



ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

Cap. cxxx.

An Act for granting further Powers to the Midland Counties Railway Company.

[10th August 1840.]

WHEREAS an Act was passed in the Sixth Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for making a Railway, with Branches, commencing at the London and Birmingham Railway in the Parish of Rugby in the County of Warwick, to communicate with the Towns of Leicester, Nottingham, and Derby, to be called "The Midland Counties Railway"*: And whereas another Act was passed in the Second Year of the Reign of Her present Majesty Queen *Victoria*, intituled *An Act for amending and enlarging the Provisions of the Act relating to the Midland Counties Railway, and for making a Branch therefrom to the Town of Mountsorrel in the County of Leicester*: And whereas it is expedient that Power should be granted to the Company incorporated by the said first-recited Act to raise an additional Sum of Money, and that some of the Provisions of the said recited Acts should be amended and enlarged; but the Purposes aforesaid cannot be effected without the Aid and 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

6 & 7 W. 4.
c. 78.

1 & 2 Vict.
c. 57.

[Local.]

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Lords

Powers of recited Acts to extend to this Act, except as hereby altered.

Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said recited Acts, and all Powers, Authorities, Penalties, Forfeitures, Rules, Remedies, Directions, Articles, Matters, and Things therein contained (except so far as the same are varied or altered), shall be good, valid, applicable, and effectual for carrying this Act into execution, in as full, ample, and beneficial a Manner, to all Intents and Purposes whatsoever, as if the same had been repeated and re-enacted expressly and at length in the Body of this present Act.

Power to raise an additional Sum of Money by Subscription.

II. And be it further enacted, That it shall be lawful for the said Company, and they are hereby empowered, from Time to Time, by an Order of any General or Special General Meeting specially convened for that Purpose, to raise and contribute amongst themselves, or by the Admission of new Subscribers, in addition to the Sums of Money which they have raised or are empowered to raise under and by virtue of the said first-recited Act, any further Sum of Money not exceeding in the whole the Sum of One hundred and fifty thousand Pounds, in such Proportions as they shall think fit; and the Monies so to be raised from Time to Time shall be divided into distinct and integral Shares of such Amount and bearing such annual Sums, either for a Time to be specified or otherwise, and shall be appropriated and disposed of in such Manner, for such Prices, and by such Ways and Means as by the Order of any such Meeting shall be fixed and determined; and the Directors of the said Company are hereby authorized to fix the Amount of the Calls to be from Time to Time made in respect of such Shares, and the Time or Times when the same shall be paid; and such new or additional Shares so to be created by virtue of this Act shall be deemed Personal Estate, and shall or may be transferred or assigned from Time to Time in the Manner provided in and by the said first-recited Act in respect of the original Shares in the said Undertaking; and to such new Shares, and the Proprietors thereof, shall apply all the Powers to charge Interest upon the Calls made thereon, to sue for Calls and Interest, and to declare forfeited and to sell Shares in case of Nonpayment of Calls, contained in the said first-recited Act with regard to the Calls made on the Shares therein mentioned or referred to; and all Persons whosoever, and their several and respective Executors, Administrators, and Assigns, who shall severally subscribe for One or more of the said new or additional Share or Shares, and shall pay such Sum or Sums of Money as shall be fixed by the said Company as the Price of such Share or Shares, shall respectively be entitled to and receive such proportional Part and Parts of the Profits and Advantages that shall and may arise and accrue from the said Undertaking, and have a Vote or Votes in respect of the same at all Meetings of the said Company to be held in pursuance of the said first-recited Act, with Power and Authority to appoint a Proxy or Proxies in his, her, or their Room or Stead, in such Way and Manner, and to the same Extent, to all Intents and Purposes, as is and are enacted and provided in and by the said first-recited Act with regard to the Subscribers for the Money authorized to be raised by such Act:

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Provided always, that the Proprietors of such new Shares shall be entitled only to such Number of Votes in respect thereof as the Amount of Stock represented by such Shares would have entitled them to if they had been original Shareholders in the said Undertaking; and no Proprietor shall be entitled to any Vote unless possessed of some Share or Shares representing One hundred Pounds at least Capital Stock of the said Company.

III. And be it further enacted, That it shall be lawful for the said Company, and they are hereby authorized and empowered, after the said Sum of One hundred and fifty thousand Pounds herein-before authorized to be raised by Shares shall have been subscribed for, and One Half of the whole Capital of the Company shall have been paid up, to borrow and take up at Interest any Sum of Money not exceeding in the whole the Sum of Fifty thousand Pounds, in such Proportions as they shall think reasonable, either in anticipation or in addition to the said Sum of One hundred and fifty thousand Pounds hereby authorized to be raised by Shares as aforesaid; and the said Company are hereby empowered from Time to Time to mortgage and assign the Property of the said Undertaking, and the Rates, Tolls, and other Sums arising or to arise by virtue of the said recited Acts, under the Common Seal of the said Company, as a Security for any Money so to be borrowed, with Interest thereon at such legal Rate as may from Time to Time be agreed upon, to such Person as shall advance the same respectively, or to his Trustees, in the like Manner and Form, and with, under, and subject to the like Provisions, Powers, Remedies, Directions, and Regulations, as are in the said first-recited Act contained concerning the borrowing of Money, or securing or recovering the same, or the Interest thereof; and every Person to whom such Mortgage or Assignment shall be made under the Authority of this Act shall be equally entitled, one with another, to the Rates, Tolls, Sums, and Premises thereby mortgaged and assigned, in proportion to the Sum for which such Security shall be executed, without any Preference by reason of the Priority in Date of any such Mortgage, or otherwise howsoever: Provided always, that such Securities, and the Dividends and Interest to arise thereupon, shall not be transferrable unless by Instrument duly stamped, in which the Consideration for such Transfer shall be stated, nor shall any Interest be paid upon the said Securities unless to the *bonâ fide* Holders thereof, or the Parties to whom the same may have been lawfully assigned under an Instrument duly stamped, or to the Agents of such Holders or Parties duly authorized to receive the same: Provided also, that any Mortgage already made or to be made by the said Company in pursuance of the said recited Acts, or any Assignment thereof, shall have Priority over and shall precede all other Mortgages or Securities of the same Rates, Tolls, Sums, and Premises to be granted under the Provisions of this Act.

Power to raise an additional Sum of 50,000*l.* by Mortgage.

IV. And be it further enacted, That in case the said Company, instead of borrowing such further or additional Sum of Fifty thousand Pounds as aforesaid by way of Mortgage, or continuing the same

Power to raise the 50,000*l.* by Shares in-

stead of by
Mortgage.

same on Mortgage, shall think it advisable to raise such further or additional Sum, or any Part thereof, by way of Augmentation of their Capital Stock, or shall deem it expedient to borrow or continue at Interest only a Part of the said further or additional Sum by way of Mortgage, and to raise the Remainder or any Part of the Remainder thereof by way of Augmentation of their Capital Stock, then and in either of the said Cases it shall be lawful for the said Company to create and issue and dispose of such an additional Number of new Shares in the Manner herein-before directed and authorized as may be sufficient to augment their Capital Stock by any such further Sum or Sums of Money; and all such further and additional Capital Stock shall be considered as Part of the general Capital Stock of the said Company, and shall be under and subject to the same Provisions, Regulations, Directions, and Management, in all respects, and to all Intents and Purposes, as if the same had been Part of the Sum of One hundred and fifty thousand Pounds herein-before authorized to be raised by the said Company.

Altering an Agreement entered into by the Company with the North Midland Railway Company, and for restraining either Company from agreeing for the exclusive Conveyance of certain Traffic.

V. And whereas the said Midland Counties Railway and the *Birmingham and Derby Junction Railway* are both in connexion with the North Midland Railway at *Derby*: And whereas by an Agreement between the said Midland Counties Railway Company and the North Midland Railway Company, dated the Thirtieth Day of *March* One thousand eight hundred and thirty-eight, the said North Midland Railway Company have entered into certain Covenants with the said Midland Counties Railway Company, that they will cause and procure all the Passengers, Goods, and other Traffic passing along the North Midland Railway, or any Portion thereof, to *Rugby* or any Place to the Southward thereof, to be conveyed along the Midland Counties Railway, and to be entered and booked accordingly; and that the said North Midland Railway Company will not cause nor enter or book the same to be conveyed by any other Railway: And whereas it is expedient that so much of the said Agreement as is herein-before referred to should be rescinded; be it therefore further enacted, That so much of the said Agreement as is herein-before referred to shall from henceforth be void and of no effect, and it shall not be lawful for the said Midland Counties Railway Company or for the *Birmingham and Derby Junction Railway Company* to enter into or act upon any other Contract or Agreement with the said North Midland Railway Company for the exclusive Conveyance or booking of any Traffic; and in case either of the said Midland Counties or *Birmingham and Derby Junction Railway Companies* shall enter into or act on any such Contract or Agreement, the Companies entering into or acting on the same shall forfeit and pay to the other of the said last-mentioned Companies the Sum of Fifty Pounds for every Day during which such Contract or Agreement shall be in force, or during which such Company shall continue to act upon the same after due Notice from the other of the said Companies, which Penalty may be recovered by Action of Debt, with full Costs of Suit, in any of Her Majesty's Courts of Record at *Westminster*: Provided always, that nothing herein contained shall extend to prejudice or affect any of the other Provisions in the said Agreement contained, but such Agreement, save and except in respect

respect of the Provision above set forth, shall be and continue in as full Force as if this Act had not been passed.

VI. And be it further enacted, That the Charges by the said first-recited Act authorized to be made for the Carriage of any Passengers, Goods, Animals, or other Matters or Things to be conveyed by the said Company, or for the Use of any Steam Power or Carriage to be supplied by the said Company, shall be at all Times charged equally and after the same Rate *per Mile* or *per Ton per Mile* in respect of all Passengers, and of all Goods, Animals, or Carriages of a like Description, and conveyed or propelled by a like Carriage or Engine passing on the same Portion of the Line only, and under the same Circumstances; and no Reduction or Advance in any Charge for Conveyance by the said Company, or for the Use of any locomotive Power to be supplied by them, shall be made either directly or indirectly in favour of or against any particular Company or Person travelling upon or using the same Portion of the said Railway only and under the same Circumstances as aforesaid.

Rates of Carriage to be charged equally.

VII. And whereas it was by the said first-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 that Act, or in the Execution of the Powers or Authorities or any of the Orders made, given, or directed in or by that Act, unless Eight 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 that 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 that 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 than as therein-before 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 recited Enactment should be

Repeal of Clause in recited Act as to Limitation of Actions.

[Local.]

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repealed;

repealed; be it therefore further enacted, That the same shall be and is hereby declared to be repealed.

For paying
Expences
of Act.

VIII. And be it further enacted, That all the Costs, Charges, and Expences of applying for, obtaining, and passing this Act, or incident thereto, shall be paid and discharged out of the Funds of the said Company, in preference to all other Payments whatsoever.

Act not to
exempt Rail-
way from
Provisions of
any general
Act.

IX. And be it further 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 Railways which may pass during the present or any future Session of Parliament.

Public Act.

X. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

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