CHAPTER cxxi.

An Act to authorise the diversion and alteration of the line and levels of the Whitby, Redcar, and Middlesborough Union Railway; and for other purposes. [7th July 1873.] A.D. 1873.

29 & 30 Vict. c. cxcv.

WHEREAS by "The Whitby, Redcar, and Middlesborough Union Railway Act, 1866," the Whitby, Redcar, and Middlesborough Union Railway Company were incorporated, with power to make a railway in the north riding of the county of York from the Whitby branch of the North-eastern Railway to the Cleveland branch of the same railway:

Warrant of Board of Trade.

And whereas the time limited by the said Act for the purchase of land and completion of the railway thereby authorised was extended for two years by warrant of the Board of Trade, pursuant to "The Railways Extension of Time Act, 1868:"

And whereas it is expedient to authorise the diversion of certain portions of the railway authorised by the said Act:

And whereas plans and sections showing the lines and levels of the altered railway and works by this Act authorised, 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 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 north riding of the county of York, and are herein-after respectively referred to as the deposited plans, sections, and books of reference:

And whereas a sum exceeding one half of the amount of the capital by the Act of 1866 authorised to be raised by means of shares has been expended for the purposes of that Act and this Act:

And whereas the purposes 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,

A.D. 1873.

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 all purposes as "Whitby, Redcar, and Middlesborough Union Railway Act, 1873."

Provisions of general Acts herein named incorporated.

2. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," "The Railways Clauses Consolidation Act, 1845," and Part I. (relating to the 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 of terms.

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 Company" means the Whitby, Redcar, and Middlesborough Union Railway Company; the expression "the Act of 1866" means "The Whitby, Redcar, and Middlesborough Union Railway Act, 1866;" "the railway" and "the undertaking" mean respectively the altered railway and undertaking of the Company by the Act of 1866 and this Act authorised, so far as not abandoned by this Act; and 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 common simple contract debt, and not a debt or demand created by statute.

Power to make railway according to deposited plans.

4. Subject to the provisions of this Act the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the railway herein-after 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 railway herein-before referred to and authorised by this Act is:

A deviation railway sixteen miles four furlongs three and a half chains in length (wholly situate in the north riding of the county of York), commencing in the township of Ruswarp, in the parish of Whitby, by a junction with the Whitby branch of the North-eastern Railway Company, about twenty yards, measured along that branch, from the public road level crossing at Boghall, and terminating by a junction with the Cleveland Railway of the same Company at the termination

of that railway at Waytail Beck, at or near to the boundary between the parishes of Lofthouse and Easington otherwise Easington-cum-Liverton.

Junction with North-eastern Railway Company's railways to be approved by their engineer, and interference with their property restricted.

5. The railway shall join the railways of the North-eastern Railway Company at such points, in such manner, and with such connecting lines of approach and other works as shall be required or approved by the engineer of that company, and the several provisions in "The Railways Clauses Act, 1863," as to junctions, shall extend and apply as well to those connecting lines and works as to the junctions with the railways of the North-eastern Railway Company; and the Company shall not purchase or take compulsorily any land or property of the North-eastern Railway Company, nor (save only so far as may be necessary for the purpose of constructing and maintaining the railway on the property of that company, and the said junctions, connecting lines, and works, in accordance with the provisions of this Act) shall the Company or any person in the execution of this Act in any manner, either temporarily or permanently, enter upon, use, or interfere with any of the lands or property of that company, except with their consent in writing first obtained.

Application of moneys.

6. The Company may apply towards the construction of the works authorised by this Act any of the moneys which they have raised or are authorised to raise by the Act of 1866, as if those works had been authorised by that Act.

Lands for extraordinary purposes.

7. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in "The Railways Clauses Consolidation Act, 1845," shall not exceed four acres.

Powers for compulsory purchases limited.

8. 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.

Power to cross certain roads on the level.

9. Subject to the provisions of "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 railway, carry the same with a single line only, whilst the railway shall consist of a single line, and afterwards with a double line only, across and on the level of the roads next hereinafter mentioned; (that is to say,)

No. on deposited Plan.	Parish.	Description of Road.
6	Lythe - - -	Public.
8	Lythe - - -	Public.

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Inclination of roads.

10. In altering for the purposes of this Act the roads next herein-after mentioned the Company may make the same of any inclinations not steeper than the inclinations herein-after mentioned in connexion therewith respectively; (that is to say,)

No. on deposited Plan.	Parish.	Description of Road.	Intended Inclination.
10	Hinderwell	Public	1 in 15 on one side.
10	Lofthouse	Public	1 in 8 on one side and level on the other.

Power to take easements, &c. by agreement.

11. 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 Act 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.

Period for completion of works.

12. If the railway is not completed within four 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 railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Company may abandon portion of line authorised by Act of 1866.

13. The Company shall abandon so much of the railway authorised by the Act of 1866 as will be rendered unnecessary by the construction of the new or substituted railway by this Act authorised.

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

14. The abandonment by the Company under the authority of this Act of any portion of any railway or works 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 the line of railway, and shall not prejudice or affect the right of the owner or occupier of any land which may have been temporarily occupied by the Company to receive compensation for such temporary occupation for any loss, damage, or injury which may have 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 in the Act of 1866. A.D. 1873.

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

15. Where before the passing of this Act any contract may have 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 or works 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.

Altered railway and works to be Company's undertaking.

16. The railway and works by this Act authorised, and the lands and property from time to time acquired by the Company under the Act of 1866 and this Act, shall for the purpose of tolls and charges, and for all other purposes whatsoever be the undertaking and property of the Company, as if the Company had by the Act of 1866 been authorised to acquire, make, and maintain the same; and sections thirty-eight and thirty-nine of that Act shall extend and apply to the railway by this Act authorised in all respects as if that railway had been the railway authorised by the Act of 1866.

Railway not exempt from provisions of present and future general railway Acts.

17. Nothing in this Act contained shall exempt the railway of the Company from the provisions of any general Act relating to railways, or to 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.

Expenses of Act.

18. All costs, charges, and expenses of and incident to the obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Company.

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