ANNO DECIMO QUINTO

VICTORIÆ REGINÆ.

****

Cap. cxiv.

An Act for enabling the *York*, *Newcastle*, *and Berwick* Railway Company to make a Deviation in the Line of their *Bishop Auckland* Branch, to extend the Time for the Purchase of Lands and Completion of Works on certain Lines of Railway authorized to be made in the County of *Durham*, and for other Purposes.

[17th *June* 1852.]

WHEREAS an Act was passed in the Fifth Year of the Reign of Her present Majesty Queen *Victoria*, intituled *An Act for completing the Railway Communication between* (5 & 6 Vict. c. 80.) *the Towns of* Newcastle-on-Tyne *and* Darlington *by a Railway, to be called* "*The* Newcastle and Darlington Junction *Railway, with a Branch to the City of* Durham," whereby several Persons became and were incorporated by the Name of "The *Newcastle and Darlington Junction* Railway Company," which Name was afterwards changed to

The York, Newcastle, and Berwick (Auckland Branch) Railway Act, 1852.

"The *York and Newcastle* Railway Company," and has since been altered to "The *York, Newcastle, and Berwick* Railway Company:" And whereas the Provisions of the said recited Act have been amended and extended or altered by several subsequent Acts relating to the said Company, passed respectively in the Sixth, Seventh, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, and Fifteenth Years of the Reign of Her present Majesty: And whereas it is expedient that a Deviation should be made in the Line of the *Bishop Auckland* Branch of the *York, Newcastle, and Berwick* Railway, as at present authorized, and no Works have yet been commenced on that Portion of the Line of the said Branch which will become unnecessary by reason of such Deviation: And whereas it is also expedient that the Time limited by "The *York, Newcastle, and Berwick* (*Auckland* Branch) Railway Act, 1851," for the Purchase of Lands and Completion of Works for the Purposes of the Railways and Works authorized by "The *York, Newcastle, and Berwick* (Main Line Improvement) Railway Act, 1848," should be extended so far as regards a Portion of such Railways and Works: And whereas it is also expedient that some of the Powers and Provisions of the said recited Acts should be altered, amended, extended, and enlarged; but 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, and Commons, in the present Parliament assembled, and by the Authority of the same, as follows; (that is to say,)

8 & 9 Vict. cc. 18. and 20. extended to this Act.

I. That "The Lands Clauses Consolidation Act, 1845," and "The Railways Clauses Consolidation Act, 1845," shall be incorporated with this Act.

Power to make Railway according to deposited Plans.

II. And whereas Plans and Sections describing the Line and Levels of the proposed Deviation of the Line of Railway and Works hereby authorized to be made, together with a Book of Reference to the said Plans containing the Names of the reputed Owners and Lessees and of the Occupiers of the Lands through which the same respectively are intended to pass or be made, have been deposited with the Clerk of the Peace for the County of *Durham*: Be it enacted, That, subject to the Provisions in this Act, and "The Lands Clauses Consolidation Act, 1845," and "The Railways Clauses Consolidation Act, 1845," contained, it shall be lawful for the *York, Newcastle, and Berwick* Railway Company to make and maintain the Deviation herein-after described in the Line of the *Bishop Auckland* Branch Railway

Railway as at present authorized, with all proper Works and Conveniences connected therewith, in the Line and according to the Levels shown upon the said Plans and Sections, and upon the Lands delineated on the said Plans and described in the said Book of Reference, and to enter upon, purchase, take, and use such of the said Lands as shall be necessary for such Purpose.

Line of Railway.

III. That the Deviation in the Line of Railway to be made under the Authority of this Act shall commence by a Junction with the Line of the *Bishop Auckland* Branch Railway, as authorized by "The *York, Newcastle, and Berwick* (Main Line Improvement) Railway Act, 1848," at the Point where the same Branch Railway crosses a Brook running through a Field in the Township of *Framwellgate* and Parish of *St. Oswald* in the County of *Durham*, numbered 200 on the Plan of the said Branch Railway deposited with the Clerk of the Peace for the said County of *Durham* in the Month of *November* 1846, and shall terminate at the Point where the said present authorized Branch Railway intersects a Fence lying on the South Side of a Field in the Township of *Hunwick* and *Helmington* and Parish of *Saint Andrew Auckland* in the said County of *Durham*, numbered 20 on the said Plans deposited in the said Year 1846.

Certain Roads may be crossed on the Level.

IV. That, subject to the Provisions in the Railways Clauses Consolidation Act, 1845, contained, in reference to the crossing of Roads on the Level, it shall be lawful for the Company, in the Construction of the Railway by this Act authorized to be made, to carry the same across the several Roads or Highways herein-after mentioned on the Level thereof; (that is to say,)

The public Road in the Township of *Brancepeth* numbered 3 on the Plans of the said intended Deviation:

The public Road in the Township of *Brancepeth* numbered 29 on the same Plans:

The public Road in the Township of *Stockley* numbered 10 on the same Plans:

The Turnpike Road from *Durham* to *Wolsingham* in the Township of *Willington* numbered 42 on the same Plans.

Company to erect a Station or Lodge at Points of crossing, and to abide by Rules, &c. of Board of Trade.

V. That for the greater Convenience and Security of the Public the Company shall erect and permanently maintain either a Station or Lodge at the Points where the said Railway crosses the beforementioned Roads on the Level; and the Compay shall be subject to and shall abide by all such Rules and Regulations with regard to the crossing

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 Board of Trade; and if the said Company shall fail to erect or at all Times maintain any such Station or Lodge, or appoint a proper Person to watch or superintend the crossing at any 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.

Board of Trade may require Bridges instead of level Crossings.

VI. That it shall be lawful for the Board of Trade, if it shall appear to them to be necessary for the Public Safety, at any Time, either before or after the Railway by this Act authorized to be made shall have been completed and opened for public Traffic, to require the Company, within such Time as the said Board of Trade shall direct, and at the Expense of the Company, to carry any or either of the before-mentioned Roads either under or over the Railway by means of a Bridge or Arch, in lieu of crossing the same on the Level, or to execute such other Works as under the Circumstances of the Case shall appear to the said Board of Trade the best adapted for removing or diminishing the Danger arising from such level Crossing.

Part of Bishop Auckland Branch to be abandoned.

VII. That the Company shall abandon and relinquish the Construction of so much of the *Bishop Auckland* Branch Railway, as authorized by "The *York*, *Newcastle*, *and Berwick* (Main Line Improvement) Railway Act, 1848," as lies between the Points where the said intended Deviation of the Line of Railway is by this Act authorized to commence and terminate.

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

VIII. Provided always, That in any Case where, before the passing of this Act, any Contract hath been entered into or Notice given by the Company for purchasing any Lands which the Company were by "The *York*, *Newcastle*, *and Berwick* (Main Line Improvement) Railway Act, 1848," empowered to purchase, for the Purpose of constructing the Portion of Railway so required to be abandoned as aforesaid, the Company shall make to the Owners or Occupiers of and other Parties interested in such Lands full Compensation for all Injury or Damage sustained by such Owners, 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 Applica-

Application of the Compensation to be paid for Lands taken under the Provisions thereof: Provided also, that the Authority hereby given for abandoning the Formation of the aforesaid Portion of Railway shall not prejudice or affect the Right of the Owner or Occupier of any Lands which the Company were so empowered to purchase as aforesaid to receive from the Company Compensation for any Damage that 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 said Lands Clauses Consolidation Act contained.

Existing Powers for the Purchase of Lands for extraordinary Purposes not to be prejudiced.

IX. That, notwithstanding anything contained in this Act, or in the said Acts under which the said abandoned Line was authorized to be constructed, the Power by such last-mentioned Acts granted for the Purchase of Lands for extraordinary Purposes shall be held to apply to and may be exercised in connexion with the Railway by this Act authorized to be constructed, in the same Manner and to the same Extent as before the passing of this Act the same applied to and might have been exercised in connexion with the Railway hereby authorized to be abandoned.

Powers for compulsory Purchase of Lands limited.

X. That the Powers of the Company for the compulsory Purchase of Lands for the Purposes of the Railway and Works authorized by this Act shall not be exercised after the Expiration of One Year from the passing thereof: Provided nevertheless, that if the said Company shall not, on or before the First Day of *October* next after the passing of this Act, have purchased, or exercised their compulsory Powers for the Purchase, taking, or using of the whole of the Lands required for the Railway by this Act authorized, and also for the other Portions of the said *Bishop Auckland* Branch which with such last-mentioned Railway will after the passing of this Act be necessary, in order to form a continuous Line of Communication by Railway from the *Bishop Auckland and Weardale* Railway to the present Main Line of the *York, Newcastle, and Berwick* Railway near the *Leamside* Station thereon, then and immediately after the said First Day of *October* next all the Powers of the Company for the compulsory Purchase of Lands, and for the Construction of the said Railway by this Act authorized, and of the said other Portions of the said *Bishop Auckland* Branch herein-before mentioned or referred to, shall absolutely cease and determine, except in any Case in which the Omission to exercise such compulsory Powers of Purchase shall have been caused by Accident, and not by the wilful Default of the said Company.

Period for Completion of the Works.

XI. That the Railway and Works by this Act authorized shall be completed within Two Years from the passing of this Act, and on the Expiration of such Period the Powers by this Act, or the Acts incorporated herewith or extended hereto, granted to the Company for executing the same Railway and Works, or otherwise in relation thereto, shall cease to be exercised, except as to so much of such Railway and Works as shall then have been completed, and except such Powers as are by the same Acts or any of them declared to be continued for a longer Period.

Extending Period for compulsory Purchase of Lands and Completion of Works on certain Lines of Railway.

XII. That the Period limited by the "*York, Newcastle, and Berwick* (*Auckland* Branch) Railway Act, 1851," for the compulsory Purchase, taking, or using of Lands for the Purposes of the Railways and Works authorized by "The *York, Newcastle, and Berwick* (Main Line Improvement) Railway Act, 1848," shall, so far as regards the Railway firstly thereby authorized, and also so far as regards that Portion of the said *Bishop Auckland* Branch Railway authorized by the said last-mentioned Act which lies between the Point where the same joins the said Railway firstly authorized by the said Act, being the Point marked C. on the Plan referred to in the said Act relating to the same Railway and the Point marked F. on the same Plan in the Field numbered thereon 154 in the Township of *Framwellgate* and Parish of *St. Oswald* in the said County of *Durham*, be and the same is hereby continued, extended, and enlarged for the further Term of Two Years, to be computed from the passing of this Act, and that the same Railways and Works (the Time for purchasing the Lands for the Purposes whereof is so hereby extended) shall be completed within Four Years from the passing of this Act, instead of the Period limited by "The *York, Newcastle, and Berwick* (*Auckland* Branch) Railway Act, 1851," for the Construction thereof: Provided always, that the Extension of Time for the compulsory Purchase, taking, or using of Lands and Completion of Works hereby authorized shall not extend or apply to such Portion of the said Railway firstly authorized by the said "*York, Newcastle, and Berwick* (Main Line Improvement) Railway Act, 1848," as is necessary to complete the Communication between the Railways thirdly and fourthly authorized by the same Act, which Portion of Railway, instead of being taken and considered as forming Part of the said Railway firstly authorized by the said Act of 1848, shall, along with the said Railways thirdly and fourthly thereby authorized, from henceforth be taken and considered for all Purposes and Objects whatsoever to belong to and form Part of the said *Bishop Auckland* Branch Railway, and as if the same had originally been so described and authorized to be constructed.

XIII. That

The York, Newcastle, and Berwick (Auckland Branch) Railway Act, 1852.

Existing Contracts not to be prejudiced.

XIII. That the last preceding Enactment shall not prejudice or affect any Contract or Agreement for the Purchase or taking of Lands entered into by the said Company before the passing of this Act; but where before the passing of this Act any such Contract shall have been entered into or Notice given by the Company for purchasing, taking, or using any Lands for the Purposes of the Railways authorized by "The *York, Newcastle, and Berwick* (Main Line Improvement) Railway Act, 1848," any such Contract and Notice respectively shall be construed and take effect, and the same Proceedings shall be had thereunder, and all Parties thereto shall be entitled to the same Rights and Remedies in respect thereof, both at Law and in Equity, as if such Extension of the said respective Periods had not been authorized as aforesaid.

Parties aggrieved by Extension of Time being granted, may have Compensation for additional Damage.

XIV. Provided always, That the Justices, Arbitrators, Umpires, or Juries respectively (as the Case may be) who, under the Provisions of "The *York, Newcastle, and Berwick* (Main Line Improvement) Railway Act, 1848," shall award or assess the Compensation to be made by the Company to the Owners or Occupiers of or other Parties interested in any of the Lands which shall be taken or used for the Purposes of the said Railways thereby authorized, and the Works connected therewith respectively, or which may be injuriously affected by the Construction thereof, shall, in estimating the Amount of such Compensation, have regard to and make Compensation for the additional Damage (if any) sustained by such Owners, Occupiers, or other Persons by reason of the Extension of the Period for the Purchase of such Lands hereby authorized.

Certain Lands not to be taken by Compulsion.

XV. Provided always, That nothing in this Act contained shall authorize the Company to take any of the Lands of the Right Honourable *George Frederick D'Arcy* Earl of *Durham*, nor any of the Lands of the Right Honourable *Thomas Henry* Lord *Ravensworth*, delineated upon the deposited Plans of the Line of Railway firstly authorized by "The *York, Newcastle, and Berwick* (Main Line Improvement) Railway Act, 1848," without the previous Consent in Writing of the said Earl of *Durham* and Lord *Ravensworth* (as the Case may be), their Heirs and Assigns.

Same Tolls to be taken as are now payable by certain Railways herein named.

XVI. That from and after the passing of this Act it shall be lawful for the *York, Newcastle, and Berwick* Railway Company aforesaid, and they are hereby authorized and empowered, (subject nevertheless to the Provisions and Restrictions in this Act, and in "The *Great North of*

of England Railway Purchase Act, 1846," and "The *York, Newcastle, and Berwick* Railway Act, 1849," contained,) to demand, receive, and take, for and in respect of Passengers, and of the several Articles, Matters, and Things, and of all Descriptions of Animals, conveyed on the Railway by this Act authorized to be made, and also for the Use of Carriages and Locomotive Engines or other Power supplied by the *York, Newcastle, and Berwick* Railway Company thereon, such and the like Rates, Tolls, or other Charges as by "The *Great North of England* Railway Purchase Act, 1846," and "The *York, Newcastle, and Berwick* Railway Act, 1849," the said Company are authorized to demand and receive for the like Passengers, Animals, Articles, Matters, and Things conveyed on the Railways belonging to them, and for the Use of the like Carriages and Locomotive Engines or other Power, as well for ordinary as for Express Trains supplied by the same Company on the same Railways.

Money received under Act of 1848 may be applied to Act.

XVII. That it shall be lawful for the *York, Newcastle, and Berwick* Railway Company to raise, and apply towards the Purposes of this Act, such Portion as may be found necessary of the Money which they were authorized by the *York, Newcastle, and Berwick* (Main Line Improvement) Railway Act, 1848, to raise for the Purposes of that Act.

Power to contract with the Owners of certain private Lines of Railway communicating with Collieries, &c.

XVIII. That it shall be lawful for the Company, and for the Owners of or other Persons interested in any private Lines of Railway which now are or have been or at any Time hereafter may be used for the Conveyance of Coals or other Articles or Things to or from any Collieries with which such private Lines of Railway communicate, to make and enter into such Contracts and Agreements as they may think fit with reference to the Conveyance by the Company upon their Lines of Railway, or any of them, or any Part thereof, of Coals and other Articles and Things passing to or from such Collieries, and for the Discontinuance of the Conveyance thereof upon such private Lines, and upon Payment of such Tolls and subject to such Conditions as may be mutually agreed on, and from Time to Time to alter or vary any such Contract or Agreement as they may think fit.

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

XIX. 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 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

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 Provisions of 1 & 2 Vict. c. 98., 3 & 4 Vict. c. 97., 5 & 6 Vict. c. 55., 7 & 8 Vict. c. 85., 9 & 10 Vict. c. 57., and 14 & 15 Vict. c. 64.

XX. 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 Railways*; 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 Session of Parliament held in the Ninth and Tenth Years of the Reign of Her said Majesty, intituled *An Act for regulating the Gauge of Railways*; and another Act was passed in the last Session, intituled *An Act to repeal the Act for constituting Commissioners of Railways*: Be it enacted, That nothing in this Act contained shall be held to exempt the said Railway hereby authorized, or the said Company in respect thereof, from the Provisions of the same several Acts respectively, but that such Provisions shall be in force with reference to the same Railway and Company in respect thereof, so far as the same are applicable.

Railways not exempt from Provisions of future General Acts.

XXI. That nothing herein contained shall be deemed or construed to exempt the Railways by this or the said recited Acts authorized to be made, or the said Company, from the Provisions of any General Act relating to such Acts, or 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 and Alteration, under the Authority of Parliament, of the maximum Rates of Fares and Charges authorized by the said recited Acts or this Act.

Expenses of Act.

XXII. That all the Costs, Charges, and Expenses of and attending the passing of this Act, or incidental thereto, shall be paid by the said Company.

Short Title.

XXIII. That this Act may be cited, for all Purposes, as "The *York, Newcastle, and Berwick* (*Auckland* Branch) Railway Act, 1852."

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