ANNO QUINTO

VICTORIÆ REGINÆ.

Sess. 2.

****

Cap. xviii.

An Act to alter and amend some of the Provisions of the Act relating to the *Sheffield, Ashton-under-Lyne, and Manchester* Railway.

[13th *May* 1842.]

WHEREAS an Act was passed in the Seventh Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for making a Railway from* Sheffield *in the West Riding of the County of* York *to* Manchester *in the County of* Lancaster: 7 W. 4. & 1 Vict. c. 21. And whereas a Portion of the said Railway has been completed and opened to the Public, and it is expedient that some of the Powers and Provisions contained in the said recited Act should be altered, amended, and enlarged, with a view to facilitate the Completion of the Remainder of the said Railway: 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 Autho-

Extending Powers of former Act to this Act.

rity of the same, That all the Provisions, Matters, and Things contained in the said recited Act, so far as the same are now unrepealed, and except such of them as are by this Act repealed, altered, or otherwise provided for, shall extend to this Act, and operate in respect to the Purposes of this Act, as fully and effectually as if the same Provisions, Matters, and Things were repeated and re-enacted in this Act in reference to such Purposes.

Interest to be paid till Railway completed.

II. And be it enacted, That it shall be lawful for the Directors of the said *Sheffield, Ashton-under-Lyne, and Manchester* Railway Company, from and after the First Day of *January* in the present Year of our Lord One thousand eight hundred and forty-two, and thenceforth until Six Calendar Months after the said Railway shall have been completed and opened throughout to the Public, to pay Interest to the Proprietors of Shares in the said Undertaking after any Rate not exceeding Five Pounds *per Centum per Annum* on the Amount of Money now called up in respect of the said Shares, and also to pay Interest to such Proprietors after the like Rate on all Amounts which may from Time to Time hereafter be called up in respect of such Shares, from the respective Times at which any such last-mentioned Amounts shall become payable, such Interest to accrue and be paid at such Times and Places as the said Directors for the Time being shall appoint for that Purpose: Provided nevertheless, that no Interest shall accrue to the Proprietor of any Share upon which, or upon any other Share belonging to whom, any Call shall be in arrear during the Period that such Call shall remain in arrear and unpaid.

Forfeited Shares which cannot be sold may merge in the Company.

III. And be it enacted, That in all Cases where any Share shall have been or shall hereafter be forfeited, in accordance with the Provisions of the said recited Act or this Act, it shall be lawful for the Directors of the said Company, if they shall be unable to sell the said Share for a Sum equal to the Arrears of Calls and Interest due in respect thereof, to declare the same to be merged in the General Capital Stock of the said Company, and the same shall thenceforth merge accordingly in the said Capital, and a Declaration in Writing, made by some credible Person before any Justice of the Peace, or before any Master Extraordinary of the High Court of Chancery, stating that a Sum of Money sufficient to pay the Arrears of Calls and Interest in respect of such Share could not be obtained for the same at the Time of such Merger, shall be sufficient Evidence of the Facts therein stated, and the Proprietor of such Share shall from and after the making of such Declaration be precluded from all Right, Title, or Interest therein.

New Shares may be created in lieu of Shares bought up and merged.

IV. And be it enacted, That if, under the Provisions herein-before contained, any Shares in the said Undertaking shall be forfeited and merged as aforesaid, it shall be lawful for the said Company from Time to Time, by the Order of any General or Special General Meeting of the said Company, to raise an Amount equal to the nominal Value of such Shares in the Capital Stock of the said Company, by creating and issuing new Shares, and the Capital to be raised by such new Shares shall be considered as Part of the

General Capital, and shall be subject in all respects to the same Provisions, whether with reference to the Payment of Calls, or the Forfeiture of Shares on Nonpayment of Calls, or otherwise, as if it had been Part of the original Capital, except as to the nominal Value of such Shares, and the Times of making Calls thereon, and the Amount of such Calls, which respectively it shall be lawful for the said Company, at the same or any other General or Special General Meeting, from Time to Time to fix as they shall think fit: Provided always, that if the said Company shall not have issued new Shares in lieu of the Shares which may have been so merged as aforesaid, and that the Sums remaining uncalled for and unpaid on the other Shares of the Company shall be insufficient to pay the Debts owing to any Creditors of the Company, it shall be lawful for any such Creditor to compel the Issue of such new Shares for such Price as can be obtained for the same, in like Manner as he might by Law compel the making and Enforcement of Calls by the Directors in respect of any unpaid Capital of the Company.

If old Shares at a Premium, new Shares to be offered to original Shareholders.

V. And be it enacted, That if at the Time of the Issue of such new Shares the then existing Shares in the Capital Stock of the said Company be at a Premium, or of greater Value than the nominal Value thereof, then the said new Shares shall be of such Amount as will conveniently allow the same to be apportioned among the then Shareholders, in proportion to the existing Shares held by them respectively, and such new Shares shall be offered to the then Shareholders in the Proportion of One for every existing Share held by them respectively; and such Offer shall be made by Letter under the Hand of the Secretary, given to or sent by Post to each Shareholder, or left at his usual or last known Place of Abode; and such new Shares shall vest in and belong to the Shareholders who shall accept the same, and pay the Value thereof to the said Company, at the Times, and by the Instalments which shall be fixed by the said Company; and if any Shareholder fail for One Month after such Offer of new Shares to accept the same, and pay the Instalments called for in respect thereof, it shall be lawful for the said Company to dispose of such Shares to any Party willing to become the Purchaser thereof for such Sum as the said Company can obtain for the same.

If not at a Premium, to be issued as Company think fit.

VI. And be it enacted, That if at the Time of the Issue of such new Shares the existing Shares in the Capital Stock of the said Company be not at a Premium, then such new Shares may be of such Amount and may be issued in such Manner as the said Company shall think fit: Provided always, that no Holder of such new Shares who shall have a less Interest in the Capital Stock of the said Company than One hundred Pounds, according to the nominal Value of the Shares held by him, shall be entitled to vote in respect of such Shares.

Repeal of so much of recited Act as relates to the Payment

VII. And whereas it was by the said recited Act enacted, that in every Case in which the Verdict of a Jury summoned as therein mentioned should be given for the same or a greater Sum than should have been previously offered in Writing by the said Company or

of the Expences of Inquiry by Jury.

or on their Behalf, or where no such Sum should have been previously offered, and a Verdict should be given for any Amount for the Purchase of any Lands to be used or taken by them for the Purposes of the said Act, or as Compensation, Recompence, or Satisfaction for any Damage or Loss which might happen or arise in the Execution of any of the Powers thereby granted, all the Costs, Charges, and Expences of impannelling and summoning such Jury and Witnesses, and the Expences of the Bond to be given by the Party requiring the Jury to be summoned, as therein mentioned, and of the Inquisition, and Verdict and Judgment thereon, or in anywise consequent or incident to the same, should be defrayed by the said Company, and such Costs, Charges, and Expences should be settled and determined by the Sheriff, Under Sheriff, Coroner, or other Person authorized to act as therein mentioned; and in case such Costs, Charges, and Expences should not be paid to the Party entitled to receive the same within Twenty Days after the same should have been demanded, then the same might be levied and recovered by Distress and Sale of any Goods or Chattels of the said Company under a Warrant to be issued for that Purpose by any Justice of the Peace for the County, Riding, or Place where such Inquisition should be held, not interested in the Matter in question; which Warrant such Justice was thereby authorized and required to issue under his Hand and Seal, on Application made to him for that Purpose by any Party entitled to receive such Costs, Charges, and Expences; but if the Verdict of the Jury should be given for a less Sum than should have been previously offered by the said Company, or in case the said Company should have required a Statement of the Manner in which any Amount of Money which should have been demanded as a Satisfaction or Compensation had been computed and made up, and the Jury should be of opinion that no sufficient Statement was delivered by the Claimant to enable the said Company to make a proper Offer, One Moiety of the said Costs, Charges, and Expences should be defrayed by the Party with whom the said Company should have such Controversy or Dispute, and the Remainder should be defrayed by the said Company; and the former Moiety of such Costs, Charges, and Expences, having been ascertained and settled in manner therein mentioned, might be deducted out of the Money adjudged to be paid to such other Party as so much Money advanced to and for his Use, and the Payment or Tender of the Remainder of the Money so adjudged should be deemed and taken to all Intents and Purposes to be a good Payment or Tender and Satisfaction of the Whole thereof: Provided always, that in Cases in which by reason of Absence in Foreign Parts, or from any other Cause or Disability not therein provided for, any Person should have been prevented from treating and agreeing as therein mentioned, the whole of such Costs, Charges, and Expences should be borne and paid by the said Company: Provided also, that in Cases in which no Sum should be given by the Verdict of such Jury the whole of the aforesaid Costs, Charges, and Expences should be borne and paid by the Claimant: And whereas it is expedient that the said recited Enactment should be repealed, and other Provisions enacted in lieu thereof, be it therefore enacted, That the same shall be and the same is hereby accordingly repealed.

VIII. And

By whom the Costs of Inquiry shall be paid.

VIII. And in lieu thereof be it enacted, That on every Inquiry before a Jury touching the Value of any Lands, or the Compensation to be made by the Company for any Damage or Loss arising in the Execution of any of the Powers of the said recited Act or this Act, where the Verdict of the Jury shall be given for the same or a greater Sum than the Sum previously offered by the Company for the Purchase of such Lands, or as such Compensation as aforesaid, all the Costs of such Inquiry shall be borne by the Company; but if the Verdict of the Jury be given for a less Sum than the Sum previously offered by the Company, one Half of the Costs shall be defrayed by the Owner of the Lands, and the other Half by the Company: Provided always, that in every Case where, by reason of Absence in Foreign Parts, or of any Disability, the Owner of the Land shall have been prevented from treating with the Company, all the Costs shall be borne by the Company.

Particulars of the Costs, and Recovery thereof.

IX. And be it enacted, That such Costs shall be settled by the Sheriff, and such Costs shall include all reasonable Costs, Charges, and Expences incurred in summoning, impannelling, and returning the Jury, taking the Inquiry, the Attendance of Witnesses, the Employment of Counsel, recording the Verdict and Judgment thereon, and otherwise incident to such Inquiry, and also the Expences of the Bond, if any, given by the Party at whose Instance the Inquiry shall have been taken, for prosecuting his Claim, and securing the Costs of such Inquiry; and with respect to any such Costs payable by the Company, if within Seven Days after Demand such Costs be not paid to the Party entitled to receive the same, the same shall be recoverable by Distress, and on Application to any Justice he shall give his Warrant accordingly; and with respect to any such Costs payable by the Owner of the Lands or of any Interest therein, the same may be deducted out of any Money awarded by the Jury to be paid to such Owner, as so much Money advanced for his Use, and the Payment of the Remainder of such Money shall be a good Payment and Satisfaction of the Whole thereof.

Repealing Clause allowing the Owners of adjoining Lands to make Branches to communicate with Railway.

X. And whereas it was by the said recited Act enacted, that nothing therein contained should prevent the respective Owners and Occupiers of Lands, or Mines or Minerals, next or adjoining the said Railway, or any other Persons, from laying down, either upon their own Lands or the Lands of the said Company, on the Side of the said Railway not built upon, or upon the Lands of other Persons, with the Consent of such other Persons, and not otherwise, any collateral Branches from their respective Lands or Mines to communicate with the said Railway; and the said Company should be bound to make, at the Expence of such Owners and Occupiers and other Persons as aforesaid, Openings in the Ledges or Flanches of the said Railway, for effecting such Communication, in such Places as might be most convenient for that Purpose, and as might least interfere with the Passage of the said Railway; and the said Company should not receive any Rate, Toll, or Sum for the passing of any Goods or other Things along such Branches so to be made by such Owners or Occupiers or Persons as aforesaid: Provided always, that the said Company should not be bound to make any such

such Openings in the Ledges or Flanches of the said Railway for the Purpose of effecting such Communication in any Places where they should have erected or set up any Building, Steam Engine, Works, Machinery, or Yard, or in any Places which they should have appropriated or set apart for any specific Purpose with which such Communication would interfere, nor upon any Inclined Plane the Gradient of which should exceed One Foot in Two hundred Feet, nor in any Tunnel, nor upon any Bridge or Archway, nor upon any Embankment exceeding Ten Feet in Height, within Four Miles of the Town of *Manchester;* and in case any Disagreement or Difference should arise between any such Owners or Occupiers or other Persons and the said Company, as to the proper Places for making any such Opening in the Ledges or Flanches of the said Railway for the Purpose of such Communication, then the same should be left to the Decision of any Two Justices of the Peace within their Jurisdiction, whose Determination should be binding; and such Justices were thereby authorized and empowered to take cognizance of all such References, and to act therein accordingly: And whereas it is expedient that the said recited Enactment should be repealed, be it therefore enacted, That the same shall be and the same is hereby repealed.

Repeal of Limitation of Actions Clause.

XI. And whereas it was by the said recited Act enacted, that no Action, Suit, or Information, nor any other Proceedings, of any Nature soever, should be brought, commenced, or prosecuted against any Person or Corporation, for any thing done or omitted to be done in pursuance of the said Act, or in the Execution of the Powers or Authorities or any of the Orders made, given, or directed in or by the said Act, unless Twenty Days previous Notice in Writing should be given by the Party intending to commence and prosecute such Action, Suit, Information, or other Proceeding to the intended Defendant, nor unless such Action, Suit, Information, or other Proceeding should be brought or commenced within Six Calendar Months next after the Cause of Action should arise (or in case there should be a Continuation of Damage then within Six Calendar Months next after such Cause of Action should have ceased), nor unless such Action, Suit, or Information should be laid and brought in the County or Place where such Cause of Action should arise; and the Defendant in such Action, Suit, Information, or other Proceeding might plead the General Issue, and give the said Act and the Special Matter in Evidence at any Trial to be had thereupon, and that the Acts or Things were done or omitted to be done in pursuance of or by the Authority of the said Act; and if they should appear to have been so done, or to have been so omitted to be done, or if it should appear that such Action, Suit, Information, or other Proceeding should have been brought otherwise as therein directed, then and in every such Case the Jury should find for the Defendant; upon which Verdict, or if the Plaintiff should become nonsuited, or should suffer a Discontinuance of his Action, Suit, Information, or other Proceeding after the Defendant should have appeared thereto, or if a Verdict should pass against the Plaintiff therein, or if, upon Demurrer or otherwise, Judgment should be given against the Plaintiff, the Defendant should have his Costs, and should have such Remedy

for recovering the same as Defendants have for recovering Costs of Suit by Law in other Cases: And whereas it is expedient that the said Provisions, so far as the same may confer any special Privilege or Advantage on the said Company, which without such Provisions they would not enjoy, should be repealed; be it therefore enacted, That the said Provisions shall be and the same are hereby declared to be repealed: Provided always, that nothing herein contained shall extend or be held to revive any Claim already barred by the Operation of the Enactment hereby repealed.

Railway not to be exempt from Provisions of any general Act.

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

Expences of Act.

XIII. And be it enacted, That all the Costs, Charges, and Expences of and incidental to the obtaining and passing of this Act shall be paid by the said Company out of the first Money received or to be received by them under the Authority of the said recited Act or this Act, and in preference to all other Payments.

Public Act.

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

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