ANNO DECIMO & UNDECIMO

VICTORIÆ REGINÆ.

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Cap. cvi.

An Act for widening, altering, and improving the *Dundee and Newtyle* Railway. [2d *July* 1847.]

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 the Royal Burgh of* 7 G.4. c.101. Dundee *in the County of* Forfar *to* Newtyle *in the said County*, and by the said Act several Persons were incorporated, by the Name and Style of the "*Dundee* and *Newtyle* Railway Company," for carrying into execution the said Undertaking: And whereas by Two other Acts, respectively passed in the Session of Parliament holden in the Eleventh Year of the Reign of His said late Majesty King *George* the Fourth and in the First Year of the Reign of His late Majesty King *William* the Fourth, and in the Session of Parliament holden in the Sixth and Seventh Years of the Reign of His said late Majesty King *William* the Fourth, further Powers were granted to the said Company, and the said Undertaking hath been completed; but it would be attended with local and public Advantage if the same were widened, altered, and improved: And whereas another Act was passed in the last Session of Parliament, intituled "The *Dundee and Perth* Railway (Amendment) Act, 1846": And whereas, under the Powers contained in the said last-recited Act, the said Undertaking hath been leased for a Term of Nine hundred and ninety-nine Years to the *Dundee and Perth* Railway Company: And whereas it hath been conditioned in the said Lease that the said last-mentioned Company should, at their

own Expence, execute the Works necessary for widening, altering, and improving the said *Dundee and Newtyle* Railway, and the said Company are desirous of carrying the Objects aforesaid into effect, if authorized by 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, subject to the Provisions in this and the recited Acts relating to the said *Dundee and Newtyle* Railway contained, it shall be lawful for the said *Dundee and Perth* Railway Company to make and maintain the several Alterations and Deviations on the said Railway, with all proper Works and Conveniences, in the Lines and upon the Lands delineated on the Plans and described in the Books of Reference herein-after mentioned or referred to; and the said Railway, when so widened, altered, and improved, shall be vested in and form Part of the Undertaking of the said *Dundee and Newtyle* Railway Company, subject nevertheless to the Provisions in this and the several herein-before recited Acts and in the said Lease contained, which Lease, dated the Fourteenth Day of *October* in the Year One thousand eight hundred and forty-six, and registered in the Books of Council and Session the Twenty-third Day of *January* One thousand eight hundred and forty-seven, in so far as not inconsistent with or repugnant to the Provisions of any of the said Acts, is hereby ratified and confirmed, and the said Lease, and all the Stipulations thereof, shall be binding upon the Parties thereto, unless and until altered by the Authority of Parliament.

Power to widen and alter Railway.

8 & 9 Vict. c. 19. incorporated with this Act.

II. And be it enacted, That the "Lands Clauses Consolidation (*Scotland*) Act, 1845," shall be incorporated with and form Part of this Act.

Incorporation of certain Provisions of 8 & 9 Vict. c. 33.

III. And be it enacted, That such only of the Provisions of the "Railways Clauses Consolidation (*Scotland*) Act, 1845," as relate to the Construction of Railways and Works connected therewith, the temporary Occupation of Lands near Railways during the Construction thereof, the crossing of Roads or other Interference therewith, and to the Works for the Accommodation of Lands adjoining Railways, and to Mines lying under or near Railways, shall be incorporated with this Act.

Extending Provisions of recited Acts to this Act.

IV. And be it enacted, That all the Powers, Provisions, Matters, and Things contained in the said recited Acts, except such of them as by this Act, or by the said "Lands Clauses Consolidation (*Scotland*) Act, 1845," or by such of the Provisions of the "Railways Clauses Consolidation (*Scotland*) Act, 1845," as are hereby incorporated, are repealed, altered, or otherwise provided for, shall extend to this Act, and shall apply to the Works hereby authorized to be made, as fully and effectually as if the same Powers, Provisions, Matters, and Things were repeated and re-enacted in this Act, and had specific Reference thereto.

Short Title.

V. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal Instruments, Parliamentary Notices, and other Documents, it shall be sufficient to use the Expression "The *Dundee and Newtyle* Railway (widening, altering, and improving) Act, 1847."

VI. And

Works to be made according to deposited Plans.

VI. And whereas Plans and Sections showing the Manner in which the said *Dundee and Newtyle* Railway is to be widened, altered, and improved, and the other Works to be made and constructed, and the Lines and Levels thereof, and also Books of Reference containing the Names of the Owners and Lessees, or reputed Owners and Lessees, and Occupiers of the Lands on which the Works for the same are intended to be made, have been deposited in the Office of the principal Sheriff Clerk of the County of *Forfar*; be it enacted, That, subject to the Provisions in this and the said recited Acts applied to this Act contained, it shall be lawful for the said *Dundee and Perth* Railway Company to widen, alter, and improve the said Railway, and to make and construct the other Works in the Lines and upon the Lands delineated on the said Plans and described in the said Books of Reference, and according to the Levels defined on the said Sections, and to enter upon, take, and use such of the said Lands as shall be necessary for such Purpose: Provided always, that it shall be lawful for the said Company in constructing the said Railways and Works to deviate from the Lines and Levels and other engineering Works thereof described on the said Plans and Sections to the Extent authorized by the "Railways Clauses Consolidation (*Scotland*) Act, 1845."

Line and Situation of Alterations to be made.

VII. And be it enacted, That the Alterations of the said *Dundee and Newtyle* Railway to be made and maintained under the Authority of this Act shall be the following; (that is to say,)

An Alteration of the Gauge and a widening of the Line of the said Railway, from the Terminus thereof in the Royal Burgh and Port of *Dundee* in the Parish of *Dundee* in the County of *Forfar* to the other Terminus thereof in the Valley of *Strathmore* in the said Parish of *Newtyle* in the said County:

An Alteration of the Line of the said Railway, by making a new Portion of Railway from a Point thereon at or near to the South End of the Tunnel in or under the *Law Hill* of *Dundee* in the Parish of *Dundee* and County of *Forfar* to another Point on the said Line of Railway at or near to the North End of the said Tunnel in the Parish of *Dundee* aforesaid, and by converting the said Tunnel or Part thereof into an open Cutting:

An Alteration of the Line of the said Railway, by making a new Portion of Railway from a Point thereon at or near to the *Baldovan* Station on said Railway to another Point thereon at or near to the *Baldragon* Station on the said Railway, both in the United Parishes of *Mains* and *Strathmartine*:

An Alteration of the Line of the said Railway, by making a new Portion of Railway from a Point thereon at or near to where the said Railway crosses the Water of *Dighty* in the United Parishes of *Mains* and *Strathmartine*, the United Parishes of *Liff Logie*, *Benvie*, and *Invergowrie*, and the Parish of *Auchterhouse*, to another Point thereon at or near to where the said Railway enters the Moss of *Auchterhouse*, all in the Parish of *Auchterhouse* and County of *Forfar*.

Unnecessary Parts of the Railway not to be worked.

VIII. And be it enacted, That on the Completion of the Works hereby authorized the said *Dundee and Perth* Railway Company shall not continue to work and use such Parts of the said *Dundee and Newtyle* Railway as by reason of the Works by this Act authorized will be rendered unnecessary for carrying the Traffic of the said Railways.

IX. And

Land for additional Stations, &c.

IX. And be it enacted, That, in addition to any Lands which the said *Dundee and Newtyle* Railway Company are authorized to take for Stations and additional Purposes, it shall be lawful for the said *Dundee and Perth* Railway Company, subject to the Provisions in the said "Lands Clauses Consolidation (*Scotland*) Act" contained, to acquire for the like Purposes any Quantity of Land not exceeding Fifteen Acres.

Period within which Lands are to be purchased.

X. And be it enacted, That the Powers of the Company for the compulsory Purchase of Lands for the Purposes of this Act shall not be exercised after the Expiration of Three Years from the passing of this Act.

Period for Completion of Works.

XI. And be it enacted, That the several Alterations of the said Railway hereby authorized shall be completed within Seven Years from the passing of this Act, and on the Expiration of such Period the Powers by this Act granted to the said *Dundee and Perth* Railway Company for executing the same, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Roads to be crossed on the Surface.

XII. And be it enacted, That it shall be lawful for the said *Dundee and Perth* Railway Company, in executing the Works by this Act authorized, to carry the Line of the said *Dundee and Newtyle* Railway across the Surface of the following Roads numbered on the Plans deposited as aforesaid as after mentioned; (that is to say,)

In the Parish of *Dundee* the Road numbered 28:

In the Parish of *Mains* and *Strathmartine* the Roads numbered 53, 69, 127, 128, and 148:

In the Parish of *Auchterhouse* the Roads numbered 172, 177, 193, and 233.

Lodges to be erected at Level Crossings.

XIII. And be it enacted, That for the greater Convenience and Security of the Public during the Term of the said Lease the said *Dundee and Perth* Railway Company, and thereafter the said *Dundee and Newtyle* Railway Company, shall maintain either a Station or Lodge at the Points where the said Railway crosses the before-mentioned Roads on the Level; and the said Companies shall, during the Term aforesaid, respectively 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 Commissioners of Railways; and if the said Companies shall fail during such Term as aforesaid to erect or at all Times maintain any such Station or Lodge, or to 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, then the Company in default 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.

Provision as to Inclination of certain Roads.

XIV. And with respect to the Roads herein-after mentioned, be it enacted, That it shall be lawful for the said *Dundee and Perth* Railway Company to make the Rates of Inclination of such Roads respectively, when altered, as follows; (that is to say,) the above herein-before mentioned

tioned Road numbered 177 in the said Parish of *Auchterhouse* not steeper than One Foot in Eighteen Feet, and the above herein-before mentioned Road numbered 193 in the same Parish not steeper than One Foot in Twenty Feet, and the Road numbered 210 in the said Parish of *Auchterhouse* not steeper than One Foot in Twenty Feet.

Company to take same Tolls as in Act of 1846.

XV. And be it enacted, That during the Term of the said Lease the said *Dundee and Perth* Railway Company may, subject to the Provisions in the said recited "*Dundee and Perth* Railway (Amendment) Act, 1846," contained, and for the Benefit of the said Company, lawfully demand and receive for the Tonnage of all Articles, Matters, and Things conveyed upon the said *Dundee and Newtyle* Railway, or upon any Portion thereof which may be widened, altered, or improved under the Authority of this Act, or any Part of the same respectively, and in respect of Passengers, Beasts, Cattle, and Animals conveyed in Carriages, and for Carriages conveyed on the same or any Part thereof respectively, and for and in respect of locomotive Engines, Stationary Engines, or other Power for drawing or propelling, supplied by the Company, and for the Conveyance thereon or any Part thereof respectively, in Waggons or Carriages belonging to the Company, of any Passengers, Cattle or other Animals, Goods, Wares, Merchandize, Articles, Matters, and Things, such Amount of Rates, Tolls, and other Charges not exceeding the Rates, Tolls, and Charges which the said *Dundee and Perth* Railway Company were previous to the passing of this Act authorized to demand and receive in respect of the same several Matters and Things, Privileges and Duties respectively on or in respect of the said *Dundee and Newtyle* Railway, or the Works connected therewith, or any Part thereof.

Maximum Charges limited.

XVI. And be it enacted, That the maximum Charges to be made by the said *Dundee and Perth* Railway Company in respect of all the Tolls and Charges for the Use of the said Railway and of any Carriage, and for locomotive Power, and every other Expence incidental to such Conveyance, shall not exceed the Sums in that Behalf limited by the said "*Dundee and Perth* Railway (Amendment) Act, 1846."

Powers of existing Acts to be exercised by Lessees.

XVII. And be it enacted, That during the Continuance of the said Lease entered into between the said *Dundee and Perth* and *Dundee and Newtyle* Railway Companies the said *Dundee and Perth* Railway Company shall, save where otherwise by any of the said recited Acts or this Act provided for, be entitled to the free Use and Enjoyment of the said *Dundee and Newtyle* Railway and Works connected therewith; and all the Powers, Privileges, and Authorities granted to, or which are or might be held, used, exercised, and enjoyed by the said *Dundee and Newtyle* Railway Company, or their Officers, Agents, or Servants, under or by virtue of any of the said recited Acts relating thereto, shall in like Manner and to the same Extent in all respects apply to, and be held, used, exercised, and enjoyed by the Lessees and their Directors, Officers, Agents, and Servants, under the same Regulations and Restrictions as shall have been granted or imposed by the Acts relating to the said *Dundee and Newtyle* Railway.

Power to raise additional Capital.

XVIII. And be it enacted, That it shall be lawful for the said *Dundee and Perth* Railway Company from Time to Time to raise by creating new

new Shares, in addition to the Sums of Money which they are authorized to raise under and by virtue of the several Acts relating to their Undertaking, or which they may be authorized to raise under or by virtue of any other Act to be passed in the present Session of Parliament, any further Sum of Money not exceeding in the whole the Sum of Fifty thousand Pounds.

New Shares to be considered the same as original Shares.

XIX. And be it enacted, That the Capital so to be raised by the Creation of new Shares shall be divided into Shares of such Amount as will conveniently allow the same to be apportioned according to the Order of any General Meeting or Extraordinary General Meeting of the said *Dundee and Perth* Railway Company, and shall be considered as Part of the general Capital of the said Company, and shall be subject to the same Provisions in all respects, whether with reference to the Payment of Calls, or the Forfeiture of Shares on Nonpayment of Calls, or otherwise, as if it had been Part of the original Capital of the said Company, and had been created by "The *Dundee and Perth* Railway Act, 1845," except as to the Amount of such Shares, and except also as to the Time of making and of Payment and Amount of Calls on such new Shares, which respectively it shall be lawful for the Directors of the said Company to fix from Time to Time as they shall think fit.

As to Votes of Proprietors of new Shares.

XX. And be it enacted, That the Proprietors of any new Shares created under the Powers of this Act shall be entitled to such Number of Votes in respect thereof as the nominal Amount represented by such Shares would have entitled them to if they had been possessed of original Shares in the Undertaking of the said *Dundee and Perth* Railway Company.

As to Dividends on new Shares.

XXI. Provided always, and be it enacted, That no Proprietor of any new Shares by this Act authorized to be created shall be entitled to any further or greater Dividend thereon than in respect of or to the Extent of the Amount which may for the Time being have been paid upon such new Shares.

Power to borrow Money.

XXII. And be it enacted, That after the whole of the Sums which the said *Dundee and Perth* Railway Company are by this and the several other Acts relating to such Company authorized to raise shall have been subscribed, and One Half thereof paid up, it shall be lawful for the said Company to borrow on Mortgage (exclusive of and in addition to any other Sums of Money they are already authorized to borrow) such Sums of Money as shall from Time to Time be authorized to be borrowed by General or Extraordinary General Meetings of the said Company, not exceeding in the whole the Sum of Sixteen thousand six hundred and sixty-six Pounds, and to secure the Repayment of the Money so to be borrowed, with Interest, in like Manner and subject to the same Provisions as are applicable to any other Sums of Money which the said Company are already or may be in the present Session authorized to borrow.

Former Mortgages to have Priority.

XXIII. Provided always, and be it enacted, That all Mortgages or Bonds granted by the said *Dundee and Perth* Railway Company before the passing of this Act shall, during the Continuance thereof, have Priority over any Mortgages or Bonds to be created by virtue of this Act.

XXIV. And

Mortgages and Transfers to be duly stamped.

XXIV. And be it enacted, That every Mortgage, Bond, or other Security for Money, and every Transfer of any Mortgage, Bond, or other Security for Money, to be granted or made by the said *Dundee and Perth* Railway Company under the said Acts relating to the said Company or this Act, shall be by Deed duly stamped, wherein the Consideration Money shall be duly stated, any thing herein or in the said Acts contained to the contrary notwithstanding.

Interest not to be paid on Calls paid up.

XXV. And be it enacted, That it shall not be lawful for the said *Dundee and Perth* Railway Company, out of any Money by this Act or any other Act relating to the said Railway Company authorized to be raised by Calls in respect of Shares, or by the Exercise of any Power of borrowing, to pay Interest 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 prevent the said Company from paying to any Shareholder such Interest or 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 the Company's Capital.

XXVI. And be it enacted, That it shall not be lawful for the said *Dundee and Perth* Railway Company, out of any Money by this Act or any other Act relating to the said Railway Company authorized to be raised for the Purposes of such Act or Acts, 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.

Repeal of Limitation of Actions.

XXVII. And be it enacted, That so much of the said herein-before recited Act of the Seventh Year of His late Majesty King *George* the Fourth which enacts, 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 Company incorporated thereby, or to their Clerk for the Time being, or unless such Action, Suit, or Complaint should have been 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 Damage should cease, and not afterwards; and that 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 virtue of the said Act; and that if it should appear to have been so done, or if such Action, Complaint, or Suit should have been brought or commenced before or after the respective Times limited for bringing or commencing the same, then and in every such Case Judgment should be given for the Defender or Defenders;

Defenders; and that if 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 Double Costs or Expences, and should 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.

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., and 9 & 10 Vict. cc. 57. & 105.

XXVIII. 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 Railway;* 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 whereas Two other Acts were passed in the Ninth and Tenth Years of the Reign of Her said present Majesty, intituled respectively *An Act for regulating the Gauge of Railway*, and *An Act for constituting Commissioners of Railways:* Be it enacted, That nothing in this Act contained shall be held to exempt the said *Dundee and Newtyle* Railway or the said *Dundee and Perth* Railway Company from the Provisions of the said several Acts respectively, but that such Provisions shall be in force in respect to the said Railway and Companies so far as the same shall be applicable thereto.

Railway to be subject to Provisions of any future general Act.

XXIX. And be it further enacted, That nothing herein contained shall be deemed or construed to exempt the said Railway from the Provisions of any general Act relating to this Act, or of any general Act relating to Railways, which may hereafter pass during the present 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 this Act.

Expences of Act.

XXX. And be it enacted, That all Costs, Charges, and Expences connected with the passing of this Act shall be paid by the said *Dundee and Perth* Railway Company, *pari passu* with the Costs, Charges, and Expences of any other Act of Parliament passed in the present Session of Parliament to which they may be liable, out of the first Monies that shall come to their Hands after the passing thereof, and in preference to any other Payment whatsoever.

Public Act.

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

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