ANNO VICESIMO SEPTIMO & VICESIMO OCTAVO

VICTORIÆ REGINÆ.

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Cap. cxcix.

An Act to enable the *Kington and Eardisley* Railway Company to extend their authorized Line of Railway to *Presteign,* and to use a Portion of the *Leominster and Kington* Railway, and make Agreements with other Companies; and for other Purposes. [14th *July* 1864.]

WHEREAS by "The *Kington and Eardisley* Railway Act, 1862," the *Kington and Eardisley* Railway Company (in this Act called the Company) were incorporated, and authorized to make a Railway from *Kington* in the County of *Hereford* to the *Hereford, Hay, and Brecon* Railway at *Eardisley* in the same County, with a Branch to join the *Leominster and Kington* Railway: And whereas it is expedient that the Company be enabled to make and maintain the Extensions herein-after described of their said authorized Railway: And whereas, in consequence of the making of the said Extensions, the Construction of a small Portion of the authorized Railway of the Company in the Parish of *Lyonshall* will be rendered unnecessary, and it is expedient that the Company should be authorized to abandon the Formation of such unnecessary Portion: And whereas it is expedient that the Company should be authorized 25 & 26 Vict. c. lxvii.

to use the Portion herein-after described of the *Leominster and Kington* Railway: And whereas it is expedient that the Company be enabled to make Agreements with the *Leominster and Kington* Railway Company and with the *Great Western* Railway Company, or with either of those Companies, for the Purposes herein-after mentioned: And whereas the Objects and 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 of the 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 be cited for any Purpose as "The *Kington and Eardisley* Railway Act, 1864."

Interpretation of Terms.

2. In this Act the following Expressions have the several Meanings hereby attached to them respectively, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

The Expression "the Company" means the *Kington and Eardisley* Railway Company:

The Expression "the Act of 1862" means "The *Kington and Eardisley* Railway Act, 1862:"

The Expression "the Plans of 1862" means the Plans referred to in "The *Kington and Eardisley* Railway Act, 1862:"

The Expression "the authorized Branch" means the Railway authorized to be made by the Act of 1862, and secondly described in the Twentieth Section of that Act:

The Expression "the Two Companies" means the *Great Western* Railway Company and the *Leominster and Kington* Railway Company:

And the Expressions "Superior Court" or "Court of competent Jurisdiction," or any other like Expression in this Act, or in the Acts or Portions of Acts incorporated therewith, shall be read and have effect as if the Debt or Demand in respect to which the Expression is used were a Simple Contract Debt, and not a Debt or Demand created by Statute.

8 & 9 Vict. cc 16. 18. & 20., 23 & 24 Vict. c 106., and 26 & 27 Vict. cc. 92. & 118. incorporated.

3. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation Act, 1845," Parts I. and III. of "The Railways Clauses Act, 1863," the Provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the following Matters, namely,

With respect to the Distribution of the Capital of the Company into Shares;

With respect to the Transfer or Transmission of Shares;

With

With respect to the Payment of Subscriptions and the Means of enforcing Payment of Calls;

With respect to the Remedies of Creditors of the Company against the Shareholders;

With respect to the Forfeiture of Shares for Nonpayment of Calls;

With respect to the borrowing of Money by the Company on Mortgage or Bond;

With respect to the Conversion of the borrowed Money into Capital;

With respect to the Consolidation of the Shares into Stock;

And with respect to the Provisions to be made for affording Access to the Special Act,

And Parts I. and II. of "The Companies Clauses Act, 1863," shall be incorporated with and form Part of this Act.

Power to make Railways.

4. It shall be lawful for the Company to make and maintain the Railways herein-after mentioned, with all proper Stations, Works, and Conveniences connected therewith respectively; that is to say,

A Railway (herein called "Railway Number 1"), commencing by a Junction with the authorized Branch in or near the Inclosure numbered, on the Plans of 1862, 41, in the Parish of *Lyonshall*, otherwise *Lynhales*, in the County of *Hereford*, and terminating in or near a certain Field called *Clatterbrook Field* in the Parish of *Presteign* in the County of *Radnor*:

A Railway (herein called "Railway Number 2"), commencing in the Parish of *Pembridge* in the County of *Hereford* by a Junction with the *Leominster and Kington* Railway, at a Point about One hundred and forty-seven Yards on the *Kington* Side of the Distance-post on that Railway denoting the Distance of Ten Miles and a Half from *Leominster*, and terminating in the same Parish by a Junction with Railway Number 1 in or near a certain Wood called "the *Vallets Wood*:"

A Railway (herein called "Railway Number 3"), commencing in the said Parish of *Pembridge* by a Junction with the *Leominster and Kington* Railway, at a Point about Sixty Yards on the *Kington* Side of the aforesaid Distance-post on that Railway, and terminating by a Junction with the authorized Branch in or near the said Inclosure numbered 41, in the said Parish of *Lyonshall*, on the Plans of 1862:

A Railway (herein called "Railway Number 4"), commencing by a Junction with Railway Number 1, in the Parish of *Presteign* in the County of *Hereford*, in or near a certain Field called *Far Little Field*, near the *Far Barn* in the Parish of *Presteign*, and terminating in the same Parish in or near a certain Field called *Westlys*.

5. Whereas

Railways to be made according to deposited Plans.

5. Whereas Plans and Sections of the Railways showing the Lines and Levels thereof, 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 which may be required to be taken for the Purposes thereof, have been deposited for public Inspection with the respective Clerks of the Peace for the Counties of *Radnor* and *Hereford*: Therefore, subject to the Provisions and Powers of Deviation in this Act, and in the Acts incorporated herewith contained, the Railways shall be made in the Line or Course and upon the Lands delineated upon the said Plans and described in the said Books of Reference, and according to the Levels defined on the said Sections; and, subject to the Provisions in this Act and the incorporated Acts contained, it shall be lawful for the Company to enter upon, take, and use such of the said Lands as may be necessary for the Purposes of the said Railways and the Works connected therewith, or for any Purpose by this Act authorized.

Inclination of certain Roads.

6. In carrying the Roads numbered as follows on the deposited Plans over, under, or across the Railways, the Company may make the Inclinations of such Roads as steep, but not steeper, than the respective Rates of Inclinations herein-after specified; (that is to say,)

Description of Road.	No. on Plan.	Name of Parish.	Rate of Inclination.
Public Road - -	27	Pembridge - -	1 in 17
Turnpike Road -	40	Stanton-upon-Arrow	1 in 20

Bridges.

7. In carrying the Railways over the several Roads numbered on the deposited Plans as follows, the Company may make the Arches for the Purpose of any Span not less than as follows:

No. on Plans.	Parish.	Description of Road.	Span of Arch.
40	Stanton-upon-Arrow	Turnpike Road -	30 Feet.
10	Presteign - -	Public Road -	20 Feet.
20	Presteign - -	Turnpike Road -	30 Feet.

Lands for extraordinary Purposes.

8. The Company may, by Agreement, purchase Land adjoining or near to the Railways for the extraordinary Purposes mentioned in "The Railways Clauses Consolidation Act, 1845," but the Quantity of Land so to be purchased shall not exceed One Acre.

9. The

Powers for compulsory Purchases limited.

9. 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 after the passing of this Act.

Period for Completion of Railway.

10. The Railways shall be completed within Five Years from the passing of this Act, and on the Expiration of such Period the Powers by this Act granted to the Company for executing the Railways shall cease.

Railways to form Part of Undertaking of the Company.

11. The Railways by this Act authorized shall be and be deemed, for the Purposes of Tolls and Charges, and for all Purposes whatsoever, Part of the Undertaking of the Company, in the same Manner as if the same had been made under the Authority of the recited Act.

Company to abandon a Portion of the authorized Branch.

12. The Company shall abandon the Formation of so much of the authorized Branch as lies between the said Inclosure numbered 41, in the Parish of *Lyonshall*, on the Plans of 1862, and the Point of Junction between the authorized Branch and the *Leominster and Kington* Railway, as shown on the Plans of 1862.

Compensation to be made where Contracts have been entered into or Notice given.

13. In every Case in which before the passing of this Act any Contract has been entered into or Notice given by the Company for purchasing any Lands which the Company were by the Act of 1862 empowered to purchase for the Purpose of constructing the Portion of Railway so authorized to be abandoned as aforesaid, the Company shall make to the Owners or Occupiers of or other Persons interested in such Lands full Compensation for all Injury or Damage sustained by such Owners or Occupiers and other Parties by reason of such Purchase not being completed pursuant to such Contract or Notice, and the Amount and Application of such Compensation shall be determined in the Manner provided by "The Lands Clauses Consolidation Act, 1845," for determining the Amount and Application of the Compensation to be paid for Lands to be taken under the Provisions thereof: Provided always, that nothing herein contained shall prejudice or affect the Right of the Owner or Occupier of any Lands which the Company were so empowered to purchase as aforesaid to recover from the Company Compensation for any Damage which may have been occasioned by the Entry of the Company upon such Lands for the Purpose of surveying and taking Levels, and of probing or boring to ascertain the Nature of the Soil, or of setting out the Line of the Railway, pursuant to the Provisions for that Purpose in "The Railways Clauses Consolidation Act, 1845," contained.

Power to use a Portion of the Leo-

14. It shall be lawful for the Company to run over and use with Engines and Carriages of every Description so much of the *Leominster and*

minster and Kington Railway.

and Kington Railway as is or will be situate between the respective Points of Commencement herein-before described of Railway Number 2 and Railway Number 3, together with all Stations, Booking Offices, Sidings, Watering Places, or other Conveniences upon or connected with the said Portion of the *Leominster and Kington* Railway, and the Terms and Conditions of such User, and the Tolls, Charges, and Payments to be made in respect thereof, shall be such as shall from Time to Time be agreed upon between the Company and the Company for the Time being in possession of the *Leominster and Kington* Railway, or, in default of Agreement, as may be prescribed by the Board of Trade, or by an Arbitrator to be appointed by the Board.

Agreements for certain Purposes may be made between the Company and the Two Companies, or either of them.

15. Agreements for the following Purposes may lawfully be made between the Company and the Two Companies, or between the Company and either of the Two Companies; (that is to say,)

The Passage of Engines and Carriages of the Company over the Railways or any Part of the Railways of the Two Companies, or such of them as may be Parties to any such Agreement:

The Passage of Engines and Carriages of the Two Companies, or such of them as may be Parties to any such Agreement, over the Railways or any Part of the Railways of the Company:

The Terms and Conditions of and the Payments to be made in respect of Traffic conveyed by the Company over the Railways of the Two Companies or either of them, or conveyed by the Two Companies or either of them over the Railways of the Company:

The booking, forwarding, and Transmission of Traffic passing to or from the Railways of the Company from or to the Railways of the Two Companies, or such of them as may be Parties to any such Agreement, and the Division and Apportionment of the Tolls and Charges arising from such Traffic.

If Railway worked continuously with any other Railway, only One Short-distance Charge to be made as for Four entire Miles.

16. If the Railway of the Company shall be worked continuously with any other Railway, Articles or Persons conveyed continuously for a less Distance than Four Miles upon the Railway and such other Railway shall only be charged once as for Four entire Miles, in the same Manner as if the Railways of the Company and such other Railway had formed One continuous Line of Railway, anything in any Act to the contrary notwithstanding.

Deposit in Court of Chancery to be forfeited to the Crown in certain Events.

17. Whereas, pursuant to the Standing Orders of both Houses of Parliament, and to the Act of the Session of the Ninth and Tenth Years of Her present Majesty, Chapter Twenty, a Sum of Five thousand six hundred Pounds, being Eight Pounds *per Centum* on Seventy thousand Pounds, the estimated Cost of the Construction of the Railways by this Act authorized to be made, has been deposited with

with the Court of Chancery with respect to the Application to Parliament for this Act: Therefore, notwithstanding anything in that Act, the said deposited Sum, or the Interest or Dividends on the said deposited Sum, shall not, except upon the Execution and Deposit of such a Bond as is in this Section mentioned, be paid or transferred to or on the Application of the Person or Persons or the Majority of Persons named in the Warrant or Order lodged in pursuance of that Act, or the Survivors or Survivor of them, unless the Company, before the Expiration of the Period limited for the Completion of the said Railways, either open the said Railways for the public Conveyance of Passengers, or prove to the Satisfaction of the Board of Trade that the Company have paid up One Half of the Amount of Capital by this Act authorized to be raised by Shares, and have expended for the Purposes of this Act a Sum equal in Amount to that One Half; and if the Period expire before the Company either open the said Railways for the public Conveyance of Passengers, or give the Proof to the Satisfaction of the Board of Trade, the said deposited Sum, and the Interest and Dividends thereof, shall immediately from and after the Expiration of that Period be forfeited to Her Majesty, and be paid and transferred by the Officer or Person in whose Name they are then deposited or invested to the Account of Her Majesty's Exchequer, and when so paid or transferred shall be carried to and form Part of the Consolidated Fund of the United Kingdom: Provided that at any Time after the passing of this Act, if a Bond in twice the Amount of the said deposited Sum be executed by the Company, with One or more Sureties, (the Bond to be prepared to the Satisfaction of and the Surety or Sureties to be approved of by the Solicitor to the Treasury,) conditioned for Payment to Her Majesty, Her Heirs or Successors, of the said deposited Sum if the Company do not, within the Time limited for the Completion of the said Railways, either open the said Railways for the public Conveyance of Passengers, or prove to the Satisfaction of the Board of Trade that the Company have paid up One Half of the Amount of the Capital by this Act authorized to be raised by Shares, and have expended for the Purposes of this Act a Sum equal in Amount to One Half of that Capital, and if the Bond be deposited with the Solicitor to the Treasury, then the said deposited Sum, and the Interest or the Dividends thereof, shall be paid to or on the Application of the Person or Persons or the Majority of Persons named in the Warrant or Order, or the Survivors or Survivor of them, and it shall not be necessary to produce any Certificate of this Act having passed; and the Monies recovered on the Bond shall be dealt with in like Manner as the said deposited Sum, and the Interest or Dividends thereof, would be dealt with under this Act if the Bond were not so executed and deposited; and the Certificate of the Board of Trade that the Proof has been given to their Satisfaction shall be sufficient Evidence of the Facts so certified.

18. The

Power to raise additional Capital by new Shares.

18. The Company from Time to Time, with the Sanction of a General Meeting, may raise by the Creation and Issue of new Shares the additional Capital of Ninety thousand Pounds.

New Shares to be subject to same Incidents as present Shares.

19. The new Shares from Time to Time created and issued by the Company under this Act, and the Holders thereof, shall be subject and entitled to the like Powers, Provisoes, Forfeitures, Liabilities, Rights, Privileges, and Incidents whatsoever in all respects as if the new Shares were Shares of the Company's original Capital under the Act of 1862; and the Company from Time to Time may dispose of the new Shares at such Times, to such Persons, and on such Terms and Conditions as they think fit: Provided always, that the Company shall not issue any Share at a Discount, nor shall the Company under the Authority of this Act create or issue any preferential or guaranteed Shares.

Calls on new Shares.

20. The greatest Amount of a Call on any new Share shall be One Fourth of the nominal Amount thereof, and the Interval between successive Calls shall be at least Two Months, and the aggregate Amount of all the Calls in any One Year shall not exceed Three Fourths of the nominal Amount of the new Share: Provided that the Company, if they think fit, may issue all or any of the new Shares on Condition of the whole Amount thereof being at once paid up.

Votes for Shares.

21. If the Company create and issue any new Shares of any Amount other than Ten Pounds, then, for ascertaining the Number of the Votes of the Shareholders, the nominal Amount of all the Shares held by every Shareholder shall be deemed to be so many Shares of Ten Pounds each as the Number of Ten Pounds (rejecting Fractions) into which the nominal Amount is divisible.

Shares not to issue until One Fifth Part paid up.

22. It shall not be lawful for the Company to issue any Share under the Authority of this Act, nor shall any Share vest in the Person accepting the same, unless and until a Sum being not less than One Fifth Part of the Amount of such Share shall have been paid up in respect thereof.

Power to borrow on Mortgage.

23. The Company from Time to Time may borrow on Mortgage under this Act any Sum not exceeding (in addition to the Amount which by the recited Act they are authorized to borrow on Mortgage) Thirty thousand Pounds: Provided that the Company shall not borrow any Money under the Authority of this Act until the whole of the additional Capital of Ninety thousand Pounds by this Act authorized to be raised by them by new Shares is *bonâ fide* subscribed for and issued, and One Half thereof actually paid up, nor until the Company has proved to the Justice who is to certify under the Fortieth

Section

Section of "The Companies Clauses Consolidation Act, 1845," that the whole of that Sum of Ninety thousand Pounds has been subscribed for *bonâ fide* and issued, and that not less than One Fifth of the Amount of each Share was paid on Issue of the same, and that all Shares are held by the Subscribers or their Assigns, and for which such Subscribers or their Assigns are legally liable.

Priority of existing Mortgages.

24. Provided that all Mortgages granted by the Company before the passing of this Act, and on the passing of this Act in force, shall during the Continuance thereof respectively have Priority over all Mortgages granted by the Company under this Act.

Application of Monies by Company.

25. All Monies from Time to Time raised by the Company by Shares and by borrowing respectively shall be applied only to Purposes of the Company's Undertaking, and the Company may apply for any of the Purposes authorized by the Act of 1862, or this Act, any Monies from Time to Time raised under the Act of 1862 and this Act respectively.

Interest not to be paid on Calls paid up.

26. The Company shall not, out of any Money by any Act relating to them authorized to be raised by Shares or by borrowing, pay Interest or Dividend to any Shareholder on the Amount of any Calls made on his Shares: Provided that the Company may pay to any Shareholder such Interest on Money advanced by him beyond the Amount of Calls actually made as is in conformity with the Provisions in that Behalf of "The Companies Consolidation Act, 1845."

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

27. The Company shall not, out of any Money by any Act relating to the Company authorized to be raised by Shares or by borrowing, pay or deposit any Sum of Money which, by any Standing Order of either House of Parliament from Time to Time in force, is required to be deposited in respect of any Application to Parliament for the Purpose of obtaining an Act authorizing the Company to make any Railway, or to execute any other Work or Undertaking.

Saving Rights of Companies.

28. Except only as is by this Act expressly provided, nothing in this Act contained shall take away, lessen, or prejudice any of the Estates, Rights, Powers, or Privileges of the Company, or of any Company being the Owners or Lessees of any Railway to which this Act relates.

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

29. Nothing in this Act contained shall exempt any Railway to which this Act relates from the Provisions of any present or future General Act relating to Railways or to the Accounts of Railway Companies, or from any future Revision or Alteration, under the Authority

Authority of Parliament, of the maximum Rates of Fares and Charges by any Act relating to those Railways respectively authorized, or the Rates for small Parcels thereby authorized.

Expenses of Act.

30. All the Costs, Charges, or Expenses of and incident to the preparing for, obtaining, and passing of this Act shall be borne and paid by the Company

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