ANNO VICESIMO QUINTO & VICESIMO SEXTO

VICTORIÆ REGINÆ.

****

Cap. cxlviii.

An Act to authorize the Construction of a Railway from *Hooton* to *Parkgate* in connexion with the existing *Birkenhead* Railway; and for other Purposes. [17th *July* 1862.]

WHEREAS by the *Birkenhead, Lancashire, and Cheshire Junction* Railway Act, 1852, the *Birkenhead, Lancashire, and Cheshire Junction* Railway Company (herein-after called the "*Birkenhead* Company") were dissolved, and were re-incorporated, and authorized to complete and maintain the *Birkenhead, Lancashire, and Cheshire Junction* Railway: And whereas by the *Birkenhead* Railway Act, 1859, the *Birkenhead* Company were authorized to make and maintain additional Railways, and their Name was changed to the Name "The *Birkenhead* Railway Company:" And whereas by the *Birkenhead* Railway (Vesting) Act, 1861, the *Birkenhead* Railway, as therein mentioned, was vested in the *London and North-western* Railway Company and the *Great Western* Railway Company (herein-after called "the Two Companies") jointly: And whereas it is expedient that the Two Companies, acting either by means of the Joint Committee appointed under the Provisions of the said last-mentioned Act or otherwise, should be empowered to make and maintain the Railway herein-after mentioned: And whereas it is also expedient that the Time for or with reference to the

15 & 16 Vict. c. clxvii.

the Sale of superfluous Lands acquired by the *Birkenhead* Company under the Provisions of the Acts of Parliament relating to the Undertaking of the *Birkenhead* Company, or any Act incorporated therewith, should be extended: And whereas the several Objects 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, as follows; (that is to say,)

Short Title.

1. This Act may for all Purposes be cited as "The *Birkenhead* Railway Act, 1862."

8 & 9 Vict. cc. 18. & 20., and 23 & 24 Vict. c. 106. incorporated.

2. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," and "The Railways Clauses Consolidation Act, 1845," so far as the Provisions of the same respectively are applicable to the Purposes of this Act, shall be incorporated with and form Part of this Act.

Same Meanings to Words in incorporated Acts as in this Act.

3. The several Words and Expressions to which by the Acts incorporated with this Act Meanings are assigned have in this Act the same respective Meanings, unless excluded by the Subject or Context.

Powers of Act may be exercised by Joint Committee.

4. The Powers by this Act vested in the Two Companies may be exercised by the Joint Committee appointed under the Provisions of the "*Birkenhead* Railway (Vesting) Act, 1861."

Power to take Lands.

5. And whereas Plans and Sections showing the Line and Levels of the proposed Railway and the Lands which the Two Companies are by this Act authorized to acquire, and also a Book of Reference to the said Plans, have been deposited with the Clerk of the Peace for the County of *Chester*: Therefore, subject to the Provisions in this Act contained, the Two Companies may enter upon, take, and use all or any of the said Lands.

Power to construct Railway.

6. Subject to the Provisions in this Act contained, the Two Companies may from Time to Time make and maintain in the Line and according to the Levels shown on the deposited Plans and Sections, and in and upon the Lands which the Two Companies are by this Act authorized to enter upon, take, and use, the Railway following, with all necessary Stations, Works, and Conveniences connected therewith; that is to say,

A Railway commencing by a Junction with the Line of the *Birkenhead* Railway at or near and on the West Side of the *Hooton* Station of the said Railway in the Township of *Childer Thornton* in the Parish of *Eastham* in the County of *Chester*, and terminating at or near

near the Hotel known by the Name of the *Chester Arms*, in the Occupation of *Robert Hodgson*, in *Parkgate* in the Township of *Great Neston* in the Parish of *Neston* in the County of *Chester*:

And the Railway and Works executed under the Authority of this Act shall be and be deemed, for the Purposes of Tolls and Charges, and for all other Purposes, Part of the *Birkenhead* Railway, as if the same had formed Part of the Undertaking of the *Birkenhead* Company as defined by "The *Birkenhead, Lancashire, and Cheshire Junction* Railway Act, 1852."

Crossing Road on Level.

7. Subject to the Provisions in "The Railways Clauses Consolidation Act, 1845," contained with respect to the crossing of Roads on the Level, the Railway herein-before described may be carried with a Single Line of Railway so long as the Railway remains a Single Line, and with a Double Line of Railway when the Line is doubled, across and on the Level of the Road numbered on the deposited Plans 37 in the Parish of *Neston*.

Power to carry Railway authorized by 22 & 23 Vict. c. lxxiv. over a certain Road on the Level.

8. Notwithstanding anything in "The *Birkenhead* Railway Act, 1859," or any Act incorporated therewith, contained, the Two Companies, subject to the Provisions of "The Railways Clauses Consolidation Act, 1845," and this Act, with respect to the crossing of Roads on the Level, may carry the Railway in "The *Birkenhead* Railway Act, 1859," first described with a Double Line of Railway across and on the Level of the Road numbered on the deposited Plans referred to in that Act 131 in the Parish of *Eastham* in the County of *Chester*: Provided that the Two Companies shall make and at all Times maintain an Archway under their Railway, close to the said Road, for the Passage of Persons on Foot and Cattle, and such Carriages as can pass under the same, such Archway to be Twelve Feet wide and Nine Feet high.

Not to shunt Trains over level Crossings.

9. It shall not be lawful for the Two Companies in shunting Trains to pass any Train over either of such level Crossings, or to allow any Train, Engine, Carriage, or Truck to stand across the same.

A Lodge to be erected at Points of Crossing.

10. For the greater Convenience and Security of the Public the Two Companies shall erect and permanently maintain a Lodge at the Points where the Railway by this Act authorized and the Railway in "The *Birkenhead* Railway Act, 1859," first described, shall respectively cross the before-mentioned Roads on the Level; and the Two Companies shall be subject to and abide by all such Rules and Regulations with regard to the crossing of such Roads on the Level, or with regard to the Speed at which Trains shall pass such Roads, as may from Time to Time be made by the Board of Trade; and if the Two Companies shall fail to erect or at all Times maintain any such Lodge, or appoint a proper Person to watch or superintend the Crossing at such Lodge, or to observe

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.

Board of Trade may require a Bridge to be erected in lieu of level Crossing.

11. It shall be lawful for the Board of Trade, if it shall appear to them to be necessary for the public Safety, at any Time, either before or after the Railway by this Act authorized shall have been completed and opened for public Traffic, to require the Two Companies, within such Time as the Board of Trade shall direct, and at the Expense of the Two Companies, to carry the before-mentioned Road numbered 37 in the Parish of *Neston* either under or over the Railway by means of a Bridge or Arch in lieu of crossing the same on the Level, and to execute such other Works as, under the Circumstances of the Case, shall appear to the Board of Trade to be best adapted for removing or diminishing the Danger arising from such level Crossing.

Power to alter Engineering Works.

12. Notwithstanding anything in "The Railways Clauses Consolidation Act, 1845," contained, the Two Companies in the Construction of the Railway may deviate from the Line and Levels of any Arches, Tunnels, or Viaducts described on the deposited Plans or Sections so as the Deviations be made within the Limits of Deviation shown on those Plans, and subject to the Limitations contained in the Eleventh, Twelfth, and Fifteenth Sections of that Act, and so as the Nature of the Work as described be not altered, or they may substitute any other Engineering Work not shown on those Plans or Sections instead of a Tunnel, Viaduct, Arch or Arches, as shown thereon: Provided that every such Alteration or Substitution be authorized by a Certificate of the Board of Trade; and the said Board is hereby empowered to grant such Certificates, provided it shall appear to the Board, upon due Inquiry, that the Two Companies have acted in the Matter with good Faith, and that the Owners, Lessees, and Occupiers of the Land in which the Substitution is intended to be made consent thereto, and also that the Safety and Convenience of the Public will not be diminished thereby; provided that nothing herein contained shall take away or affect any of the Powers given to the Two Companies or to the Board of Trade by the Eleventh, Twelfth, Fourteenth, or Fifteenth Sections of "The Railways Clauses Consolidation Act, 1845."

Lands for extraordinary Purposes.

13. The Two Companies may purchase by Agreement any Quantity of Land for the extraordinary Purposes mentioned in "The Railways Clauses Consolidation Act, 1845," adjoining or near to the Railway hereby authorized, not exceeding Two Acres.

14 The

Powers for compulsory Purchases limited.

14. The Powers of the Two Companies 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.

Limiting Time for Completion of Railway.

15. The Railway shall be completed within Five Years from the passing of this Act, and on the Expiration of that Period the Powers by this Act granted to the Two Companies for making the same, or otherwise in relation thereto shall cease to be exercised, except as to so much thereof as shall be then completed.

Dividends suspended if Railway not opened within limited Time.

16. If the Railway by this Act authorized shall not be completed and opened for public Traffic within Five Years from the passing of this Act, then and from thenceforth it shall not be lawful for either of the Two Companies to pay any Dividend on the ordinary Capital of such Company until the said Railway shall have been completed and opened for public Traffic.

Power to apply surplus Capital to Purposes of Act.

17. The Two Companies from Time to Time may apply in or towards the Purposes of this Act any of the Monies which they are authorized to raise under any of the Acts relating to the *Birkenhead* Railway, and any Monies which the Two Companies respectively are authorized to raise under any Acts relating to those respective Companies, and which Monies respectively may not be required for any Purposes to which they are by any existing Act made specially applicable.

Tolls, Charges, and maximum Charges.

18. The Two Companies may lawfully demand and receive all such Tolls and Charges for the Use of the Railway as they would have been entitled to demand and receive if the Railway had formed Part of the Undertaking of the *Birkenhead* Company as defined by "The *Birkenhead, Lancashire, and Cheshire Junction* Railway Act, 1852," and the Provisions of that Act with respect to Tolls and Charges and maximum Charges (to wit, the Sections of that Act numbered from Fifty-nine to Sixty-nine, inclusive of both Numbers,) shall be incorporated with and form Part of this Act, and shall be applicable to the Railway.

Extending Period for Sale of superfluous Lands.

19. The Period limited for the Sale of superfluous Lands held by the *Birkenhead* Company at the Time of the vesting of their Undertaking in the Two Companies is hereby extended for Three Years from and after the passing of the Act, and it shall be lawful for the Two Companies to hold the said Lands for such additional Period; and the Two Companies shall within Three Years from the passing of this Act, absolutely sell and dispose of all the Lands which have been acquired by the *Birkenhead* Company for any of their Undertakings, or for any of the Purposes of that Company, and which are not required for any Purpose of the *Birkenhead* Railway.

Deposits for future Bills not to be paid out of Capital.

20. It shall not be lawful for the Two Companies, or either of them, out of any Money by any Act relating to either of the Two Companies authorized to be raised for the Purposes of such Act, 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 Two Companies or either of them to construct any other Railway or execute any other Work or Undertaking.

Railways not exempt from Provisions of present and future General Acts.

21. Nothing in this Act contained shall exempt the Railway by this Act authorized, or the Two Companies in respect thereof, from the Provisions of any present or future General Act relating to Railways, or to the better or more impartial Audit of the Accounts of Railway Companies, or from any future Revision and Alteration, under the Authority of Parliament, of the maximum Rates of Fares and Charges, and of the Rates for small Parcels, authorized by this Act or any other Act relating to the *Birkenhead* Railway.

Expenses of Act.

22. All the Costs, Charges, and Expenses of and incident to the obtaining of this Act, or preparatory thereto, shall be paid by the Two Companies, and, except so far as they otherwise agree, shall be paid by them in equal Shares.

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