Successors, except as the same are or may be hereby expressly and specifically varied, altered, repealed, or interfered with, but all such Rights, Properties, Privileges, Powers, and Authorities shall remain and continue in force as if this Act had not been passed.

Railway Company to be subject to Provisions of 1 & 2 Vict. c. 98., 3 & 4 Vict. c. 97., 5 & 6 Vict. c. 55., 7 & 8 Vict. c. 85., and 9 & 10 Vict. cc. 57. & 105.

XXV. And whereas an Act was passed in the Second Year of the Reign of Her present Majesty, intituled *An Act to provide for the Conveyance of the Mails by Railway;* and another Act was passed in the Fourth Year of the Reign of Her said Majesty, intituled *An Act for regulating Railways;* and another Act was passed in the Sixth Year of the Reign of Her said Majesty, intituled *An Act for the better Regulation of Railways, and for the Conveyance of Troops;* and another Act was passed in the Eighth Year of the Reign of Her said Majesty, intituled *An Act to attach certain Conditions to the Construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament, and for other Purposes in relation to Railways;* and another Act was passed in the last Session of Parliament, intituled *An Act for regulating the Gauge of Railways;* and another Act was passed in the said last Session of Parliament, intituled *An Act for constituting Commissioners of Railways;* be it enacted, That nothing in this Act contained shall be held to exempt the said Railways and Works, or the said Company, from the Provisions of the said several Acts respectively, but that such Provisions shall be in force in respect to the said Railways and Works, and Company, so far as the same are applicable thereto.

Railways to be subject to Provisions of any future general Act.

XXVI. Provided always, and be it enacted, That nothing herein contained shall be deemed or construed to exempt the Railways by this or the recited Act authorized to be made from the Provisions of any general Act relating to such Acts, or of any general Act relating to Railways, now in force or which may hereafter pass during the present 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 authorized by the said recited Act.

Expences of Act.

XXVII. And be it enacted, That all the Costs, Charges, and Expences of and attending the passing of this Act or incidental thereto shall be paid by the said Company, *pari passu* with the Costs, Charges, and Expences of any other Act of Parliament passed in the present Session to which they may be liable, out of the first Monies that shall come to their Hands, and in preference to any other Payment whatsoever.

Short Title of Act.

XXVIII. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal Instruments and other Proceedings, it shall be

be sufficient to refer to and describe it by the Title of the "*Birkenhead, Lancashire, and Cheshire Junction* Railway, Deviation of Main Line, *&c.*, Act, 1847."

Public Act.

XXIX. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such.

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