ANNO UNDECIMO & DUODECIMO

VICTORIÆ REGINÆ.

****

Cap. lxxii.

An Act to enable the *Scottish Midland Junction* Railway Company to make Branch Railways to *Birnam* and to the *Dunkeld* Branch of the *Scottish Midland Junction* Railway, and also to abandon Portion of the original Line of the said *Dunkeld* Branch. [22d *July* 1848.]

WHEREAS an Act was passed in the Eighth and Ninth Years of the Reign of Her present Majesty, intituled "The *Scottish Midland Junction* Railway Act, 1845:" 8 & 9 Vict. c. 170.
And whereas another Act was passed in the Ninth and Tenth Years of the Reign of Her present Majesty, intituled "The *Scottish Midland Junction* Railway Branches Act, 1846:" 9 & 10 Vict. c. 75.
And whereas it would be attended with public Advantage and Convenience if the Company incorporated by the said first-recited Act were authorized to form the Branch Railways herein-after mentioned: And whereas it would also be attended with public Advantage and Convenience if the said Company were authorized to abandon a Portion of the *Dunkeld* Branch of the *Scottish Midland Junction* Railway, as herein-after mentioned: And whereas it would also be attended with Advantage if some of the Powers and Provisions contained in the

said recited Acts were altered or amended and enlarged: And whereas the several Purposes aforesaid cannot be carried into execution 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,

Provisions of recited Acts extended to this Act.

That the Powers and Provisions of the said *Scottish Midland Junction* Railway Act, 1845, and of the several Acts therewith incorporated, and of the *Scottish Midland Junction* Railway Branches Act, 1846, so far as the same shall not be inconsistent with or otherwise provided for by this Act, shall extend to this Act, and to the several Purposes thereof, and shall operate and be in force with respect to such Purposes, and to the several Matters and Things hereby authorized to be done, as fully and effectually as if the said Powers and Provisions were repeated and re-enacted in this Act.

Short Title.

II. Be it enacted, That in reciting this Act in other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression "The *Scottish Midland Junction* Railway Amendment and Branches Act, 1848."

Power to make Branch Railways according to deposited Plans.

III. And whereas Plans and Sections of the said intended Branch Railways showing the Lines and Levels thereof, and also Books of Reference containing the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers of the Lands through which the same is intended to pass, have been deposited with the Sheriff Clerk of the County of *Perth*: Be it enacted, That, subject to the Provisions of this Act and of the recited Acts, and Acts therewith incorporated, it shall be lawful for the said Company to make and maintain the said Branch Railways and Works in the Lines and upon the Lands delineated on the said Plans and described in the said Books of Reference, and according to the Levels described on the said Sections, and to enter upon and use such of the said Lands as shall be necessary for that Purpose.

Direction of Lines.

IV. And be it enacted, That the First of the said Branch Railways shall diverge out of and from the Main Line of the said *Scottish Midland Junction* Railway at a Point on the Lands of *Shielhill* near to the Village of *Stanley* in the County of *Perth*, and shall pass through the Parishes of *Auchtergaven*, *Kinclaven*, and *Little Dunkeld*, all in the County of *Perth*, and shall terminate at or near to *Birnam* Inn in the said Parish of *Little Dunkeld*, and the Second of the said Branch Railways shall diverge out of and from the said intended Branch Railway at a Point on the Lands of *Gellyburn* in the said Parish of *Little Dunkeld*, and shall pass through the said Parishes of *Kinclaven* and *Little Dunkeld*, and shall terminate by a Junction with the *Dunkeld* Branch of the *Scottish Midland Junction* Railway, as authorized by the last herein-before recited Act, at a Point thereon near to the Boundary between the said Parishes of *Kinclaven* and *Little Dunkeld*.

V. And

Compensation to be made to certain Trustees of Turnpike Roads acting under 2 & 3 W. 4. c. 82. and 1 & 2 W. 4. c. 61.

V. And whereas the Trustees acting in the Execution of an Act passed in the Second and Third Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for effectually making and maintaining and repairing certain Roads and Bridges thereon in the Counties of* Perth, Stirling, *and* Forfar, have borrowed and expended considerable Sums of Money in making and repairing the Turnpike Road from *Perth* to *Dunkeld*, and the Trustees under the said recited Act having the Charge of the Road from *Coupar Angus* to *Blairgowrie* have also borrowed and expended considerable Sums of Money in making and repairing the said Road: And whereas the Trustees acting in the Execution of another Act passed in the First and Second Years of the Reign of His said late Majesty King *William* the Fourth, intituled *An Act for more effectually making, amending, widening, repairing, and keeping in repair certain Roads in the County of* Forfar, and having Charge of the Road from *Glammiss* to *Kirriemuir*, have also borrowed and expended considerable Sums of Money in making and repairing the said Road: And whereas various other Persons have become personally liable for the Payment of Money raised and applied to such Purposes, which Sums are now due and owing on the Credit of the Tolls upon the said respective Lines of Road: And whereas the Revenues of the said Roads may be materially diminished by reason of the Traffic thereon being diverted therefrom to the Railway being authorized to be made, which is intended to be carried across the said Roads, or otherwise to alter the present Surface of the same: And whereas it is just and expedient that the said Trustees, and other Parties who have so rendered themselves personally liable, should be relieved of a Portion of the said Debts: Be it therefore enacted, That the Company shall pay to the Trustees such Sum of Money by way of Compensation as shall be agreed upon between the Company and the said Trustees; and failing such Agreement it shall be competent for the said Trustees, or any Party who shall have so rendered himself personally liable as aforesaid, to apply to the Sheriff of the County within which the Roads in respect of which the Debt is claimed are situated, who shall inquire and determine whether any and what Amount of Compensation should be paid by the Company to such Trustees in the Manner provided by the Lands Clauses Consolidation Act in regard to Compensation to be settled by the Sheriff; or if the Party claiming such Compensation shall signify his or their Desire to such Company to have the Question of Compensation and the Amount thereof settled by Arbitration, and shall enter into a written Agreement for that Purpose, then (within Twenty-one Days after the Receipt of any Notice signifying such Desire) the same shall be settled by Arbitration in manner provided in the said Lands Clauses Consolidation Act for settling the Price of the Lands by Arbitration; or it shall be in the Power of the Sheriff to ascertain the Amount of Compensation by directing that an Account shall be taken of the Amount of the Tolls paid on such respective Lines of Road, and the necessary Expenditure for the ordinary Maintenance and Repair thereof, during the Three Years preceding the passing of the Railway Act, and that an Account shall in like Manner be taken of the Amount of the Tolls which shall be paid on such Roads,

and

and of the necessary Expenditure for the ordinary Maintenance and Repair thereof, during the Three Years following the opening of the said Railway to the Public, and the average Amount of the Tolls on such respective Lines of Road being so ascertained for the said respective Periods of Three Years, if the Amount shall have decreased during the second Period the said Sheriff shall thereupon determine the Amount of the Loss sustained by the said respective Road Trusts through the Operation of the Railway, and shall convert the Amount of such average annual Loss into Capital at the Rate of such Number of Years Purchase as in the Circumstance of the Case shall seem just, and shall declare and decree the Amount of the Compensation to be paid by the Railway Company to the Road Trustees; and the Sums paid as such Compensation shall be applied, so far as the same will extend, in Payment and Extinction of the Debts now due on the Credit of the Tolls; and for any Sum which shall be so ascertained, decreed, or awarded to be paid and be paid by the Company such Company shall become Creditors upon the Tolls of the Road in place of the Creditors whose Debts shall have been so paid off, but postponed, both as to Principal and Interest, to the Creditors in the other Debts affecting the said respective Lines of Road, and so as that no greater Amount of Debt shall be created upon the said respective Lines of Road on the Credit of the said Tolls thereon respectively than the Amount of Debt now due and owing upon the same.

Lands for extraordinary Purposes.

VI. And be it enacted, That the Quantity of Land to be taken by the said Company for extraordinary Purposes shall not exceed Twenty Acres, in addition to the Lands which they are authorized by the said recited Acts to take for such Purposes.

Compulsory Purchase of Lands limited.

VII. And be it enacted, That the Powers hereby conferred on the said Company for the compulsory Purchase and taking of Lands for the Purposes of this Act shall not be exercised after the Expiration of Three Years from the passing of this Act.

Period for Completion of Works.

VIII. And be it enacted, That the said Branch Railways shall be completed within Five Years from the passing of this Act; and on the Expiration of such Period the Powers by this or the recited Acts granted to the Company for executing the said Branch Railways, or otherwise in relation thereto, shall cease to be exercised, except as to so much of the said Branch Railways as shall then be completed.

Certain Roads may be crossed on a Level.

IX. And be it enacted, That it shall be lawful for the Company in constructing the said Branch Railways to carry the same across the Surface and on the Level of the following Roads numbered on the Plan deposited as aforesaid as after mentioned; (that is to say,)

In the Parish of *Kinclaven*, the Road numbered 17:

In the Parish of *Little Dunkeld*, the Road numbered 126.

Company to erect Station at Points

X. And be it enacted, That for the greater Convenience and Security to the Public the Company shall erect and permanently maintain

maintain either a Station or Lodge at the Points where the said Railway crosses the before-mentioned Roads on the Level; and the said Company shall be subject to and shall 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 Commissioners of Railways; and if the said Company shall fail to erect or at all Times maintain such Station or Lodge, or appoint a proper Person to watch or superintend the crossing at such Point or Station, or to 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.

of crossing, and to be subject to Regulations of Commissioners of Railways.

XI. And be it enacted, That as regards the Road herein-after mentioned it shall be lawful for the Company to make the Rate of Inclination of such Road when altered as follows; (that is to say,)

That the Inclination of the Road in the Parish of *Little Dunkeld*, numbered 126 on said Plans, may be One Foot in Twenty Feet.

As to Inclination of a certain Road.

XII. And be it enacted, That it shall bè lawful for the Company to make the Bridges or Arches at the Roads numbered respectively on the Plan deposited as aforesaid of Dimensions not less than those herein-after mentioned; (that is to say,)

Regulating the Dimensions of certain Bridges.

The Arch at the Road numbered 13 in the Parish of *Little Dunkeld* shall not be less than Twenty Feet Span nor less than Fifteen Feet high:

The Arch at the Road numbered 22 in the Parish of *Little Dunkeld* shall not be less than Thirty Feet Span nor less than Sixteen Feet high:

The Arch at the Road numbered 40 in the Parish of *Little Dunkeld* shall not be less than Twenty Feet Span nor less than Fifteen Feet high:

The Arch at the Second Crossing of the Road numbered 126 in the Parish of *Little Dunkeld* shall not be less than Thirty Feet Span nor less than Sixteen Feet high:

The Arch at the Third Crossing of the Road numbered 126 in the Parish of *Little Dunkeld* shall not be less than Thirty Feet Span nor less than Sixteen Feet high.

XIII. And be it enacted, That the said Company shall abandon such Part of the *Dunkeld* Branch of the said *Scottish Midland Junction* Railway, authorized to be constructed by the lastly herein-before recited Act, as lies between the Point of Junction of the second herein-before mentioned intended Branch Railway with the said *Dunkeld* Branch of the *Scottish Midland Junction* Railway authorized as aforesaid and the Termination of such Branch at or near to the Burgh of *Dunkeld*, and all the Powers and Authorities vested in the said Company by the said recited Acts for making and maintaining the Portion of the said Branch which is herein-before directed to be

Power to abandon Part of Dunkeld Branch of the Scottish Midland Junction Railway.

abandoned shall from and immediately after the passing of this Act cease and determine.

Interest not to be paid on Calls paid up.

XIV. And be it enacted, That it shall not be lawful for the said Company, out of any Money by this Act or any other Act relating to the said Company authorized to be raised by Calls in respect of Shares, or by the Exercise of any Power of borrowing, to pay Interest to any Shareholder 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 always, that nothing herein-before contained shall be deemed to prevent the said 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 (*Scotland*) Act, 1845, in that Behalf contained.

Deposit for future Bills not to be paid out of Company's Capital.

XV. And be it enacted, That it shall not be lawful for the said Company, out of any Money by any Act relating to the said Railway 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, 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 said Company to construct any other Railway or execute any other Work or Undertaking.

Railway to be subject to the Provisions of 1 & 2 Vict. c. 98., 3 & 4 Vict. c. 97., 5 & 6 Vict. c. 55., 7 & 8 Vict. c. 85., and 9 & 10 Vict. c. 57.

XVI. And whereas an Act was passed in the Second Year of the Reign of Her present Majesty, intituled *An Act to provide for the Conveyance of the Mails by Railway;* and another Act was passed in the Fourth Year of the Reign of Her said Majesty, intituled *An Act for regulating Railways;* and another Act was passed in the Sixth Year of the Reign of Her said Majesty, intituled *An Act for the better Regulation of Railways, and for the Conveyance of Troops;* and another Act was passed in the Eighth Year of the Reign of Her said Majesty, intituled *An Act to attach certain Conditions to the Construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament, and for other Purposes in relation to Railways;* and another Act was passed in the Ninth and Tenth Years of the Reign of Her said Majesty, intituled *An Act for regulating the Gauge of Railways:* Be it enacted, That nothing in this Act contained shall be held to exempt the said Railway or the said Company from the Provisions of the said several Acts respectively, but that such Provisions shall be in force in respect to the said Railway and Company so far as the same shall be applicable thereto.

Railway not exempt from Provisions of future general Acts.

XVII. And be it enacted, That nothing herein contained shall be deemed or construed to exempt the Railway by this or the said recited Acts authorized to be made from the Provisions of any general Act relating to such Acts, or of any general Act relating to Railways, 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 authorized by this Act.

XVIII. And be it enacted, That all Costs, Charges, and Expenses connected with the passing of this Act shall be paid by the Company or the Directors thereof out of the first Monies that shall come to their Hands after the passing thereof. Expenses of Act.

XIX. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such. Public Act.

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