ANNO QUINTO

VICTORIÆ REGINÆ.

Sess. 2.

****

Cap. lxxxiii.

An Act for enabling the *Dundee* and *Arbroath* Railway Company to raise a further Sum of Money; and to amend the Provisions of the Act relating to the said Railway. [18th *June* 1842.]

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 and maintaining* 6 & 7 W. 4.
a Railway from the Royal Burgh of Dundee *in the County of* c. 32.
Forfar *to the Royal Burgh of* Arbroath *in the same County*, whereby the said Company were authorized to raise a Capital of One hundred thousand Pounds in Shares of Twenty-five Pounds each, and to borrow any Sum not exceeding Forty thousand Pounds: And whereas the Works authorized by the said recited Act have been so far completed, and the said Railway opened to the Public, and the Company have expended thereon the whole Money raised under the Authority of the said Act, and certain other Sums still due by the Company; but it has been found that, for fully completing the Works in all respects, and effecting the Purposes authorized by the said recited Act, the said Sums of Money are insufficient, and it is therefore expedient that the Company should be authorized to raise a further Sum of Money to pay the said other Sums still due, and also to perfect and carry into execution all the Purposes of the said recited Act, and that some of the Provisions therein contained should be amended and enlarged; but the same 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

Extending Powers of former Act to this Act.

Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all Powers, Provisions, Matters, and Things contained in the said recited Act (except in so far as the same or any Part thereof are hereby altered, repealed, or otherwise provided for,) shall extend to this Act, and be in force in respect to the Purposes of this Act, as effectually as if the same Powers, Provisions, Matters, and Things were re-enacted in this Act.

Power to raise by new Shares a further Sum of Money, not exceeding Fifty thousand Pounds.

II. And be it enacted, That it shall be lawful for the Company, from Time to Time, by Order of any General or Special General Meeting of the Company, to augment the Capital of the Company by raising by Subscription among themselves, or by the Admission of other Persons as Subscribers to the Undertaking, or in part by each of those Means, such Sum or Sums of Money as they shall from Time to Time think necessary, not exceeding in the whole the Sum of Fifty thousand Pounds, in addition to the Monies authorized to be raised and borrowed by the said recited Act; and the Monies so to be raised shall be divided into distinct and integral Shares of Twenty-five Pounds each, and shall be appropriated and disposed of in manner herein-after mentioned.

Power to guarantee Five Pounds per Centum per Annum to Holders of new Stock.

III. And be it enacted, That it shall be lawful to the Company, at any General or Special General Meeting, to resolve to guarantee and secure, by a Resolution to that Effect, in which Three Fourths in Value of the Proprietors present or represented by Proxy at such Meeting shall concur, to the Proprietors of the additional Capital or Shares herein authorized to be raised by Subscription, or any Part of the same, a Dividend thereon not exceeding, so far as guaranteed, the Sum of Five Pounds per *Centum per Annum* on such additional Capital or Shares, which shall be paid in preference to all Dividends on any other Part of the Capital or Shares of the Company; and the Proprietors of such additional Capital or Shares so guaranteed shall be always entitled to receive their Proportions of any Dividend which the Company may from Time to Time declare in any Year to the Proprietors at large, in so far as such general Dividend may exceed the guaranteed Rate, but the Proprietors of such guaranteed Capital or Shares shall not be entitled to receive any higher Rate of Dividend in any One Year than the Amount of the Rate so guaranteed, until the Proprietors of the other Capital or Shares of the said Company shall receive in the same Year a like Amount of Dividend with the guaranteed Rate; and the whole surplus Revenues, after Payment of the guaranteed Rate of Dividend on the whole Stock guaranteed, and an equal Rate of Dividend on the Stock unguaranteed, shall belong to and be divisible among the Proprietors of the whole Capital of the Company according to the Shares held by them.

Power to borrow a further Sum of Money.

IV. And be it enacted, That when and so soon as Fifty *per Centum* of the Money authorized by this and the said recited Act to be raised by Subscription shall have been paid up, it shall be lawful for the Company, by Order from Time to Time of any General or Special General Meeting of the Company, to borrow and take up at Interest

terest such a Sum of Money as, with the Money which they may borrow under the Provisions of the said recited Act, shall not exceed in Amount One Third of the whole Capital authorized to be raised by Subscription by this and the said recited Act, and to secure the Repayment of the Money so borrowed, with Interest, in manner directed with respect to the Sums authorized to be borrowed by the said recited Act: Provided always, that nothing in this Act contained shall be held or construed to alter, affect, or diminish any Security or Securities, Mortgage or Mortgages, granted for Money borrowed under the Authority of the said recited Act, all of which shall remain valid and sufficient in favour of the Holders thereof, the same as if this Act had not passed.

Evidence of Authority for borrowing.

V. And be it enacted, That the Certificate of a Justice of the Peace that One Half of the Money by this and the said recited Act authorized to be raised by Subscription as aforesaid has been paid up, together with a Copy of the Order of a General or Special General Meeting of the Company authorizing the borrowing of any Money, certified by One of the Directors or by the Clerk or Clerks to the Company to be a true Copy, shall be sufficient Evidence of the Fact of the Money required to be paid up having been so paid up, and of the Order for borrowing Money having been made; and upon Production to any such Justice of the Books of the Company, or of such other Evidence as he shall think sufficient, such Justice shall grant the Certificate aforesaid.

Re-borrowing.

VI. And be it enacted, That if after having borrowed any Part of the Money authorized by this and the said recited Act to be borrowed the Company pay off the same, it shall be lawful for them again to borrow the Amount so paid off, and so from Time to Time as often as the same shall happen.

Application of Capital.

VII. And be it enacted, That all the Money raised by the Company, whether by Subscriptions of the Shareholders, or by Loan, or otherwise, shall be applied, firstly, in paying the Costs and Expences incurred in obtaining this Act, and all Expences preparatory or relating thereto, and, secondly, in carrying the Purposes of the Company into execution.

Power to convert Loan into Capital.

VIII. And be it enacted, That it shall be lawful for the Company from Time to Time, by Order of any General or Special General Meeting of the Company, if they shall think fit, to raise the Money authorized by this and the said recited Act to be borrowed, or any Part thereof, by augmenting the Capital of the Company by the Creation of new Shares instead of borrowing the same, or having borrowed the same it shall be lawful for them to pay off and discharge the whole or any Part of the Money so borrowed by creating new Shares of the Company, and the Money so to be raised shall be divided into distinct and integral Shares of Twenty-five Pounds each, and shall be appropriated and disposed of in manner herein-after mentioned.

Original Shareholders to have the Preference of new Stock.

IX. And be it enacted, That the Sums to be raised from Time to Time by the Augmentation of Capital by the Creation of new Shares,

Shares, or by the Conversion of Loans into Capital, in virtue of this Act, shall be apportioned among the then Shareholders in proportion to the existing Shares held by them respectively; and such new Shares shall be offered to the then Shareholders in proportion, or as near as may be convenient in proportion, to the existing Shares held by them respectively; and such Offer shall be made by Letter, under the Hand of the Clerk or Clerks of the Company, given or sent by Post to each Shareholder, or left at his usual or last Place of Abode; and such new Shares shall vest in and belong to the Shareholders who shall accept the same, and pay the Value thereof to the Company at the Time and by the Instalments which shall be fixed by the Company; and if any Shareholder fail for One Month after such Offer of new Shares to accept the same, and pay the Instalment called for in respect thereof, it shall be lawful for the Company to dispose of such Shares to any Party willing to become the Purchaser thereof, for such Sum as the Company can obtain for the same.

Payment of Subscriptions before Call.

X. And be it enacted, That the Committee of Management may, if they think fit, receive from any of the Shareholders willing to advance the same all or any Part of the Monies due upon their respective Shares beyond the Sums actually called for, and upon the Principal Monies so paid in advance, or so much thereof as from Time to Time shall exceed the Amount of the Calls made upon the Shares in respect of which such Advance shall have been made, the Company may pay Interest, at such Rate, not exceeding Five Pounds *per Centum per Annum*, as the Shareholder paying such Sum in advance and the Committee of Management shall agree upon.

New Shares to be considered same as original Shares.

XI. And be it enacted, That the Capital to be raised by the Creation of new Shares in virtue of this Act shall be considered as Part of the general Capital, and shall be transmissible and transferable as such in the Manner directed by the said Act, and the Proprietors thereof shall be subject to the same Provisions in all respects in regard to the Payment of Calls and Interest thereon, the Forfeiture of Shares or Nonpayment of Calls, or otherwise, as if it had been Part of the original Capital, except as to the Time of making Calls for such additional Capital, and the Amount of such Calls, which respectively it shall be lawful for the Committee of Management of the Company from Time to Time to fix as they shall think fit: Provided nevertheless, that the Proprietors of such new Shares shall only be entitled to Dividends or Profits in respect thereof in proportion to the Amount which shall have been actually called up upon such new Shares at the Time of declaring such Dividends respectively, unless otherwise directed, from Time to Time, by an Order of any General or Special General Meeting of the Company; provided also, 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 had they been original Shareholders in the said Undertaking; and no Proprietor shall be entitled to any Vote unless possessed of some Share or Shares representing Twenty-five Pounds at least of the Capital Stock of the Company; and when any new Shares are subscribed for, or held by Proprietors of original Shares, the Number of Votes to which such Proprietors

Proprietors shall be entitled shall be upon the gross Amount of such new and original Shares joined together, and computed in Terms of the said recited Act.

Power to declare Dividend payable Half-yearly.

XII. And be it enacted, That it shall be lawful to the Company, at any General Meeting, where a Dividend shall be made in pursuance of the said recited Act, to order that the same shall be paid in Two equal Instalments, at such Times and Places as the Company shall think fit: Provided always, that no Dividend shall be made payable in advance, or out of the Capital of the Company.

Certain Transfers not to be entered until after General Meeting.

XIII. And be it enacted, That all Transfers or Conveyances of Shares in the said Company presented to the Clerk for Entry in the Books of the said Company within Six Days preceding any Annual General or Special General Meeting of the Company shall not be entered in the Books of the Company until after such General Meeting.

Proxies to be lodged Two Days before a Meeting.

XIV. And be it enacted, That no Person shall be entitled to vote as the Proxy of any Person or Corporation at any Meeting of the Company to be held after the passing of this Act, unless the Mandate appointing such Proxy shall have been transmitted to and received by the Clerk of the Company Two Days at least before the Meeting at which such Proxy is to be used.

Power to appoint Special Constables.

XV. And be it enacted, That it shall be lawful for the Sheriff of the County of *Forfar* or his Substitutes, on the Application of the Company, to appoint from Time to Time such fit and proper Persons as he shall think proper to be Special Constables on and within the said Railway and other Works, and every or any Part thereof; and every Person so appointed shall make a Declaration before the said Sheriff or Sheriff Substitute duly to execute the Office of a Constable for the said Premises; and every such Person 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 to the Extent of One Mile therefrom, and shall have, use, exercise, and enjoy all such Powers, Protections, and Privileges for the apprehending of 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 shall be paid by the said Company; and it shall be lawful for the said Sheriff or his Substitute, on Cause shown, to dismiss or remove any such Constable from his Office of Constable.

Penalty on Witnesses making default.

XVI. And be it enacted, That it shall be lawful for any Judge, Magistrate, or Justice to summon any Person to appear before him as a Witness in any Matter in which such Judge, Magistrate, or Justice shall have Jurisdiction under the Provisions of this or the said recited Act, at a Time and Place mentioned in such Summons, and to administer to him an Oath to testify the Truth in such Matter; and if

any Person who shall be so summoned as a Witness touching any Offence committed against this or the said recited Act, or any Matter in which such Judge, Magistrate, or Justice shall have Jurisdiction, by the Provisions of this or the said recited Act, shall, without reasonable Excuse, refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable Sum for his Expences, or if any Person appearing shall refuse to be examined upon Oath (or in the Case of a Quaker on Affirmation), or to give Evidence before such Judge, Magistrate, or Justice, every such Person shall forfeit a Sum not exceeding Five Pounds for every such Offence.

Extending Power of Justices.

XVII. And be it enacted, That in all Cases in which Provision is made by the said recited Act or this Act, for any Procedure before the Sheriff of the County of *Forfar* or his Substitutes, for Punishment of Offences against the same, thereby authorized, such Procedure may and shall be equally competent before any one of the Justices of the Peace for the County of *Forfar*.

Persons found drunk or committing Nuisance to be punished.

XVIII. And be it enacted, That if any Person shall be found on any Part of the said Railway, or within any of the Stations, Warehouses, or other Premises connected therewith, in a state of Drunkenness, or committing Nuisances or Disturbances of any Kind, every such Person shall for every such Offence forfeit and pay a Sum not exceeding Five Pounds.

Servants of the Company may summarily remove Obstructions.

XIX. And be it enacted, That it shall be lawful for the Company, or any of the Members of their Committee of Management, or their Servants or Officers, in every Case of Infraction or Nonobservance of any of their Rules or Regulations which shall be attended with Danger to the Public or Annoyance to Travellers, or which shall obstruct or hinder the Company in their due and lawful Use and Working of the said Railway, summarily to interfere and to obviate such Danger, or to remove or prevent such Obstruction, Nuisance, or Danger.

Rules and Regulations may be printed instead of being painted.

XX. And be it enacted, That the Rules, Bye Laws, Regulations, or Orders of the Company, and also the Tables of Rates, Tolls, and Duties leviable by the Company, directed by the said recited Act to be distinctly and legibly painted on Boards, shall and may, in the Option of the Company, be either so painted, or legibly printed upon Paper and placed upon Boards, and affixed and published upon the several Toll Houses and Buildings or other public Places on the said Railway, and renewed from Time to Time as directed by the said recited Act; and if any Person shall wilfully, negligently, or maliciously pull down, deface, or destroy such Rules, Orders, Bye Laws, Tolls, or Rates, or any Board whereon the same shall be set forth as aforesaid, he shall forfeit and pay to the Company for each Offence any Sum not exceeding Five Pounds; and he shall also defray the Expences attending the Restoration of such Board; which Expence shall be recoverable as any Penalty by the said recited Act imposed may be recovered.

XXI. And

Repeal of Limitation of Actions.

XXI. And be it enacted, That so much of the said recited Act as provides that no Action, Suit, or Complaint shall be brought, commenced, or prosecuted against the said Company, their Officers, Workmen, or Servants, for any thing to be hereafter 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 Fourteen Days previous Notice in Writing shall be given by the Person intending to commence and prosecute such Action, Suit, or Complaint to the said Company, or to their Clerk, or unless such Action, Suit, or Complaint shall be brought and commenced within Six Calendar Months next after the Cause of Action accrued, or in case there shall be a Continuation of Damage then within Six Calendar Months next after the doing or committing such Damage shall have ceased, and not afterwards; and the Defender in such Action, Suit, or Complaint shall and may 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 virtue of the said Act; and if it shall appear to have been so done, or if such Action, Complaint, or Suit shall 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 shall be given for the Defender; and if such Action, Suit, or Complaint shall be dismissed or found irrelevant, or if the same shall be suffered to fall asleep, or if Judgment shall be given against the Pursuer, the Defender shall have full Costs and Expences, and shall have such Remedy for the same as any Defender hath for Costs of Suit in any other Case of Law, shall be and the same is hereby repealed.

Repealing Power to make Branch Railways.

XXII. And be it enacted, That so much of the said recited Act as provides that nothing therein contained shall extend to prevent any Owner of any Lands adjoining the said Railway from making any private Railway to, from, across, over, or under the said Railway, shall be and the same is hereby repealed.

Repealing Power to purchase Lands for certain Purposes.

XXIII. And be it enacted, That so much of the said recited Act as enables the said Company to purchase or obtain in Feu Farm any Parcels of Land, Buildings, or Heritages, for any Purpose whatever connected with the said Railway and Works, shall be and the same is hereby repealed: Provided always, that it shall be lawful for the said Company from Time to Time to contract with any Person willing to sell or feu for the Purchase of or obtaining in Feu Farm any Parcels of Land, Buildings, or Heritages (not exceeding in the whole One hundred Acres), in such Places as shall be deemed eligible or convenient, for the Purpose of making, erecting, forming, and providing any Coal Yards, Lime Yards, Warehouses, and other Buildings and Conveniences for the Purpose of receiving, laying, depositing, or keeping any Goods, Merchandize, or other Matters conveyed or intended to be conveyed upon the said Railway, or making any convenient Roads, Avenues, or Ways leading thereto.

Saving the Rights of the Magistrates of Dundee

XXIV. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to take away, impeach, diminish, change, or affect the existing Rights, Titles, Dues, Duties, Payments, Powers,

and of the Harbour Trustees.

Powers, Privileges, Jurisdictions, or Authorities of the Magistrates and Town Council of *Dundee*, or of the Magistrates of *Dundee*, or of the Trustees of the Harbour of *Dundee*.

For protecting the Bell Rock Lighthouse, and the Signal Tower communicating therewith.

XXV. And whereas the Commissioners of Northern Lighthouses have, on a Piece of Ground belonging to them situated to the Westward of the Harbour of *Arbroath*, and adjoining the foresaid Railway, erected certain Buildings in connexion with the *Bell Rock* Lighthouse, and among others a Signal Tower for the Purpose of communicating by Signal with the said Lighthouse; be it enacted, That nothing in the said recited Act or this Act contained shall be held or construed to authorize the said Company, without the Consent of the said Commissioners, to erect or maintain any Work or Manufactory for producing Coke, making Bricks, or other Works of a similar Nature producing or emitting Smoke or Exhalations, or to do any thing in any way to interrupt or affect the View between the said Signal Tower and Lighthouse, and the said Company and the Officers and Servants acting under them shall and they are hereby required at all Times to take care that nothing is done to occasion any Interruption to the free View between the said Signal Tower and the *Bell Rock* Lighthouse.

Railway not exempted from any general Act as to Railways.

XXVI. And be it enacted, That nothing herein contained shall be deemed or construed to exempt the Railway by this Act or the said herein-before recited Act 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.

XXVII. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such.

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