



ANNO VICESIMO SEPTIMO & VICESIMO OCTAVO

VICTORIÆ REGINÆ.

Cap. cccxvii.

An Act to enable the *Portpatrick* Railway Company to alter certain of their Works, to increase their Capital, to make Working Arrangements with certain Companies, and to use Portions of other Undertakings. [29th July 1864.]

WHEREAS the *Portpatrick* Railway Company (who are meant where the Expression "the Company" is hereinafter used) were incorporated, in the Year One thousand eight hundred and fifty-seven, by an Act "to authorize the Construction of a Railway from *Castle Douglas*, in the Stewartry of *Kircudbright*, to *Portpatrick*, in the County of *Wigtown*," and they are empowered to raise a Capital of Four hundred and sixty thousand Pounds, in Shares of Ten Pounds each, and to borrow One hundred and fifty thousand Pounds on Mortgage of their Undertaking, that Sum being less than One Third of the said Share Capital: And whereas the Company have raised Three hundred and ninety thousand Pounds in Shares, and have borrowed on Mortgage the Amount authorized by their Act, but there remain in their Hands Two thousand Shares upon which the Calls have not been paid, and which the Company cannot re-issue unless there is secured to them a Priority of Dividend: And whereas the Cost of the Works at *Stranraer* has exceeded the Estimate upon which the Amount of Capital required by the Company was founded, and the Company are indebted to various Persons, in consequence of such Excess of Cost and otherwise, in a Sum of about Twenty thousand Pounds, and they require additional Capital to the Extent of Twenty thousand Pounds for Completion of certain of their Works, and especially for the Improvement of their Station and Works at *Portpatrick* and other

20 & 21 Vict.
c. cxlix.

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Stations on the Line, and it is therefore expedient that the Company should be authorized to raise the additional Sums of Money hereinafter mentioned: And whereas the Company have found in the Construction of their Railway that it would conduce to the Public Convenience that they should improve the Levels of a certain Part of their Railway in the Parish of *Inch*, in *Wigtonshire*, and that they should alter the Direction of their *Stranraer* Branch at the Harbour of *Stranraer*: And whereas Plans and Sections of the substituted Line of Railway at *Stranraer*, and of the Alteration of Levels, with a Book of Reference to the Plans, containing the Names of the Owners and Lessees, or reputed Owners and Lessees, and of the Occupiers of the Lands through which the Works are made, have been deposited with the Sheriff Clerk of the County of *Wigtown*: And whereas the said Act, after reciting that the *Portpatrick* Railway “will complete the Communication by Railway between the Metropolis and that Part of the Coast of *Scotland* which lies nearest the Port of *Donaghadee* in the County of *Down* in *Ireland*,” and that “it is expedient that the Railway Companies whose Undertakings form Part of such Means of Communication should, together with the *Belfast and County Down* Railway Company, be authorized to contribute Funds towards the proposed Undertaking,” authorizes and requires the *Lancaster and Carlisle* Railway Company to subscribe Forty thousand Pounds towards the Capital of the Company, and by the Fifty-fourth Section of the same Act the same Company are authorized to increase that Subscription by the Amount of Sixty thousand Pounds, and the *Lancaster and Carlisle* Railway Company have in fact contributed towards the Capital of the Company One hundred thousand Pounds, and by the same Section the *Caledonian* Railway Company and *London and North-Western* Railway Company are authorized to subscribe towards the said Capital, and the *Caledonian* Railway Company have in fact contributed towards the Capital of the Company Forty thousand Pounds, and the *London and North-Western* Railway Company have contributed Ten thousand Pounds: And whereas the Undertaking of the *Lancaster and Carlisle* Railway Company is now worked by the *London and North-Western* Railway Company, and it is expedient that the last-mentioned Company, together with the *Caledonian* Railway Company, or that either of those Companies should be authorized to make Arrangements with the *Portpatrick* Railway Company for the Working, Use, and Management of the *Portpatrick* Railway: And whereas the Purposes aforesaid cannot be accomplished 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:

8 & 9 Vict. 1. “The Lands Clauses Consolidation (*Scotland*) Act, 1845,”
 cc. 19. & 33., “The Lands Clauses Consolidation Acts Amendment Act, 1860,”
 “The

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“The Railways Clauses Consolidation (*Scotland*) Act, 1845,” and Parts 1 and 3 of “The Railways Clauses Act, 1863,” relating respectively to Construction of a Railway and to Working Agreements, shall be incorporated with and form Part of this Act.

23 & 24 Vict. c. 106., and 26 & 27 Vict. c. 92. incorporated.

2. It shall be lawful for the Company, subject to the Provisions in this and the incorporated Acts contained, to maintain in the Line and upon the Lands delineated upon the said Plans and described in the said Books of Reference, and according to the Levels shown on the said deposited Sections, the substituted Line of Railway and Works in the Parish of *Inch* in the County of *Wigtown*, between the Turnpike Road Number 238 in the same Parish on the Plans deposited with the Sheriff Clerk of *Wigtownshire* in the Year One thousand eight hundred and fifty-six with relation to the recited Act, and the End of the Embankment in the Harbour of *Stranraer*, and such substituted Works shall be instead of the Portion of Railway and Works between the Points aforesaid heretofore authorized, and the Company may demand and receive for and in respect of the said substituted Line of Railway and Works the same Tolls and Charges as they are authorized to receive in respect of the rest of their Undertaking, and the said substituted Railway and Works shall in all respects be deemed Part of the *Portpatrick* Railway, and the Company may hold and use the said Lands for the Purpose of such substituted Railway and Works.

Authorizing substituted Line of Railway.

3. The Company shall abandon the Formation of so much of their authorized Railway and Works as was intended to be constructed in the Parish of *Inch* between the Commencement of the said substituted Railway and the Termination of the *Stranraer* Branch; and all the Powers, Authorities, and Privileges by the said recited Act granted to the Company for the Construction, Maintenance, or Use of the Portion of Railway by this Act required to be abandoned, shall, from and after the passing of this Act cease and determine, and the Thirty-sixth Section of the recited Act of One thousand eight hundred and fifty-seven shall be read as though the substituted Railway and Works were part of the Undertaking of the Company authorized by the said Act.

Company to abandon certain Portion of authorized Railway.

4. In any Case where before the passing of this Act any Contract has been entered into or Notice given by the Company for purchasing or using any Lands which the Company were 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 such Notice; and the Amount and Application of such Compensation shall be determined in the Manner prescribed by “The Lands Clauses Consolidation (*Scotland*) Act, 1845,” for determining the Amount and

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

Application

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Application of the Compensation to be paid for Lands taken under the Provisions thereof: Provided, that the Authority hereby given for abandoning the said 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 Lands Clauses Consolidation (*Scotland*) Act, 1845," contained.

Authorizing
Alteration of
Levels.

5. It shall be lawful for the Company to maintain their Railway according to the Levels shown upon the Sections deposited in the Month of *November* last with relation to this Act, and upon the Lands shown upon the Plans, and described in the Book of Reference so deposited, the Alterations of the Levels of the Railway hereby authorized being between the Fields numbered respectively 152 and 215 in the said Parish of *Inch*, upon the Plans deposited as aforesaid with the Sheriff Clerk of *Wigtonshire* with relation to "The *Portpatrick* Railway Act, 1857," and the Company may hold and use such of the said Lands as are necessary for the said altered Levels.

Power to
enter into
Traffic Ar-
rangements
with London
Railway
Companies.

6. The Company on the one hand, and the *Caledonian* and the *London and North-western* Railway Companies, or either of those Companies, on the other hand, may from Time to Time enter into Contracts or Arrangements with respect to the following Purposes or any of them; (that is to say,)

The Working, Use, Management, and Maintenance of the Undertaking of the *Portpatrick* Railway Company, and the Collection, Conveyance, and Conduct of the Traffic thereof, and the Supply of any Rolling or Working Stock, or of any Officers or Servants required for such Purposes:

The fixing and levying of the Tolls, Rates, and Charges arising on the Railway or any Part thereof:

The Division between the Companies Parties to the Contract of the Receipts arising from the Traffic upon the Railway, or which might have been conveyed on the same, and the Payments to be made respectively by the contracting Companies with respect to any of the Matters aforesaid, and the *Caledonian* Railway Company and the *London and North-western* Company may enter into Contracts between themselves with reference to any Contract or Arrangement which they may enter into with the Company with respect to the said Purposes or any of them.

Saving ex-
isting Right
to Contract.

7. Nothing in this Act contained shall lessen or invalidate the Right to make Contracts which the Company may derive from Acts heretofore passed relating to the Company, or from "The Railways Clauses

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Clauses Consolidation (*Scotland*) Act, 1845," or from the General Law.

8. In estimating the Tolls and Charges to be paid in respect of Articles or Persons conveyed partly on the *Portpatrick* Railway and partly on any other Railway which under the Powers of this Act, or by any Agreement made in pursuance thereof, shall be worked continuously with the *Portpatrick* Railway, the Distances traversed shall be reckoned continuously as if the Railways were One Railway; and if the Distance traversed by any such Traffic be less than Six Miles, the Charge made in respect of such Traffic shall not exceed the Charge for Six Miles, although the Articles or Persons may have been conveyed partly over one Railway and partly over the other.

Railways to be continuous.

9. The Company may cancel the Two thousand Shares so created as aforesaid, and may issue in the Stead thereof new Shares, representing a Capital of Twenty thousand Pounds, and they may also from Time to Time raise (in addition to the said Sum of Twenty thousand Pounds, and to the other Sums of Money which they are already authorized, or which by any Act of this Session they may be authorized to raise), any further Sums not exceeding in the whole Twenty thousand Pounds by the Creation of new Shares in their Undertaking, which Shares shall form Part of the general Capital of the Company; and they may with the Consent of Three Fifths at least of the Votes of their Shareholders present, personally or by Proxy, at any extraordinary Meeting convened with due Notice of the Object, attach to all or any of the Shares to be created under the Powers of this Act, (whether instead of the Two thousand Shares so cancelled or for the purposes of raising the said additional Capital of Twenty thousand pounds) any preferential Dividend with or without other Privileges which the Company may think fit, and may also attach to the said Shares or to any of them a Condition that the same may be redeemed upon Conditions to be stated in the Resolutions creating the same, and to be notified on the Certificates of such Shares; and for the Purposes of redeeming the same, or any Part thereof, the Company may create and issue from Time to Time fresh Shares with or without any special Advantages: Provided, that the Company shall not issue any Share created under the Authority of this Act, nor shall any Share vest in the Person accepting the same, unless and until a Sum not being less than One Fifth Part of the Amount of such Share shall have been paid up in respect thereof.

Power to raise additional Capital by new Shares.

Privileges may be attached to new Shares.

10. The Amount of any One Call to be made upon the Shares created under the Powers of this Act shall not exceed One Fourth of the Amount of such Shares, and there shall be an Interval of Two Months at least between every Two successive Calls, and not more than Three Fourths of the Amount of each Share shall be called up in any One Year.

Limit of Amount and Number of Calls.

11. The Proprietors of any Shares to be issued under the Authority of this Act shall be entitled to such Number of Votes in respect

As to Votes of Proprietors of such Shares.

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respect thereof as the nominal Amount represented by such Shares would have entitled them to if the same had been original Shares of the Company.

Power to borrow on Mortgage.

12. The Company may from Time to Time, under the Powers of this Act, borrow any additional Sum of Money, not exceeding Ten thousand Pounds by Mortgage of their Undertaking, but no Part of that Sum shall be borrowed until the whole of the additional Capital by this Act authorized to be raised by new Shares is *bonâ fide* subscribed for or taken, and One Half thereof is paid up, and until the Company shall prove to the Sheriff who is to certify under the Forty-second Section of "The Companies Clauses Consolidation (Scotland) Act, 1845," and before he so certifies, that Shares for all such additional Capital are issued, and that not less than Twenty *per Centum* has been paid on account of each separate Share before or at the Issue thereof, and that they are *bonâ fide* held by the Subscribers or their Assigns, and that such Subscribers and their Assigns are legally liable for the same, of which Proof having been given, the Certificate of such Justice under that Section shall be sufficient Evidence.

Existing Mortgages to have Priority.

13. Provided always, That all Mortgages granted by the Company before the passing of this Act, and which shall be subsisting at the Time of the passing thereof, shall during the Continuance of such Mortgages have Priority over any Mortgages to be created by virtue of this Act.

Application of Sums raised under this Act.

14. All and every Part of the Monies which the Company are by this Act authorized to raise by new Shares or on Mortgage shall be applied only to the Purposes authorized by this and the recited Act.

Parts of 8 & 9 Vict. c. 17. and 26 & 27 Vict. c. 118. incorporated.

15. The Clauses and Provisions of "The Companies Clauses Consolidation (Scotland) Act, 1845,"

With respect to the Distribution of the Capital of the Company into Shares;

With respect to the Transfer or Transmission of Shares;

With respect to the Payment of Subscriptions, and Means of enforcing the Payment of Calls;

With respect to the Forfeiture of Shares for Nonpayment of Calls;

With respect to the borrowing of Money by the Company on Mortgage or Bond;

With respect to the Conversion of the borrowed Money into Capital;

With respect to the Consolidation of Shares into Stock;

With respect to the Remedies of the Creditors of the Company against Shareholders; and with respect to providing Means for affording Access to the Special Act;

And

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And also Parts 1 and 2 of "The Companies Clauses Act, 1863,"

With respect to Cancellation and Surrender of Shares; and

With respect to additional Capital;

shall be incorporated with this Act, and shall apply to all Shares created and to Mortgages granted, and Money borrowed under the Powers of this Act.

16. Where the *Glasgow and South-western* Railway, the *Castle Douglas and Dumfries* Railway, and the *Portpatrick* Railway, or any One or more or all of them, together with the *Caledonian* Railway and the *London and North-western* Railway, or either of them, or the Lines worked by the Companies owning or working them respectively, form a Route between any Station or Town on or beyond the *Caledonian* and *London and North-western* Railway, and Lines worked by them respectively on the one hand, and any Station or Town on or beyond the *Castle Douglas and Dumfries* and the *Portpatrick* Railway and that Part of the *Glasgow and South-western* Railway which connects the *Castle Douglas and Dumfries* Railway with the *Dumfries, Lochmaben, and Lockerbie* Junction Railway, or either of them, on the other hand, there shall be Facilities as regards Through Booking, Through Tickets, and Invoices, and Through Trains conveniently timed and arranged so far as reasonably can be (and also as regards the passing on of Carriages and Waggons without Change), and where Traffic is consigned by any particular Route the above-named Companies respectively shall be bound to hand over with all Despatch the said Traffic to the Railway Company owning the Route by which the Traffic is so consigned.

Facilities to be afforded.

17. In case any of the said Companies differ as to the Mode in which the forwarding of such Traffic shall be effected or carried out, the same shall be referred to the Settlement of an Arbitrator to be appointed by the Board of Trade; and in case any of the said Companies refuse or neglect to perform, observe, and conform to any Award or Decision under any such Arbitration, they shall forfeit and pay to such other Company as the Arbitrator or Umpire, as the Case may be, shall by his Award determine or name to be entitled thereto, any Sum to be fixed by such Award, but not exceeding Fifty Pounds for every such Refusal or Neglect, and any Sum to be fixed by such Award, but not exceeding Twenty Pounds, for every Day during which such Refusal or Neglect shall continue.

For enforcing Award.

18. It shall not be lawful for the Company, out of any Money by this Act or by any other Act relating to the Company authorized to be raised by Calls in respect of Shares, or by the Exercise of any Power of borrowing, to pay Interest or Dividends to any Shareholder on the Amount of the Calls made in respect of the Shares held by him in the Capital by this Act authorized to be raised: Provided always, that nothing herein-before contained shall be deemed to

Interest not to be paid on Calls paid up.

prevent

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prevent the Company from paying to any Shareholder such Interest on Money advanced by him beyond the Amount of the Calls actually made as shall be in conformity with the Provisions in "The Companies Clauses Consolidation (*Scotland*) Act, 1845," in that Behalf contained.

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

19. It shall not be lawful for the Company out of any Money by this Act authorized to be raised for the Purposes of such 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 Non-application to Parliament for the Purpose of obtaining an Act authorizing the Company to construct any other Railway or to execute any other Work or Undertaking.

Railway not exempt from Provision of present and future General Acts.

20. Nothing herein contained shall be deemed or construed to exempt the Railway or the Company from the Provisions of any General Act relating to Railways, or to the better or 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 to be taken by the Company or of the Rates for small Parcels.

Saving Rights of the Crown.

21. Nothing contained in this Act, or in any of the Acts herein referred to, shall authorize the said Company to take, use, or in any Manner interfere with any Land, Soil, Tenements, or Hereditaments, or any Rights of whatsoever Nature belonging to or enjoyed or exerciseable by the Queen's most Excellent Majesty in right of Her Crown, without the Consent in Writing of the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or One of them, on behalf of Her Majesty, first had and obtained for that Purpose (which Consent such Commissioners are hereby respectively authorized to give); neither shall anything in the said Act or Acts contained divest, take away, prejudice, diminish, or alter any Estate, Right, Privilege, Power, or Authority vested in or enjoyed, or exerciseable by the Queen's Majesty, Her Heirs, or Successors.

Short Title. Expenses of Act.

22. This Act may be cited as "The *Portpatrick* Railway Act (No. 1.), 1864;" and all the Expenses of obtaining this Act or preparatory or incident thereto shall be paid by the Company.

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