CHAP. cxxx.

An Act to authorise the Bristol and North Somerset Railway Company to deviate from the authorised line of their railway at Radstock, and for other purposes. [14th July 1870.] A.D. 1870.

WHEREAS by the "Bristol and North Somerset Railway Act, 1863," (in this Act called "the original Act,") the Bristol and North Somerset Railway Company (in this Act called "the Company") were incorporated, and were authorised to make and maintain four railways and a tramway, one of which railways (being the railway first described in the original Act, and therein called No. 1, but on the plans deposited for the purposes of that Act called railway No. 2,) was to commence in the parish of Radstock in the county of Somerset, and to terminate in the out-parish of Saint Philip and Jacob in the county of the city of Bristol, and another of which railways (being the railway secondly described in the original Act, and therein called No. 2, but on the said plans called railway No. 3,) was to commence in the said parish of Radstock, and to terminate in the same parish by a junction with the Frome and Radstock Branch of the Wilts, Somerset, and Weymouth Railway : 26 & 27 Vict. c. clxviii.

And whereas the following Acts relating to the Company have since been passed, viz., "The Bristol and North Somerset Railway (Additional Capital) Act, 1866," "The Bristol and North Somerset Railway Act, 1868," and "The Bristol and North Somerset Railway Act, 1869 :" 29 & 30 Vict. c. cclxii. 31 & 32 Vict. c. clxxviii. 32 & 33 Vict. c. cxi.

And whereas by "The Great Western Railway (Various Powers) Act, 1867," (section 85,) certain heads of agreement and supplementary heads of agreement between the Great Western Railway Company and the Company, set forth in the schedule (A.) to that Act, were confirmed : 30 & 31 Vict. c. cl.

And whereas it is expedient that the Company be authorised to make the railway in this Act described in substitution for part of

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the railway first described in the original Act, and for the whole of the railway secondly described in that Act:

And whereas plans and sections of the intended railway showing the line and levels thereof, with a book of reference to those plans containing the names of the owners and lessees, or reputed owners and lessees, and occupiers of the lands to be taken or which may be taken for the purposes thereof, have been deposited for public inspection with the clerk of the peace for the county of Somerset, 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 to apply the said heads of agreement and supplementary heads of agreement to the railways of the Company as by this authorised to be altered:

And whereas the objects of this Act cannot be attained 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 for all purposes be cited as "Bristol and North Somerset Railway Act, 1870."

Provisions of general Acts herein named incorporated.

2. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," and "The Railways Clauses Consolidation Act, 1845," and Part I. (relating to construction of a railway) of "The Railways Clauses Act, 1863," are respectively (except where expressly varied by this Act) incorporated with and are part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which by the Acts in whole or in part incorporated with this Act meanings are assigned have in this Act the same respective meanings, unless there be in the subject or context something repugnant to such construction; the expression "the Company" means the Bristol and North Somerset Railway Company; and the expression "court of competent jurisdiction," or any other like expression in this Act, or in any Act in whole or in part incorporated with this Act, shall for the purposes of this Act be read and have effect as if the debt or demand in respect of which the expression is used were a common simple contract debt, and not a debt or demand created by statute; and the expression "superior courts" shall include county courts in all cases where the amount of the debt or demand is within the jurisdiction for the time being of county courts.

Power to execute works according to deposited plans.

4. 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, approaches, works, and conveniences, and may enter upon, take, and use such of the lands delineated on the deposited 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:—

A railway (one mile three furlongs and four chains or thereabouts in length) commencing in the parish of Radstock in the county of Somerset by a junction with the Great Western Railway Company's Frome and Radstock Branch, and terminating in the parish of Midsomer Norton in the same county by a junction with the railway first described in and authorised by the original Act at a point at or near Welton.

Power to cross road or the level.

5. Subject to the provisions in "The Railways Clauses Consolidation Act, 1845," and in Part I. (relating to the construction of a railway) of "The Railways Clauses Act, 1863," contained in reference to crossing roads on the level, the Company may in the construction of the railway carry the same with a double line of railway only across and on the level of the turnpike road numbered on the deposited plans 41 in the parish of Radstock, but so that the points of the Radstock station sidings be placed on the southern side of that road, and that no engine, tender, or carriage be at any time stopped on or shunted over the road, and that the road be closed against traffic only during the necessary passing of trains, each train being allowed to cross the road not more than once on its through journey.

Height and span of bridge.

6. The Company may make the arch of the bridge for carrying the railway over the road numbered on the deposited plans 38 in the parish of Midsomer Norton of any height not less than fifteen feet, and of any span not less than twenty feet.

Width of turnpike road at Radstock when diverted.

7. In altering for the purposes of this Act the turnpike road numbered on the deposited plans 3 in the parish of Radstock, the Company shall not divert or alter the same in manner shown on the deposited plans, but may divert and alter the same in manner shown on the plan signed by Sir Hedworth Williamson, Baronet, the Chairman of the Committee of the House of Commons to which this Act was referred in its passage through Parliament, and deposited with the clerk of the peace for the county of Somerset (which shall be kept by him with the deposited plans and subject to the provisions

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under which they are deposited with him), and may make the same with a clear space of not less than twenty-five feet between the fences thereof.

Not to take lands or to interfere with railway of Great Western Railway Company.

8. 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 for the purposes of this Act, any of the lands, works, or property of the Great Western Railway Company, or in any manner to alter, vary, or interfere with the railway or works of the Great Western Railway Company, without the consent of that company under their common seal, save only for the purpose of effecting the junction by this Act authorised.

Provision as to canal company's works.

9. Except as in this Act otherwise expressly provided, the sections numbered 48 and 50 and 53 of the original Act relating to the company of proprietors of the Somersetshire Coal Canal Navigation (herein-after called "the canal company") and their property and works shall not extend or apply to or affect the purposes or powers of this Act, or the railway or works by this Act authorised; and the Company may for the purposes of this Act alter, divert, and otherwise deal with the tramways and other works of the canal company in the manner shown on the deposited plans, and may enter upon, take, and use the lands of that company delineated on the deposited plans and described in the deposited book of reference, but subject to the following provisions:

(1.) Before the Company commence any alteration or diversion of or other interference with any tramway of the canal company they shall leave at the office of the canal company, for their approval, plans and sections showing the line and levels of the work so far as it affects the tramway:

(2.) If from any cause whatever the canal company fail within one month after any such plans and sections are left as aforesaid to approve the plans and sections, or to agree with the Company upon other plans and sections for the purpose, then and in every such case the plans and sections shall be settled by an engineer to be appointed by the Board of Trade on the application of the two companies or either of them, and the expenses of and connected with such settlement shall be paid as he shall direct:

(3.) The work shall be executed in accordance with the plans and sections so approved or (as the case may be) agreed upon or settled, and not otherwise.

As to diversion of tramway.

10. The Company are hereby empowered at their costs and charges to divert the tramway of the canal company in accordance with the deposited plans and sections, and shall convey to the canal company gratis, in fee simple, and free from all costs and charges, the site of the substituted tramway, which shall be constructed by the Company and delivered to the canal company in full and perfect working order before the present tramway shall be taken or interfered with; and clause 48 of the original Act shall apply to all other lands or other rights of the canal company, except so far as regards the works by this Act authorised.

Gradients of substituted tramways not to be steeper than those of corresponding parts of existing tramways.

11. Any portion of tramway to be substituted by the Company under the powers of this Act for any part of the existing tramways of the canal company, and the alteration or diversion of any part of such existing tramways, shall be so executed by the Company that the gradients of the new, altered, or diverted tramway shall be nowhere steeper than one foot in forty feet.

Construction of bridges over tramways.

12. In all cases where the railway by this Act authorised shall cross any tramway of the canal company by means of a bridge or arch, the bridge or arch shall be constructed with a clear width of ten feet and with a clear height of six feet from the tramplates or rail of the tramway to the spring of the arch.

Company to apply to Parliament in a certain event for powers to alter bridges over tramways of canal company.

13. If at any time hereafter the canal company shall give notice to the Company, previously to the thirty-first day of July in any year, of their intention to apply to Parliament in the then ensuing session of Parliament for power to convert into a railway for the passage of locomotive engines that part of their existing tramway which will be affected by the works by this Act authorised, the Company shall apply to Parliament in the same ensuing session for and shall use their best endeavours to obtain powers to alter the height and span of the bridges or arches by which the railway by this Act authorised may be carried across the tramways of the canal company, so as to admit of the passage of locomotive engines on the tramways of the Company when the same shall have been converted as aforesaid.

Extending other provisions of original Act as to canal company.

14. The sections numbered respectively 49 and 51 and 52 of the original Act relating to the canal company and their property and works shall extend and apply to the railway and works by this Act authorised, and to the powers by this Act given to the Company in relation thereto, as fully and effectually as if those sections were in this Act re-enacted with especial reference to that railway and those works and powers.

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Saving the rights of the Duchy of Cornwall.

15. Nothing contained in this Act, or in any Act or Acts incorporated herewith or herein mentioned or referred to, shall extend to authorise the Company to take, use, enter upon, or interfere with any land, soil, or water, or any rights in respect thereof, belonging to Her Majesty, her heirs or successors, in right of the Duchy of Cornwall, without the consent in writing of some two or more of such of the regular officers of the said Duchy, or of such other persons as may be duly authorised under the provisions of "The Duchy of Cornwall Management Act, 1863," section 39, to exercise all or any of the rights, powers, privileges, and authorities by the said Act made exerciseable or otherwise for the time being exerciseable in relation to the said Duchy, or belonging to the Duke of Cornwall for the time being, without the consent of such Duke, testified in writing under the seal of the Duchy of Cornwall, first had and obtained for that purpose, or to take away, diminish, alter, prejudice, or affect any property, rights, profits, privileges, powers, or authorities vested in or enjoyed by Her Majesty, her heirs or successors, in right of the Duchy of Cornwall, or in or by the Duke of Cornwall for the time being.

Period for compulsory purchase of lands.

16. The powers by this Act given to the Company for the compulsory purchase of lands shall not be exercised after the expiration of two years from the passing of this Act.

Period for completion of works.

17. The railway by this Act authorised shall be completed within three years from the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for executing the railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall be then completed.

Tolls as under original Act.

18. The several tolls, fares, rates, and charges which by the original Act the Company were authorised to demand and take may from time to time be demanded and taken on and in respect of the railway by this Act authorised, and that Act shall be read and have effect accordingly, and as if the railway authorised by this Act had formed part of the railways authorised by that Act.

Power to abandon parts of authorised undertaking.

19. The Company shall abandon the construction of—

(A.) The railway first described in and authorised by the original Act, from its commencement in Radstock parish aforesaid to the point at or near Welton where the railway by this Act authorised will terminate:

(B.) The whole of the railway secondly described in and authorised by the original Act.

Compensation for damage to land by entry, &c. for purposes of works abandoned.

20. The abandonment by the Company under the authority of this Act of any railway or portion of railway shall not prejudice or affect the right of the owner or occupier of any land to receive compensation in accordance with the provisions in that behalf of "The Lands Clauses Consolidation Act, 1845," for any damage occasioned by the entry of the Company on the land for the purpose of surveying and taking levels, or probing or boring to ascertain the nature of the soil, or setting out the line of railway, and shall not prejudice or affect the right of the owner or occupier of any land temporarily occupied by the Company to receive compensation in accordance with the provisions in that behalf of "The Railways Clauses Consolidation Act, 1845," for the temporary occupation, or for any loss, damage, or injury sustained by the owner or occupier by reason thereof, or of the exercise with respect to the land of any of the powers contained in the last-mentioned Act or the original Act.

Company to make compensation for lands taken for works abandoned.

21. Where before the passing of this Act any contract was entered into or notice given by the Company for purchasing any land which they were authorised to purchase for making any railway or part of a railway by this Act directed to be abandoned, and not required for the purposes of any of the works by this Act authorised, full compensation shall be made by the Company to the owners or occupiers or other persons interested in those lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice; and the amount and application of the compensation shall be determined in manner by "The Lands Clauses Consolidation Act, 1845," provided for determining the amount and application of compensation for lands taken under the provisions thereof.

Applying agreements with Great Western Railway Company.

22. Notwithstanding anything in this Act contained, the heads of agreement set forth in the schedule (A.) to "The Great Western Railway (Various Powers) Act, 1867," as modified by the supplementary heads of agreement set forth therein, and those supplementary heads shall be and remain in full force and effect, and shall apply to the railways and undertaking of the Company as altered by this Act.

Application of funds.

23. The Company may apply to the purposes of the original Act as amended by this Act and of this Act any moneys raised or to be raised by them by shares or stock or borrowing under the authority of the Acts in this Act mentioned.

Railway not exempt from

24. Nothing in this Act contained shall exempt any railway to which this Act relates from the provisions of any general Act

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provisions of present and future general Acts.

relating to railways, or the better and more impartial audit of the accounts of railway companies, now or hereafter in force, 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 any of the Acts relating to the Company.

Expenses of Act.

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.

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