CHAPTER cxxxiii.

An Act to authorise the Freshwater Yarmouth and Newport Railway Company to deviate portions of their authorised railway and for other purposes. [19th July 1887.]

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WHEREAS by the Freshwater Yarmouth and Newport Railway Act 1880 (herein-after called "the Act of 1880") the Freshwater Yarmouth and Newport Railway Company (herein-after called "the Company") were incorporated and authorised to construct the railway in the Isle of Wight in that Act more particularly described and various other powers were conferred upon the Company and the Company and the several other companies in that Act mentioned in that behalf were authorised to enter into traffic arrangements:

And whereas by the Freshwater Yarmouth and Newport Railway Act 1883 (herein-after called "the Act of 1883") the periods respectively limited by the Act of 1880 for the compulsory purchase of lands for and for the completion of the railway authorised by the Act of 1880 were extended and further powers were conferred upon the Company and the Company and the several other companies in that Act mentioned in that behalf were authorised to enter into traffic arrangements:

And whereas it is expedient that the Company be authorised to deviate certain portions of the railway authorised by the Act of 1880 and to abandon and relinquish the construction of so much of their said authorised railway as will be rendered unnecessary by the construction of the deviation railways by this Act authorised and that the said deviation railways should for all purposes be deemed to be part of the railway of the Company authorised by the Act of 1880:

And whereas plans and sections showing the lines and levels of the deviation railways and works authorised by this Act and also books of reference containing the names of the owners and lessees or

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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 were duly deposited with the clerk of the peace for the county of Southampton and are herein-after respectively referred to as the deposited plans sections and books of reference:

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 Freshwater Yarmouth and Newport Railway (Deviations) Act 1887.

Incorporation of Acts.

2. The clauses and provisions of the Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883 the Railways Clauses Consolidation Act 1845 and Part I. (relating to construction of a railway) of the Railways Clauses Act 1863 are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation.

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 authorised railway" means the railway authorised by the Act of 1880 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.

Power to make deviation railways and works.

4. 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 deviation railways hereinafter 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 books of reference as may be required for that purpose The deviation railways herein-before referred to and authorised by this Act will be situate in the Isle of Wight and county of Southampton and are as follows:

(1.) A railway 3 miles and 5 chains or thereabouts in length commencing in the parish of Freshwater at the distance on the authorised railway of 42 chains or thereabouts from its authorised point of commencement and terminating in the parish of Thorley at the distance on the authorised railway of 4 miles 63 chains or thereabouts from its authorised point of commencement.

(2.) A railway 1 mile and 1 furlong or thereabouts in length commencing in the parish of Thorley at the distance on the authorised railway of 5 miles or thereabouts from its authorised point of commencement and terminating in the parish of Shalfleet at the distance on the authorised railway of 6 miles or thereabouts from its authorised point of commencement.

(3.) A railway 1 mile and 4 furlongs or thereabouts in length commencing in the parish of Shalfleet at the distance on the authorised railway of 6 miles 13 chains or thereabouts from its authorised point of commencement and terminating in the parish of Calborne at the distance on that railway of 7 miles 50 chains or thereabouts from its authorised point of commencement.

(4.) A railway 6 furlongs or thereabouts in length wholly in the parish of Calborne commencing at the distance on the authorised railway of 8 miles and 30 chains or thereabouts from its authorised point of commencement and terminating at the distance thereon of 9 miles or thereabouts from its authorised point of commencement.

(5.) A railway 7 furlongs and 6 chains or thereabouts in length commencing in the parish of Shalfleet at the distance on the authorised railway of 9 miles 25 chains or thereabouts from its authorised point of commencement and terminating in the parish of St. Nicholas at the distance on that railway of 10 miles 12 chains or thereabouts from its authorised point of commencement.

The above described railways will commence and terminate by a junction or junctions with the authorised railway.

(6.) A railway 1 mile and 1 furlong or thereabouts in length wholly in the parish of Carisbrook commencing by a junction with the authorised railway at the distance thereon of 12 miles 10 chains or thereabouts from its authorised point of commencement and terminating by a junction with the Cowes and Newport Railway 10 chains or thereabouts from the southernmost corner of the passenger station buildings of the Newport station on that railway.

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Power to take easements, &c., by agreement.

5. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement right or privilege not being an easement of water required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

For the protection of the corporation of Newport.

6. For the protection of the mayor aldermen and burgesses of the borough of Newport in the Isle of Wight (in this section referred to as "the corporation") the following provisions shall have effect unless otherwise agreed between the corporation and the Company that is to say :—

(1.) The centre line of the railway where it passes over the bridge known as Towngate Bridge in the said borough shall not be deviated to the northward of the line shown on a copy of the deposited plans signed by the borough surveyor on behalf of the corporation and William Jackson on behalf of the Company.

(2.) The viaduct proposed to be constructed by the Company as shown on the deposited sections shall be of an ornamental character and shall be executed according to such plans designs and specifications and of such materials as shall be reasonably approved of by the corporation and any difference between the corporation and the Company with reference to the said plans designs specifications or materials shall be settled by an engineer to be nominated by the President for the time being of the Institution of Civil Engineers Provided always that if the corporation fail for one month after receipt thereof to express their approval or disapproval of the said plans designs and specifications or of the said materials the same shall be deemed to have been approved.

Period for compulsory purchase of lands.

7. 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 two years from the passing of this Act.

As to level crossings.

8. Notwithstanding anything in the Act of 1880 or any Act incorporated therewith the construction of the railway thereby authorised across the road in the parish of Thorley numbered 13 upon the deposited plans referred to in that Act is hereby confirmed and the Company may maintain the same as a single line whilst the

same shall consist of a single line and afterwards as a double line only across and on the level of the said road and 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 the crossing of roads on the level the Company may in the construction of the Deviation Railway No. 1 by this Act authorised carry the same as a single line whilst the same shall consist of a single line and afterwards with a double line only across and on the level of the road in the parish of Freshwater numbered 2 on the deposited plans and the Company shall previously to the opening of the said deviation railway construct and shall thereafter maintain a footbridge over the said railway at such level crossing.

Restriction on displacing persons of the labouring class.

9. The Company shall not under the powers of this Act without the consent of the Local Government Board purchase or acquire in any city borough or other urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

The expression "labouring class" in this section includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Company may abandon portions of authorised line.

10. The Company may and shall abandon the construction of so much of the authorised railway as would lie between the point of commencement above described of the deviation railway (1) by this Act authorised and the point of commencement of the authorised railway and so much of the authorised railway as would lie between the distance thereon of 4 miles 63 chains from its point of commencement and the distance thereon of 1 mile 60 chains from such point of commencement and such portions of the authorised railway as would lie between the points of commencement and termination respectively herein-before described of the deviation railways (2) (3) (4) and (5) by this Act authorised and between the point of commencement herein-before described of the deviation railway (6) by this Act authorised and the point of termination at Newport of the authorised railway.

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

11. The abandonment by the Company under the authority of this Act of any portion of railway shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels or probing or boring to ascertain the nature of the soil or setting out of the line of railway and shall not prejudice or affect the right of the owner or occupier of any land which has been temporarily occupied by the Company to receive compensation for such temporary occupation or for any loss damage or injury which has been sustained by such owner or occupier by reason thereof or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation Act 1845 or the Act of 1880 or the Act of 1883.

Compensation to be made in respect of portions of railway abandoned.

12. Where before the passing of this Act any contract has been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to any portions of the railway authorised to be abandoned by this Act the Company shall be released from all liability to purchase or to complete the purchase of any such lands but notwithstanding full compensation shall be made by the Company to the owners and occupiers or other persons interested in such 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 provided by the Lands Clauses Consolidation Act 1845 as amended by any subsequent Act for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Period for completion of works.

13. If the works by this Act authorised are not completed within three 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 same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Deviation railways to be deemed part of authorised railway.

14. The deviation railways by this Act authorised shall for all purposes be deemed to form part of the authorised railway of the Company and the Company may from time to time demand and take for or in respect of the said deviation railways such and the like tolls rates and charges as by the Act of 1880 are authorised to be demanded and taken for or in respect of the authorised railway.

Power to apply funds.

15. The Company may apply for any of the purposes of this Act to which capital is properly applicable any moneys which they are

by the Act of 1880 or by the Act of 1883 authorised to raise by shares or stock debenture stock or borrowing.

Saving rights of the Crown in the foreshore.

16. Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the Queen's Majesty Her heirs or successors.

Saving rights of Crown under Crown Lands Act.

17. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved by sections twenty-one and twenty-two of the Crown Lands Act 866 and belonging to or exerciseable on behalf of Her Majesty Her heirs or successors.

Provision as to general railway Acts.

18. Nothing in this Act contained shall exempt the Company or the railways of the Company 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 the Acts of the Company.

Costs of Act.

19. 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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