ANNO PRIMO & SECUNDO

VICTORIÆ REGINÆ.

****

Cap. lxi.

An Act to enable the *Newtyle* and *Coupar Angus* Railway Company to raise a further Sum of Money. [4th *July* 1838.]

WHEREAS an Act was passed in the Fifth and Sixth Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for making and maintaining a Railway from* Newtyle *to* Coupar Angus *in the County of* Forfar, whereby certain Persons were incorporated by the Name and Style of "The *Newtyle* and *Coupar Angus* Railway Company," with Powers to make the said Railway and other Works in manner therein set forth, and to raise certain Sums of Money for that Purpose: And whereas the said Company have raised very nearly the whole Amount authorized to be raised by the said recited Act, and have applied the same in the making of the said Railway and other Works, and have made such Progress therein that the said Railway has been for some Time in full Use, and is attended with great Advantage to the Public, but the Works have not been fully completed; and it would be advantageous, both to the said Company and to the Public, if the said Railway and the necessary Works were completed and improved, and if Provision were made for Payment of the Debts owing by the said Company; and for these Ends it is expedient that the said Company should be empowered to raise a further Sum of Money: 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

5 & 6 W. c. 84.

Provisions of former Act extended to this Act, except as hereby altered.

Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all the Powers, Authorities, Provisions, Regulations, Directions, Privileges, Forfeitures, Penalties, Clauses, Restrictions, Matters, and Things whatsoever contained in the said recited Act, except in so far as the same are altered, varied, or repealed, shall extend and be construed to extend to and operate and be in force for the Purposes of this Act, as fully and effectually to all Intents and Purposes as if the same and every Part thereof were repeated and re-enacted in this Act, and were made Part thereof; and the said recited Act and this Act shall, as to all Matters and Things whatsoever, except as aforesaid, be construed as one Act.

Further Sum of Money may be raised on new Stock;

II. And be it enacted, That it shall and may be lawful for the said Company, from Time to Time and in such Portions as they shall think fit, to raise and contribute among themselves, or by the Admission of new Subscribers, a Sum not exceeding in the whole the further Sum of Fifteen thousand Pounds, over and above the Sums authorized to be raised by the said recited Act, and for that Purpose to create from Time to Time such Number or Amount of Shares or additional Stock as may be necessary; and the new or additional Stock or Capital so to be created shall be divided, like the original Stock or Subscription under the said recited Act, into Shares of Twenty-five Pounds each; and such new or additional Shares, and the several Shares made or created by virtue of the said recited Act, shall to all Intents and Purposes be and they are hereby declared to be consolidated and to be one and the same Joint Stock and Property, and the Subscriptions under this Act shall be held to be the same to all Effects, Intents, and Purposes as Subscriptions under the said recited Act; and all Persons, Bodies Politic, Corporate, and Collegiate, and Parties whatsoever, who shall acquire Right to any Share or Shares of such new or additional Stock, shall have the same Rights, Profits, and Advantages, and no more, save and except as herein-after expressed, for such Share or Shares held by or belonging to them respectively, according to the Number of such Shares so held by or belonging to them respectively, as any Person or Persons, Bodies Politic, Corporate, or Collegiate, or Parties whatsoever, holding or having Right to the like Number of Shares of original Stock under the said recited Act.

old and new Stock consolidated.

Holders of Shares in the old Stock to have the Preference of subscribing for the new.

III. And be it enacted, That the Person or Persons, Bodies Politic, Corporate, or Collegiate, or Parties whatsoever, who shall at the Time of the passing of this Act be Holders of Shares of the Stock of the said Undertaking, shall be entitled in the first place to subscribe for and acquire the new Shares of Stock to be created by virtue of this Act, in preference to all others, according to the Number of Shares which they shall respectively hold in the said Undertaking at the Time of the passing of this Act, paying for each Share the said Sum of Twenty-five Pounds, no Subscription being for less than One Share; and in case of any Competition those Shareholders who shall intimate, by Letter subscribed by them respectively, delivered to the Clerk of the said Company within One Calendar Month after the passing of this Act, their Agreement to subscribe for and take any Share or Shares of such new Stock, shall be entitled to be preferred in their Order to such Shares of new Stock in proportion to the Number of Shares in the Under-

Undertaking held by them respectively at the Time of the passing of this Act, paying as aforesaid Twenty-five Pounds for each Twenty-five Pound Share; but in so far as the new Stock shall not be subscribed for and taken by such Holders of Shares as aforesaid within the Space of One Calendar Month after the passing of this Act the said Company shall be at liberty to dispose thereof to any Person or Persons, Bodies Politic, Corporate, or Collegiate, or Parties whatsoever, willing to subscribe for and take the same, paying Twenty-five Pounds for each Twenty-five Pound Share; and the said Company shall assemble within their usual Place of Meeting, within the said Company's Office at *Coupar Angus* on the Third *Thursday* after the passing of this Act, at Twelve of the Clock Noon, and shall then and there receive and dispose of all Applications (if there be any) for Shares under the Provision above expressed at the said Price of Twenty-five Pounds for each Share.

Shares not so subscribed for how to be disposed of.

IV. And whereas the Shares of Twenty-five Pounds each of the original Subscription under the said recited Act are not reputed to be of the Value of Twenty-five Pounds, and are openly sold at Prices under that Sum; be it enacted, That it shall be lawful to the said Company at the said General Meeting, or at any adjourned Meeting to be held as shall then and there be appointed, or at any other Meeting, special or adjourned, from Time to Time as they shall judge it expedient, to set apart a Portion of the said Shares of Twenty-five Pounds each of new or additional Stock to be created by virtue of this Act, in so far as not subscribed for and taken in manner herein-before provided, and fix a Price, being less than Twenty-five Pounds for the Twenty-five Pound Share, at which such Portion so set apart may be sold, and from Time to Time, as to the said Company shall appear expedient, to set apart another Portion or Portions in like Manner, and fix a Price as aforesaid, at which such Portion so set apart may be sold; and on any Portion being so set apart, and the Price being fixed, Notice thereof shall in every Case be given by Advertisement in some One Newspaper published in *Dundee;* and all Persons, Bodies Politic, Corporate, or Collegiate, or Parties whatsoever, who shall at the Time be the Holders of Shares of the Stock of the said Company under the said recited Act, or by Subscription as aforesaid for Shares of the new or additional Stock to be created by virtue of this Act, shall be entitled, in the first place, to subscribe to and take the Shares of the new or additional Stock so set apart at such reduced Price, in so far as the same shall not have been previously subscribed for at the full Sum of Twenty-five Pounds for each Share, in manner herein-before mentioned, in preference to all others, according to the Number of Shares which they shall respectively hold as aforesaid in the Undertaking at the Time, no Subscription being for less than One Share; and in case of Competition those Shareholders who shall, by Letters addressed and delivered to the Clerk of the said Company within One Calendar Month after the Day of Publication of the Newspaper, containing the Notice aforesaid, declare their Agreement to subscribe for and take a Share or Shares at such reduced Price, shall be entitled to be preferred in their Order, in proportion to the Number of Shares held by them respectively in the said Undertaking at the Time when their said Application is considered; and the said Company at any General Meeting, or the Committee of the said

said Company at the Time, if any General Meeting shall delegate such Powers to the Committee, shall allot the Shares set apart as aforesaid to the Applicants in Terms of the Preference above expressed; and after the Lapse of One Calendar Month after the Publication of any such Notice the said Company at any General Meeting, or the Committee of the said Company, if such Powers shall be delegated by any General Meeting to the Committee, shall be at liberty to dispose of, at such reduced Price, to any Person or Persons, Bodies Politic, Corporate, or Collegiate, or Parties whatsoever, willing to take the same, any Share or Shares set apart as aforesaid, not taken by Parties entitled to be preferred, or to sell any such Share or Shares so set apart by public Auction to the highest Bidder, at such Price as can be obtained for the same, not being less than the Price previously fixed as aforesaid, or to withdraw from the Market the Shares so set apart and not sold until they shall be of new set apart, and until a Price shall of new be fixed, and until Advertisement shall of new be made as aforesaid.

Shares to be numbered and entered in a Book, and Certificates to be granted.

V. And be it enacted, That all the Shares of new or additional Stock so to be created shall be numbered and entered in a Book in Manner directed in the said recited Act, and Certificates shall be delivered to every Holder of any such Shares, on Demand, (due Payment of the Sum subscribed for each Share being first made,) upon the Condition and in the Terms mentioned in the said recited Act in reference to the Shares of the original Stock of the said Company.

Subscription Money to be paid.

VI. And be it enacted, That all Persons, Bodies Politic, Corporate, or Collegiate, or Parties whatsoever, who shall subscribe for or purchase any of the Shares of the new or additional Stock to be created under this Act, either at the full Sum of Twenty-five Pounds for every Twenty-five Pound Share, or at any diminished or increased Price, shall be bound to pay the stipulated Sum for each and every Share subscribed for by them respectively to the said Company or the Treasurer for the Time, for behoof of the said Company, at such Time or Times as shall be fixed by the Committee of the said Company for such Payment; and failing such Payment at such Time or Times the Party or Parties failing shall incur all the Penalties and Forfeitures, and be subject to the same Actions and Remedies, as are provided in the said recited Act for the Cases of Failure in the due Payment of Calls of the original Stock; and the said Company, and its Committee and Treasurer, or any of them, shall have the same Rights, Powers, and Privileges against the Party or Parties so failing as are provided against Defaulters under the said recited Act.

Distribution of Profits how to be made.

VII. And be it enacted, That when any Distribution is to take place of the Profits and Advantages that shall or may arise or accrue from the said Undertaking every such Distribution shall be made according to such or some One of the Modes after mentioned as may correspond to the Amount of Profits or Advantages so at the Time to be distributed, the Sums necessary for maintaining and upholding the Railway and other Works in good and sufficient Repair being in all Cases set apart out of the first of the gross Profits before any Distribution; that is to say, if such net Profits and Advantages shall be sufficient

sufficient to pay only a Dividend after the Rate of Five *per Centum*, or after a lower or less Rate, on the Shares of Stock of Twenty-five Pounds each to be created under the Authority of this Act, the Holders of such Shares of Stock shall be entitled to and shall receive the whole of the Profits and Advantages so at the Time to be distributed, if such Profits and Advantages shall be sufficient to pay a Dividend after the Rate of Five *per Centum* on the Shares of Stock to be created under the Authority of this Act, and also a Dividend after a lower or less Rate on the Shares of Stock created under the Authority of the said recited Act, the Holders of Shares created under the Authority of this Act shall be entitled to and shall receive a Dividend at the Rate of Five *per Centum*, and the Holders of Shares created under the Authority of the said recited Act shall be entitled to and shall receive such Dividend at a lower or less Rate as the Surplus of Profits and Advantages at the Time under Distribution shall afford; and if the Profits and Advantages at the Time to be distributed shall be sufficient to pay a Dividend at the Rate of Five *per Centum*, both on the Shares of Stock to be created under the Authority of this Act and on the Shares of Stock created under the Authority of the said recited Act, or a Dividend at a higher or greater Rate, such Profits and Advantages shall be divided among all the Holders of Shares in the said Undertaking, rateably according to the Amount of Stock held by each, without either Class having a Right of Preference or Priority of Payment over the other.

No Subscriber or Shareholder to be liable beyond his Subscription.

VIII. Provided always, and be it enacted, That notwithstanding any thing herein contained no Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who is or are or shall be Proprietor or Proprietors of Stock of the said Company, or Contributor or Contributors thereto, nor his, her, or their Real or Personal Estate, shall be chargeable with or made liable for any Debt or Demand whatsoever due or to become due from the said Company, beyond the Extent of the Sum contracted to be paid for his, her, or their Capital Stock, or Share or Shares in the Stock of the said Company, any Law, Custom, or Usage to the contrary notwithstanding.

Further Sum may be raised on Loan.

Limitation as to borrowing.

Assignments may be granted.

IX. And be it enacted, That it shall and may be lawful for the said Company and they are hereby authorized to raise by way of Loan or Mortgage any Sum of Money not exceeding One Third Part of the Capital Stock which the said Company shall have actually subscribed under the Powers of this and the said recited Act; and it shall not be lawful to the said Company to raise any further Sum by way of Loan or Mortgage beyond the Sums already borrowed by them in virtue of the said recited Act, until Fifty *per Cent.* of the Whole of the Capital authorized by the said recited Act and this Act to be raised and contributed shall have been paid up; and for any Sum to be so borrowed it shall be lawful for the said Company to assign and convey the said Railway and other Works and Property of the said Company, and the Rates arising or to arise thereon by virtue of the said recited Act and this Act, or any Part thereof (the Costs and Charges of assigning the same to be paid out of such Rates), as a Security for any such Sum or Sums of Money to be borrowed as aforesaid, to such Person or Persons, or to his, her, or their Trustee

or Trustees, who shall advance the same; and any Assignments to be granted in Security of such Sums, and the Transferences to be made of such Assignments, shall and may be made in pursuance and in Terms of the Powers and Directions to that Effect contained in the said recited Act; and all Persons to whom any such Assignments shall hereafter be made under this Act shall be equally entitled, one with the other, to their Proportions of the said Rates and Property, according to their respective Sums in such Assignments mentioned, to be advanced without any Preference by reason of Priority of any such Assignments, or on any other Account; provided that the Assignment which has already been executed for the Sum of Five thousand Pounds authorized to be borrowed under the said recited Act shall, so long as the said Sum is unpaid, be preferable to all others, but when the same has been paid, then, though the said Sum be of new borrowed, it shall have no such Preference, but be deemed and taken to be on the same Footing as the further Sums authorized to be borrowed under this Act.

Rates to be charged equally.

X. Provided always, and be it enacted, That, except as otherwise provided, the Rates or Tolls and Charges to be taken and made for the Use of the said Railway, or 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 to all Persons and after the same Rate *per* Mile or *per* Ton *per* Mile, or after any other Manner in which such Rates and Charges are by the said recited Act directed or authorized to be taken or charged, throughout the Whole of the said Railway, 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; and no Reduction or Advance in any of the Rates or Tolls allowed by the said recited Act, or 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, or be confined to any particular Part of the said Railway, but every Reduction or Advance in any Rate, Toll, or Charge to be taken by the said Company in respect of Passengers, or any Description of Goods, Carriages, or Animals carried on the Railway, or for the Use of any Carriage or locomotive Power, shall extend to and take place at the same Time throughout the Whole and every Part of the said Railway in respect of such Passengers, Goods, Carriages, Animals, or locomotive Power, as the Case may be.

Provision in recited Act as to Limitation of Actions repealed.

XI. And be it enacted, That so much of the said recited Act as relates to the Limitation of Actions to be brought under the Authority thereof, or to the Costs or Expences in or relative to such Actions, shall be and the same is hereby repealed.

Application of the Money to be raised.

XII. And be it enacted, That all the Sums of Money which shall be received by the said Company by virtue of this Act shall be applied, in the first place, in Payment of the Expences of obtaining this Act, and thereafter in Payment of the Sums borrowed or otherwise owing by

by the said Company in completing and improving the said Railway and other Works, and carrying into execution the other Purposes authorized by the said recited Act or by this Act: Provided always, that nothing herein contained shall prevent the said Company from re-borrowing and again making over the said Railway and other Works, and the Rates, Tolls, and Duties, in Security of any Sum or Sums of Money authorized by the said recited Act to be borrowed, notwithstanding the Payment of the Sums now borrowed and owing as aforesaid by the Means provided under this Act; nor shall any thing herein contained in any other respect diminish the Powers of the said Company under the said recited Act, except in so far as the same are hereby expressly taken away.

Public Act

XIII. 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 by all Judges, Justices, and others.

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