ANNO DECIMO QUINTO

VICTORIÆ REGINÆ.

****

Cap. xxxvi.

An Act for enabling the *York, Newcastle, and Berwick* Railway Company to make a Deviation in the Line of their *Thirsk and Malton* Branch; and to enable the *Malton and Driffield Junction* Railway Company to subscribe towards and enter into Agreements with respect to the said Branch; and for other Purposes. [28th *May* 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* (5 & 6 Vict. c. 80.) *between 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 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 sub-

sequent Acts relating to the 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 *Thirsk and Malton* Branch of the *York, Newcastle, and Berwick* Railway as at present authorized, and no Works have yet been commenced on the Line of the said Branch Railway as at present authorized, which will become unnecessary by reason of such Deviation: And whereas the *Thirsk and Malton* Branch, when such Deviation is made as is by this Act authorized, will unite with the Railway belonging to the *Malton and Driffield Junction* Railway Company, and it is expedient that the last-named Company and the *York, Newcastle, and Berwick* Railway Company should be empowered to enter into Agreements as to the working, Management, and Maintenance thereof: 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 this present Parliament assembled, and by the Authority of the same, as follows; (that is to say,)

Provisions of 8 & 9 Vict. cc. 18. & 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 respective Clerks of the Peace for the North and East Ridings of the County of *York:* 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 *Thirsk and Malton* Branch 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

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 *Malton and Driffield Junction* Railway on the North-west Side of the Turnpike Road leading from *New Malton* to *Scarborough* in the Township and Parish of *Norton* in the East Riding of the County of *York*, where such Road is carried by a Bridge over the said *Malton and Driffield Junction* Railway, and shall terminate by a Junction with the present authorized *Thirsk and Malton* Branch Railway on the South-east Side of the Road or Way leading from *New Malton* in the Township and Parish of *Old Malton* in the North Riding of the said County of *York*, numbered 68 on the Plan of the said Branch Railway deposited with the respective Clerks of the Peace for the said Ridings in the Year One thousand eight hundred and forty-five.

Certain Roads may be crossed on the Level.

IV. That, subject to the Provisions in "The Railway Clauses Consolidation Act, 1845," contained, in reference to the crossing of Roads on a 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 Turnpike Roads and Highways herein-after mentioned on the Level thereof; (that is to say,)

The public Highway in the Township and Parish of *Old Malton*, numbered Twenty-two on the Plans of the said intended Deviation:

The Township Road or public Highway in the said Township and Parish of *Old Malton*, numbered Twenty-eight on the same Plans.

Company to erect a Station or Lodge at Points of crossing, and to abide by Regulations 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 before-mentioned Roads on the Level; and the 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 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.

VI. That

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.

Company to abandon Part of Thirsk and Malton Branch.

VII. That the said Company shall abandon and relinquish the Construction of so much of the *Thirsk and Malton* Branch Railway authorized by "The *Newcastle and Darlington Junction* (*Thirsk and Malton* Branches) Railway Act, 1846," as lies between the said Road or Way numbered 68 in the said Township and Parish of *Old Malton* on the said Plans deposited in the Year 1845 as aforesaid and the Point where the said present authorized *Thirsk and Malton* Branch Railway joins the Railway belonging to the *York and North Midland* Railway Company called the *York and Scarborough* Railway in the said Township and Parish of *Norton* in the said East Riding, as shown on the same last-mentioned Plans.

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 *Newcastle and Darlington Junction* (*Thirsk and Malton* Branches) Railway Act, 1846," empowered to purchase, for the Purpose of constructing the Portion of Railway so authorized 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 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

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.

Nothing to prejudice existing Powers for Purchase of Lands, &c.

IX. That, notwithstanding anything contained in this Act or in the said Act under which the said abandoned Line was authorized to be constructed, the Power by such last-mentioned Act 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.

Period 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.

Period for Completion of the Works.

XI. That the Railway and Works by this Act authorized shall be completed within Three 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.

Regulations as to Tolls to be taken.

XII. 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 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,

them, and for the Use of the like Carriages and Locomotive Engines or other Power, as well for ordinary as express Trains, supplied by the same Company on the same Railways.

Power to apply existing Capital to the Purposes of this Act.

XIII. That it shall be lawful for the *York, Newcastle, and Berwick* Railway Company to raise and apply for the Purposes of this Act such Portion as shall be necessary of the Money which by the *Newcastle and Darlington Junction (Thirsk and Malton* Branches) Railway Act, 1846, they were authorized to raise for the Purposes of that Act.

Companies authorized to enter into Agreements as to the Management of the Railway, &c.

XIV. That it shall be lawful for the *York, Newcastle, and Berwick* Railway Company and the *Malton and Driffield Junction* Railway Company from Time to Time to enter into such Contracts and Agreements as shall be deemed expedient, with reference to the working, Use, Management, Supervision, Maintenance, Support, and Repairs of the *Thirsk and Malton* Branch Railway, as already and by this Act authorized, and of the Works connected therewith, and as to the Payment or Contribution by or between the said Companies, or by the one of them to the other of them, of or towards the Costs, Charges, and Expenses of such working, Use, Management, Supervision, Maintenance, Support, and Repairs, and also with reference to the Rates, Tolls, and Charges to be charged by or to either of the same Two Companies for or in respect of any Passengers, Goods, Merchandise, or other Traffic passing upon or along the same Branch Railway and Premises (such Rates and Tolls not exceeding the Limit by this Act authorized to be charged or taken), and the Division and Apportionment between the said Two Companies of such Rates, Tolls, and Charges, or of the Rates, Tolls, and Charges to be taken or received by both or either of the said Two Companies, in respect of the whole Distance any of such Passengers, Goods, Merchandise, or other Traffic shall have been carried or taken by them or either of them, and generally for and in respect of all such Matters and Things as may be considered necessary or desirable for the mutual Convenience and Advantage of the same Two Companies respectively, with reference to the said Branch Railway and Works, and the Traffic thereof, as to the same Two Companies, or the Directors thereof for the Time being, may from Time to Time seem necessary or expedient, and the same Agreements, with the Assent of the same Two Companies or the Directors thereof for the Time being, from Time to Time to alter and vary as Occasion may require.

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

XV. That it shall not be lawful for the said *York, Newcastle, and Berwick* Railway Company, out of any Money by any Act relating to the said Company authorized to be raised for the Purposes of such Act,

Act, 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., 9 & 10 Vict. c. 57., and 14 & 15 Vict. c. 64.

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 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 and Company not exempt from Provisions of future General Acts.

XVII. 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 Company, 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.

XVIII. That all the Costs, Charges, and Expenses of and attending the passing of this Act or incidental thereto shall be paid by the *York, Newcastle, and Berwick* Railway Company.

XIX. That

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

Short Title.

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

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