ANNO SECUNDO & TERTIO

VICTORIÆ REGINÆ.

Cap. lix.

An Act to enable the *Ballochney* Railway Company to raise a further Sum of Money; and to amend the Acts relating to the said Undertaking.

[1st *July* 1839.]

WHEREAS an Act was passed in the Seventh Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for making a Railway from* Arbuckle *and* Ballochney *in the Parish of* New Monkland *in the County of* Lanark *to or near the Termination of the* Monkland *and* Kirkintilloch *Railway at* Kipps *or* Kippbyres, *also in the said Parish of* New Monkland *and County of* Lanark, whereby the Persons thereby united into a Company, and made one Body Corporate by the Name and Style of "The *Ballochney* Railway Company," for making, completing, and maintaining the said Railway called "The *Ballochney* Railway," and other Works, were authorized to raise and contribute among themselves a competent Sum of Money, not exceeding the Sum of Eighteen thousand four hundred and thirty-one Pounds nineteen Shillings, in Seven hundred and thirty-seven Shares of Twenty-five Pounds each, and also to borrow and take up at Interest on the Credit and Security of the said Undertaking a further Sum of Money not exceeding Ten thousand Pounds, for effecting the Purposes aforesaid and the other Purposes of the said Act: And whereas another Act was passed in the Fifth and Sixth Years of the Reign 7 G. 4. c. 48.

5 & 6 W. 4. c. 97.

of His late Majesty King *William* the Fourth, intituled *An Act for effecting an Extension of the* Ballochney *Railway in the County of* Lanark, *and for altering, amending, and enlarging the Powers of an Act of the Seventh Year of His late Majesty for making the said Railway*, whereby the said Company were authorized and empowered to increase their Capital Stock, and to raise and contribute among themselves, or to admit new Subscribers for such Increase of Capital Stock, or to borrow and take up at Interest on the Credit and Security of the said Undertaking any further Sum or Sums of Money not exceeding the Sum of Ten thousand Pounds, for discharging and defraying the Debt, Costs, and Expences incurred in making and maintaining the said Railway, Branches, and other Works, and for completing the Extension and Branch, and the Works and Conveniences attached thereto or connected therewith, thereby authorized to be made, and for the other Purposes therein mentioned: And whereas the whole Monies so authorized to be contributed by the said Company, and to be taken up on Loan by them, have been raised and borrowed, and the same have been expended for the Purposes of the said recited Acts: And whereas it is expedient and necessary that the said Company should be empowered to raise a further Sum of Money to enable them to perfect and carry into execution all the Purposes of the said recited Acts, and especially to form Double Lines on the said Railway from End to End, to relay the same with heavier Rails and larger Blocks, and to make other Alterations thereon now pointed out by Experience in the Use of Railways; and that certain Powers and Provisions of the said Acts should be enlarged, altered, and amended; but the same 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 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 the Powers, Authorities, Provisions, Regulations, Directions, Privileges, Restrictions, Forfeitures, Penalties, and Things whatsoever therein contained, except in so far as the same or any Part thereof are or is hereby altered or varied, shall extend to this Act, and shall operate and be in force for carrying the Purposes of this Act into execution, as fully and effectually as if the same and every Part thereof were repeated and re-enacted in this Act.

Recited Acts extended to this Act.

II. And be it further enacted, That it shall and may be lawful to and for the said Company, and they are hereby authorized and empowered, at any Time or Times hereafter, to raise any such further Sum or Sums of Money as they may deem necessary, not exceeding the Sum of Forty-one thousand five hundred and sixty-eight Pounds One Shilling Sterling, by the Creation of new or additional Shares of Twenty-five Pounds each of and in the Capital Stock of the said Company and Undertaking, to be contributed amongst themselves or by new Subscribers, or partly in each or wholly in either of these Ways, and in such Shares or Proportions and in such Manner as to them shall seem meet, thereby increasing the Amount which the said Company are enabled to raise by those Means to the Sum of Seventy thousand Pounds Sterling.

Company empowered to raise a further Sum of Money.

XIII. And

New Subscribers to pay Calls made by the Committee.

III. And be it further enacted, That all and every Persons and Person who have or hath already subscribed or who shall hereafter subcribe any Money for or towards the Purposes of the said recited Acts and this Act, or any of them, shall, and they, he, or she are and is hereby required to pay the Sum or Sums of Money by them, him, or her respectively subscribed, or such Part or Parts thereof as shall from Time to Time be called for by the Committee of the said Company, by virtue of the Powers and pursuant to the Directions of the said recited Acts, at such Time or Times and Place or Places as shall be appointed for that Purpose by the said Committee; and in case any Person or Persons shall neglect or refuse to pay the Sum or Sums so to be called for from him, her, or them, at the Time or Times, Place or Places, and in the Manner so to be appointed, it shall be lawful for the said Company to sue for and recover the same, with Interest thereon, in any Court of Law or Equity.

Company may borrow a further Sum of Money, under certain Restrictions.

IV. And be it further enacted, That it shall and may be lawful to and for the said Company and they are hereby authorized, from Time to Time, to borrow and take up at Interest on the Credit and Security of the said Undertaking, in the Manner provided by the said recited Acts or either of them, any further Sum or Sums of Money, not exceeding One Third Part of the then existing Capital Stock of the said Company, including in such further Sum or Sums so much of the said Sums of Ten thousand Pounds and Ten thousand Pounds, authorized to be borrowed by the said recited Acts, as may not at the Time be converted into Shares under the Authority thereof in manner aforesaid, but remain due on the Credit and Security of the said Undertaking: Provided always, that before any such further Sum or Sums of Money shall be so borrowed and taken up at Interest the Amount of such Capital Stock shall have been actually paid up to the said Company.

On the Repayment of borrowed Money the same Amount may be again borrowed.

V. Provided always, and be it further enacted, That on the Repayment of the Sums of Money by the said recited Acts and this Act authorized to be borrowed, or any Part or Parts thereof, it shall and may be lawful to and for the said Company again to borrow and take up at Interest, from Time to Time, on the Credit and Security of the said Undertaking, to the Extent of the Sum or Sums so repaid, or such Part or Parts thereof as to them shall seem meet and convenient, but so that the whole Money borrowed and due and owing under the said recited Acts and this Act shall not at any Time exceed the Sums thereby and hereby authorized to be borrowed.

Application of Monies to be raised or borrowed.

VI. Provided also, and be it further enacted, That the whole Monies hereby authorized to be raised and borrowed, or such Part or Parts thereof as shall be so raised or borrowed, shall be laid out and applied towards the Purposes of the said recited Acts and this Act, and to or for no other Purpose whatsoever.

Prior Mortgages not to be affected by this Act.

VII. Provided also, and be it further enacted, That nothing herein contained shall be held or construed to alter, affect, or diminish any Security or Securities, or Mortgage or Mortgages, granted for Money borrowed under the Authority of the said recited Acts, but that the same

same shall remain good, valid, and effectual, and shall have Priority and be preferable to any Securities or Mortgages which shall be granted by virtue of this Act, any thing in this Act contained to the contrary thereof notwithstanding.

Rates of Carriage to be charged equally.

VIII. And be it further enacted, That the Charges by the said recited Acts or either of them authorized to be made for the Carriage of 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 to all Persons, 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; 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.

Bye Laws to be invalid unless allowed by the Sheriff.

IX. And be it further enacted, That no Bye Laws or Regulations already made by the said Company, under the Authority of the said first-recited Act (except such as relate solely to the Proprietors or Committee of the said Company, or to any of their Officers or Servants,) shall continue in force for a longer Space of Time than Six Calendar Months next after the passing of this Act, unless the same shall previously to the Expiration of that Period have been submitted to and approved by the Sheriff Depute of the County of *Lanark*, or any one of his Substitutes; and that no Bye Law or Regulation (except as aforesaid) which shall be made by the said Company after the passing of this Act shall have any Operation or Effect until the same shall have been in like Manner approved by the said Sheriff Depute or any of his Substitutes; but every such Bye Law or Regulation, when approved as aforesaid, shall be binding and conclusive upon all Persons whomsoever.

Procedure authorized before Justices to be equally competent before Sheriffs.

X. And be it further enacted, That in all Cases where Provision is made by the said recited Acts or either of them for Punishment of Offences against the same, or against the Bye Laws or Regulations made in virtue thereof, by Procedure before any Justice or Justices of the Peace, such Procedure shall be lawful and equally competent before the Sheriff Depute of the said County of *Lanark* and his Substitutes.

Company's Waggons and locomotive Engines may be used on communicating Railways.

XI. And be it further enacted, That the Waggons for the Conveyance of Minerals and other Commodities, and the locomotive Engines and Carriages, which the said Company are by the said recited Acts authorized to build and provide, may be used on any Railway communicating with the said Railway and Branches, subject to the Rules and Regulations of such Railway, and may be built and provided in connexion with the Company of Proprietors of any such Railway.

Special Constables may

XII. And be it further enacted, That it shall be lawful for any Two Justices of the Peace for the County of *Lanark*, and they are hereby required,

required, on the Application of the said Company, to appoint from Time to Time such fit and proper Persons as they shall think proper to be Special Constables upon the said Railway and other Works, and every or any Part thereof; and every Person so appointed shall make a solemn Declaration, to be administered by any One Justice of the Peace, that he shall duly execute the Duties of Special Constable upon and for the said Premises; and every Person so appointed, and having made such Declaration as aforesaid, shall have Power to act as a Constable for the Preservation of the Peace, and for the Security of Persons and Property against Felonies and other unlawful Acts, within the Limits of the said Premises, and within One Mile therefrom, and shall have, use, exercise, and enjoy all such Powers, Authorities, Protections, and Privileges, for apprehending Offenders, as well by Night as by Day, and for doing all Acts, Matters, and Things for the Prevention, Discovery, and Prosecution of Felonies and other Offences, and for the Preservation of the Peace, as Constables duly appointed now have by the Laws and Statutes of this Kingdom; and it shall be lawful for any Two Justices of the said County to dismiss or remove any such Constable from his Office of Constable, and upon every such Dismissal or Removal all Powers, Authorities, Protections, and Privileges, by virtue of such Appointment as aforesaid vested in any Person so dismissed or removed shall cease; and every Person so appointed by such Justices as aforesaid shall, during such Time as he shall act as Constable for the Purposes aforesaid, receive from the said Company such Remuneration as may be agreed upon between him and the said Company, or, for Want of such Agreement, as any Two such Justices shall appoint.

be appointed by Justices of the Peace.

XIII. And be it further enacted, That it shall be lawful for any Constable appointed as aforesaid, and for any Officer or Agent of the said Company, and all such Persons as he shall call to his Assistance, to seize and detain any Person whose Name and Residence shall be unknown to such Constable, Officer, or Agent, who shall commit any Offence against the said recited Acts and this Act, or any or either of them, or the Bye Laws, Rules, and Regulations thereby authorized, and convey such Person with all convenient Dispatch before any Magistrate by the said recited Acts and this Act or either of them authorized to take cognizance of such Offence, without any Warrant or other Authority than this Act; and such Magistrate is hereby empowered and required to proceed with all convenient Dispatch to the hearing and determining of the Complaint; and it shall be lawful for any such Constable, and the Officers, Agents, and Servants of the said Company, in every Case of Infraction or Non-observance of any of the said Bye Laws, Rules, and Regulations which shall be attended with Danger to the Public or Annoyance to Travellers, summarily to interfere and obviate such Danger, or to remove or prevent the same.

Persons offending against Acts may be apprehended, and certain dangerous Obstructions may be removed.

XIV. And be it further enacted, That the Rules, Orders, and Regulations of the said Company, and the Tables of Rates, Tolls, and Duties leviable by them, which are directed by the said first-recited Act to be painted on Boards for the Purpose of Publication, may either be so painted, or may be legibly printed on Paper pasted on such Boards, and affixed, published, and renewed as by the said first-

Rules and Regulations and Tables of Rates may be printed instead of being painted.

first-recited Act directed, and such Publication shall be effectual for the Purposes of the said several recited Acts and this Act.

Repeal of Limitation of Actions.

XV. And whereas it was provided by the said first recited Act that no Action, Suit, or Complaint should be brought, commenced, or prosecuted against any Person or Persons for any thing done or to be done in pursuance of the said Act, or in execution of any of the Powers or Authorities, or any of the Orders made, given, or directed in, by, or under the said Act, unless One Month's previous Notice in Writing should be given by the Person or Persons intending to commence and prosecute such Action, Suit, or Complaint, to the said Company, or to their Clerk or Treasurer for the Time being, or unless such Action, Suit, or Complaint should be brought and commenced within Three Calendar Months next after the Fact committed, or in case there should be a Continuation of Damage then within Three Calendar Months next after the doing or committing such Damages should cease, and not afterwards; and the Defender or Defenders in such Action, Suit, or Complaint should and might give the said Act and the special Matter in Evidence at any Proceedings to be had thereupon, and that the same was done in pursuance and by the Authority of the said Act; and if it should appear to have been so done, or if such Action, Suit, or Complaint should have been brought or commenced before or after the respective Times so limited for bringing or commencing the same, then and in every such Case Judgment should be given for the Defender or Defenders; and if any such Action, Suit, or Complaint should be dismissed or found irrelevant, or if the same should be suffered to fall asleep, or if Judgment should be given against the Pursuer or Pursuers, the Defender or Defenders should have Treble Costs or Expences, and should have such Remedy for the same as any Defender hath for Costs of Suit in any other Case by Law: And whereas it is expedient that the said Limitation of Actions, Suits, or Complaints should be repealed; be it therefore enacted, That the said recited Provision shall be and the same is hereby repealed.

Costs of Act.

XVI. And be it further enacted, That the Costs and Charges of obtaining and passing this Act shall be paid and defrayed by the said Company out of the Monies, Tolls, or Rates raised, borrowed, or received, or to be first raised, borrowed, or received in virtue of the said recited Acts and this Act, or either of them.

Railway not to be exempt from Provisions of any General Act.

XVII. 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.

XVIII. 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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