ANNO VICESIMO SEPTIMO & VICESIMO OCTAVO

VICTORIÆ REGINÆ.

****

Cap. cxliv.

An Act to authorize the *Mistley Thorpe and Walton* Railway Company to make a Railway to connect their Line with an authorized Extension of the *Tendring Hundred* Railway Company; and for other Purposes. [30th *June* 1864.]

WHEREAS by "The *Tendring Hundred* Railway Extension Act, 1863," the *Tendring Hundred* Railway Company (26 & 27 Vict. c. cxliii.) were authorized to make a Railway from the *Wivenhoe* and *Brightlingsea* Railway at *Elmstead* to *Weeley*, and thence to *Walton-le-Soken*, all in the County of *Essex*, but subject to a Proviso that the said Company should apply to Parliament in the present Session for an Act to authorize them to deviate a Portion of the said Railway between *Kirby-le-Soken* and the Terminus thereof at *Walton-le-Soken:* And whereas by "The *Mistley Thorpe and Walton* Railway Act, 1863," (26 & 27 Vict. c. clxxviii.) the *Mistley Thorpe and Walton* Railway Company (in this Act called "the Company") were incorporated and authorized to make a Railway from the *Harwich* Branch of the *Great Eastern* Railway at *Mistley* to *Walton-le-Soken*, all in the County of *Essex*, but after referring to the Bill for authorizing the intended Extension

of the *Tendring Hundred* Railway Company, and reciting that Part of such Extension, if connected with the *Mistley Thorpe and Walton* Railway and deviated towards *Walton*, would render unnecessary the Construction of Part of the said Railway, it was enacted, that the Powers of the Company for executing the Part of the Railway between the Brook dividing *Tendring* from *Thorpe* and *Walton* should not be executed until the First Day of *January* One thousand eight hundred and sixty-five, and that such Powers should absolutely cease and determine if in the meantime the *Tendring Hundred* Railway Company should obtain Parliamentary Powers to deviate their proposed Railway between *Kirby Cross* and *Walton*: And whereas a Railway to connect the *Mistley Thorpe and Walton* Railway with the said Extension of the *Tendring Hundred* Railway Company would be of public Advantage, and the Company are willing (if authorized by Parliament) to make such Extension: And whereas by "The *Mistley Thorpe and Walton* Railway Act, 1863," the *Great Eastern* Railway Company are authorized to subscribe towards the Capital of the Company, and to enter into Agreements with the Company for working the Railway thereby authorized, and it is expedient that similar Powers should be conferred upon that Company with reference to the Railway by this Act authorized, and that they should be empowered to raise the Amount of their Subscription by the Creation of new Shares or Stock in their Undertaking: And whereas the 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:

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

1. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation Act, 1845," Part I. of "The Railways Clauses Act, 1863," relating to Construction of a Railway, and the Provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the several Matters following; (that is to say,) the Distribution of the Capital of the Company into Shares, the Transfer or Transmission of Shares, the Payment of Subscriptions and the Means of enforcing the Payment of Calls, the Forfeiture of Shares for the Nonpayment of Calls, the Remedies of the Creditors of the Company against the Shareholders, the borrowing of Money by the Company on Mortgage or Bond, the Conversion of the borrowed Money into Capital, the Consolidation of the Shares into Stock, and the Provision for affording Access to the Special Act, also Parts I., II., and III. of "The Companies Clauses Act, 1863," relating respectively to Cancellation and Surrender of Shares, to additional Capital, and to Debenture Stock, are hereby incorporated with this Act.

2. In

Interpretation of Terms.

2. In construing the incorporated Acts for the Purposes of this Act, and in construing this Act, the Words and Expressions herein mentioned or referred to shall have the Meanings hereby assigned to them respectively, unless there be something in the Subject or Context repugnant to such Construction ; (that is to say,)

The Expression "the Special Act" shall mean this Act:

The Expression "the Company" or "the Promoters of the Undertaking" shall mean the *Mistley Thorpe and Walton* Railway Company:

The Expression "Superior Courts" or "Court of competent Jurisdiction," or any other like Expression, shall be read and have effect as if the Debt or Demand with respect to which the Expression is used were a common simple Contract Debt, and not a Debt or Demand created by Statute:

Other Expressions and Words to which in the incorporated Acts Meanings are assigned shall respectively have the same Meanings in this Act.

Power to make Works.

3. The Company may make and maintain a Railway, with all proper Stations, Approaches, Works, and Conveniences connected therewith, commencing by a Junction with the *Mistley Thorpe and Walton* Railway in the Parish of *Tendring* and terminating by a Junction with the authorized Extension of the *Tendring Hundred* Railway Company in a Field in the Parish of *Thorpe-le-Soken* numbered 5 on the deposited Plans of the said Extension, or in a Field in the Parish of *Weeley* numbered 53 on the last-mentioned Plans, provided that the said Extension is made in such a Direction as will admit of such Junction being effected in either of those Fields, and if not, then at such other Point within the Limits of Deviation defined upon the deposited Plans of the Railway by this Act authorized as may be agreed upon between the Company and the *Tendring Hundred* Railway Company, or, failing Agreement, as may be fixed by the Engineer for the Time being of the *Great Eastern* Railway Company.

As to Junction with the Tendring Hundred Extension and Land required by the Tendring Hundred Railway Company.

4. The Junction of the Railway with the said Extension shall be constructed in accordance with the Powers and subject to the Conditions contained in the Provisions relating to Junctions in Part I. of "The Railways Clauses Act, 1863;" and the Company shall not, without the Consent of the *Tendring Hundred* Railway Company, take or purchase any Land which the *Tendring Hundred* Railway Company are authorized to acquire and will require for the Purposes of the said Extension, or (except so far as may be necessary for making the Railway, and the Junction and Intercommunication between the same and the said Extension, with the Powers and subject to the Conditions aforesaid,) use, enter upon, or interfere with any such Land.

5. The

Railway, &c. to form Part of Undertaking.

5. The Railway and Works by this Act authorized shall form Part of the Undertaking of the Company.

Railway to be made according to deposited Plans.

6. And whereas a Plan and Section of the proposed Railway, showing the Line and Levels thereof and the Lands required for the Purposes of the Undertaking, and also a Book of Reference to such Plan, have been deposited with the Clerk of the Peace for the County of *Essex*: Therefore, subject to the Provisions and Powers of Deviation in this Act and the Acts incorporated therewith contained, the Railway shall be made in the Line and upon the Lands delineated on the said Plan and described in the said Book of Reference, and according to the Levels defined on the said Section; and it shall be lawful for the Company to enter upon, take, and use all or any of the said Lands which they may require for the Purposes thereof, or for the other Purposes of the Undertaking.

Powers for compulsory Purchases limited.

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 Three Years from the passing of this Act.

Lands for extra-ordinary Purposes.

8. The Company may from Time to Time purchase by Agreement such Lands as they may require for any of the extraordinary Purposes specified in "The Railways Clauses Consolidation Act, 1845," in connexion with the Railway by this Act authorized, not exceeding in the whole One Acre.

Period for Completion of Railway.

9. The Railway by this Act authorized shall be completed within Four 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 said Railway, or otherwise in relation thereto, shall cease to be exercised except as to so much thereof as shall then be completed.

Bond for Completion of Railway.

10. Whereas pursuant to the Standing Orders of both Houses of Parliament, and to an Act of the Session of the Ninth and Tenth Years of Her present Majesty, Chapter Twenty, a Sum of One thousand two hundred Pounds, being Eight *per Centum* upon Fifteen thousand Pounds, the Amount of the Estimate in respect of the Railway authorized by this Act, has been deposited with the Court of Chancery with respect to the Application to Parliament for this Act: Therefore, notwithstanding anything contained in that Act, that Sum so deposited, or the Interest or Dividends thereof, shall not, except upon the Execution and Deposit of such a Bond as hereinafter mentioned, be paid or transferred to or on the Application of the Person or Persons named in the Warrant or Order issued in pursuance of

of that Act, or the Survivors or Survivor of them, unless the Company before the Expiration of the Period limited by this Act for the Completion of the Railway either open the Railway 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 that One Half; and if that Period expire before the Company either have opened the Railway for the public Conveyance of Passengers, or have given the Proof to the Satisfaction of the Board of Trade, the Sum so deposited, 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 and 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 that Sum so deposited 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 by the Solicitor to the Treasury) conditioned for Payment to Her Majesty, Her Heirs or Successors, of the Sum so deposited, if the Company do not within the Time limited for the Completion of the Railway either open the Railway 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 that One Half, and if the Bond be deposited with the Solicitor to the Treasury, then that deposited Sum of Money, and the Interest and Dividends thereof, shall be paid to or on the Application of the Person or Persons or the Majority of the 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 to be recovered upon the Bond shall be dealt with in like Manner as the deposited Sum of Money, 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 such Solicitor that the Bond has been so executed and deposited, and the Certificate of the Board of Trade that the Proof has been given to their Satisfaction, shall respectively be sufficient Evidence of the Facts so certified.

Railway Tolls.

11. The Company may demand and take in respect of the Railway by this Act authorized such Tolls and Charges as they think fit, not exceeding the Rates of Toll and Charge authorized to be taken on the *Mistley Thorpe and Walton* Railway; and in estimating the

Amount of Toll or Charge in respect of any Traffic conveyed partly on the Railway by this Act authorized and partly on the *Mistley Thorpe and Walton* Railway, the Two Railways shall be deemed One Railway as if authorized by "The *Mistley Thorpe and Walton* Railway Act, 1863."

Power to Company to raise Capital by new Shares.

12. The Company, with the Consent of Three Fifths of the Votes of the Shareholders present, in person or by proxy, at any General Meeting or General Meetings convened with special Notice of the Purpose, may raise additional Capital by the Creation of new ordinary Shares in their Undertaking, not exceeding in the whole Fifteen thousand Pounds.

Shares of Stock to form Part of Company's Capital.

13. All Shares to be created by the Company under the Authority of this Act shall, subject to the Provisions of this Act, form Part of the general Capital of the Company.

One Fifth Part of Shares to be paid on Issue.

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

Power to borrow on Mortgage.

15. The Company, in addition to any Sums which they are authorized to borrow under their existing Act of Parliament, may from Time to Time borrow on Mortgage such Sums as they think fit, not exceeding in the whole Five thousand Pounds; but no Part of that Money shall be borrowed until the whole of the said additional Capital of Fifteen thousand Pounds shall have been *bonâ fide* subscribed for and issued, and One Half of that Amount shall have been actually paid up, nor until the Company shall have proved to the Justice who is to certify under the Fortieth Section of "The Companies Clauses Consolidation Act, 1845," (before he so certifies) that all the said additional Capital of Fifteen 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 such Shares are held by the Subscribers or their Assigns, and that such Subscribers or their Assigns are legally liable for the same (of which Proofs having been given the Certificate of such Justice under that Section shall be sufficient Evidence).

Priority of existing Mortgages.

16. All Mortgages of the Company (if any), granted before the passing of this Act, and which shall be in force at the Time of the passing of this Act, shall have Priority over all Mortgages granted by virtue of this Act.

Debenture Stock.

17. The Company may create and issue Debenture Stock.

18. All

Application of Money raised under Act.

18. All Money raised under the Powers of this Act by the Creation of new Shares or Stock, or on Mortgage, shall be applied to the Purposes by this Act authorized.

Interest not to be paid on Calls paid up.

19. It shall not be lawful for the Company, out of any Money by this Act or any other Acts relating to the Company authorized to be raised by Calls in respect of Shares, or by the Exercise of any Power of borrowing, to pay to any Shareholder any Interest or Dividend on the Amount of the Calls made in respect of the Shares held by him in the Capital by this Act authorized to be raised: Provided that nothing herein contained shall be deemed to prevent the Company from paying to any Shareholder such Interest on Money advanced by him beyond the Amount of the Calls actually made as shall be in conformity with the Provisions in "The Companies Clauses Consolidation Act, 1845," in that Behalf contained.

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

20. It shall not be lawful for the Company, out of any Money by this Act or any other Acts relating to the 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 in force for the Time being, may be required to be deposited in respect of any Application to Parliament for the Purpose of obtaining an Act authorizing the Company to construct any Railway or execute any other Work or Undertaking.

Power for Great Eastern Company to subscribe towards and hold Shares in the Undertaking.

21. The *Great Eastern* Railway Company, with the Consent of Three Fifths of the Votes of the Shareholders of that Company present, in person or by proxy, at a Meeting specially convened for the Purpose, may subscribe such Sum or Sums of Money as they think fit towards the Capital by this Act authorized, not exceeding in the whole Four thousand Pounds, and may take and hold, but not sell or transfer, Shares in the Capital of the Company to the Amount of the Sum or Sums so subscribed by them.

Providing Funds for Subscription.

22. The *Great Eastern* Railway Company may raise and apply to the Purposes of such Subscription any Monies which they are authorized to raise by any of their existing Acts and which will not be required for the Purposes of such Acts, and they may raise such additional Capital as they may require for the Purposes of such Subscription by the Creation of new Ordinary or Preference Shares or Stock in their Undertaking.

As to Provisions of Companies Clauses Acts with respect

23. In construing any Provisions of "The Companies Clauses Consolidation Act, 1845," and the Provisions of Part II. of "The Companies Clauses Act, 1863," with respect to the raising of Capital under this Act by the *Great Eastern* Railway Company, the Expression "the

to Capital created by the Great Eastern Company.

"the Company" shall mean the *Great Eastern* Railway Company; and any Stock which that Company may create under the Powers of this Act shall be subject to the same Provisions of "The Companies Clauses Consolidation Act, 1845," with respect to Transfer and Registry, and confer the same Rights, Privileges, and Advantages, as if such Stock had been created by the Company under the Sixty-first Section of that Act.

Extending Provisions of 26 & 27 Vict. c. clxxviii. as to Agreements.

24. The Provisions contained in the Forty-seventh and following Sections of "The *Mistley Thorpe and Walton* Railway Act, 1863," to the Fifty-fourth Section inclusive, authorizing Agreements between the Company and the *Great Eastern* Railway Company with respect to the Maintenance and Management of the Railway thereby authorized, and otherwise in relation thereto, and the Traffic thereon, shall extend to the Railway by this Act authorized and the Traffic thereof, and shall be read and construed as if the Railway by this Act authorized had formed Part of the Railway authorized by the said Act of 1863.

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

25. This Act or anything therein contained shall not exempt the Railway by this Act authorized from the Provisions of any General Act relating to Railways, or to the better or 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 and Alteration, under the Authority of Parliament, of the maximum Rates of Fares and Charges or of the Rates for small Parcels by this Act authorized.

Expenses of Act.

26. All the Costs, Charges, and Expenses of and incidental to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Company.

Short Title.

27. This Act may be cited for any Purpose as "The *Mistley Thorpe and Walton* Railway (Branch) Act, 1864."

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