ANNO VICESIMO SEPTIMO & VICESIMO OCTAVO

VICTORIÆ REGINÆ.

****

Cap. lxxxiv.

An Act to authorize the *North British* Railway Company to make a Railway from the *Carlisle and Silloth Bay* Railway in the Parish of *Holme Cultram* to the *Maryport and Carlisle* Railway in the Parish of *Wigton*, all in the County of *Cumberland;* and for other Purposes.

[23d *June* 1864.]

WHEREAS by the "*North British* Railway Consolidation Act, 1858," the Acts relating to the *North British* Railway Company were consolidated and amended, and several Acts have since been passed conferring Powers upon that Company: 21 & 22 Vict.
And whereas under the Powers of "The *North British* Railway, *Silloth* Railway and Dock (Lease) Act, 1862," the Undertaking of the *Carlisle and Silloth Bay* Railway and Dock Company is leased to the *North British* Railway Company for a Term of Nine hundred and ninety-nine Years from the First Day of *August* 1862: And whereas a Railway from the *Carlisle and Silloth Bay* Railway in the Parish of *Holme Cultram* to the *Maryport and Carlisle* Railway in the Parish of 25 & 26 Vict. c. xlvii.

of *Wigton*, all in the County of *Cumberland*, would be of public Advantage, and the *North British* Railway Company, herein-after called "the Company," are willing, if authorized by Parliament, to make such Railway: And whereas it is expedient that the Company and the *Maryport and Carlisle* Railway Company should be authorized to enter into Agreements with respect to the Use of their respective Railways, and to the Traffic of the said Companies or either of them: And whereas the Objects aforesaid 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 Spiritual and Temporal, and of the Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

8 & 9 Vict. cc. 17., 18., & 20., 23 & 24 Vict. c. 106., and 26 & 27 Vict. cc. 92. & 118. incorporated.

1. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation Act, 1845," Parts 1 and 3 of "The Railways Clauses Act, 1863," relating respectively to Construction of a Railway and to Working Agreements, the Provisions of "The Companies Clauses Consolidation (*Scotland*) Act, 1845," with respect to the several Matters following, that is to say, the Distribution of the Capital of the Company into Shares, the Transfer or Transmission of Shares, the Payment of Subscriptions and the Means of enforcing the Payment of Calls, the Forfeiture of Shares for Nonpayment of Calls, the Remedies of Creditors of the Company against the Shareholders, the borrowing of Money by the Company on Mortgage or Bond, the Conversion of the borrowed Money into Capital, the Consolidation of the Shares into Stock, and the Provision to be made for affording Access to the Special Act, and Parts 1, 2, and 3 of "The Companies Clauses Act, 1863," relating respectively to Cancellation and Surrender of Shares, to additional Capital, and to Debenture Stock, are hereby incorporated with this Act.

Interpretation of Terms.

2. In construing the incorporated Acts for the Purposes of this Act, and in construing this Act, the Words and Expressions herein mentioned or referred to shall have the Meanings hereby assigned to them respectively, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

The Expression "the Special Act" shall mean this Act:

The Expressions "the Company" or "the Promoters of the Undertaking" shall mean the *North British* Railway Company:

The Expressions "Superior Courts" or "Court of competent Jurisdiction," or any other like Expression, shall be read and have effect as if the Debt or Demand with respect to which the Expression is used were a common Simple Contract Debt, and not a Debt or Demand created by Statute:

Other

Other Expressions and Words to which in the incorporated Acts Meanings are assigned shall respectively have the same Meanings in this Act.

Power to make Railway as herein stated.

3. It shall be lawful for the Company to make and maintain a Railway, with all proper Stations, Approaches, Works, and Conveniences connected therewith, commencing by a Junction with the *Carlisle and Silloth Bay* Railway in the Parish of *Holme Cultram* in the County of *Cumberland*, and terminating by a Junction with the *Maryport and Carlisle* Railway in the Parish of *Wigton* in the same County.

Railway &c. to be Part of Undertaking.

4. The Railway and Works by this Act authorized shall form Part of the Undertaking of the Company.

Railway to be made according to deposited Plan, &c.

5. And whereas a Plan and Section of the proposed Railway showing the Line and Levels thereof and the Lands required for the Purposes of the Undertaking, and also a Book of Reference to such Plan, have been deposited with the Clerk of the Peace for the County of *Cumberland*: Therefore, subject to the Provisions and Powers of Deviation in this Act and the Acts incorporated herewith contained, the Railway shall be made in the Line and upon the Lands delineated on the said Plan and described in the said Book of Reference, and according to the Levels defined on the said Section, and it shall be lawful for the Company to enter upon, take, and use all or any of the said Lands which they may require for the Purposes of the Undertaking.

Powers for compulsory Purchases limited.

6. 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.

Lands for extraordinary Purposes.

7. The Company may from Time to Time purchase by Agreement such Lands as they may require for any of the extraordinary Purposes specified in "The Railways Clauses Consolidation Act, 1845," in connexion with the Railway and Works by this Act authorized, not exceeding in the whole Two Acres.

Period for Completion of Works.

8. The Railway hereby authorized shall be completed within Five Years from the passing of this Act, and on the Expiration of such Period the Powers by this Act granted to the Company for making the Railway, or otherwise in relation thereto, shall cease to be exercised except as to so much thereof as shall then be completed.

If Railway not completed, &c. within a

9. If the Railway by this Act authorized to be constructed shall not be completed and opened for public Traffic within the Period of Five Years from the passing of this Act, then and from thenceforth the

limited Period, Company liable to a Penalty.

the Company shall be liable to a Penalty of Fifty Pounds *per* Day, to be recoverable as a Debt due from the Crown, for every Day thereafter until the Railway shall be completed and opened for public Traffic; but no Penalty shall accrue in respect of any Time during which it shall appear, by a Certificate to be obtained from the Board of Trade, that the Company were prevented from completing or opening the Railway by unforeseen Accident or Circumstances beyond their Control, but the Want of sufficient Funds shall not be held to be a Circumstance beyond the Control of the Company.

Railway Tolls.

10. The Company may demand and take in respect of the Railway by this Act authorized such Tolls and Charges as they think fit, not exceeding the Rates of Toll and Charge authorized to be taken by the "*Carlisle and Silloth Bay* Railway and Dock Act, 1855;" and in estimating the Amount of Toll or Charge in respect of any Traffic conveyed partly on the Railway by this Act authorized and partly on any other Railway of the Company, the Railway by this Act authorized and such other Railway shall be deemed One Railway, as if authorized by the "*Carlisle and Silloth Bay* Railway and Dock Act, 1855."

Power to Company to raise Capital by Shares or Stock.

11. The Company, with the Consent of Three Fifths of the Votes of the Shareholders present in person or by proxy at any General Meeting or General Meetings convened with special Notice of the Purpose, may raise, by the Creation of new Ordinary or Preference Shares or Stock, such additional Capital beyond the Amount which they may be authorized to raise by other Acts of Parliament as they think fit, not exceeding in the whole Twenty-eight thousand Pounds.

Shares, &c. to form Part of Company's Capital.

12. All Shares or Stock to be created by the Company under the Authority of this Act shall, subject to the Provisions of this Act, form Part of the general Capital of the Company.

Shares not to issue until One Fifth Part shall have been paid up.

13. It shall not be lawful for the Company to issue any Share to be created under the Powers of this Act, nor shall any such 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.

Capital under several Acts may be raised by Shares or Stock of One Class.

14. If by any other Act or Acts passed in the present Session of Parliament, and whether before or after the passing of this Act, the Company be authorized to raise any Capital by new Shares or Stock, then, subject to the Provisions of the other Act or Acts and this Act respectively, the Company, if they think fit, may raise, by the Creation and Issue of Shares or Stock of one and the same Class, all or any Part of the aggregate Capital which they are by the other Act

Act or Acts and this Act respectively authorized to raise by the Creation and Issue of Shares or Stock.

Power to borrow on Mortgage.

15. The Company, in addition to any Sums which they are authorized to borrow under other Acts of Parliament, may from Time to Time borrow on Mortgage such Sums as they think fit, not exceeding in the whole Nine thousand Pounds; but no Part of that Money shall be borrowed until the whole of the said additional Capital of Twenty-eight thousand Pounds shall have been *bonâ fide* subscribed and issued, and One Half of that Amount shall have been actually paid up, nor until the Company shall have proved to the Sheriff who is to certify under the Forty-second Section of "The Companies Clauses Consolidation (*Scotland*) Act, 1845," (before he so certifies,) that all the said additional Capital of Twenty-eight thousand Pounds has been subscribed for *bonâ fide* and issued, and that not less than One Fifth of the Amount of each Share was paid on Issue of the same, and that such Shares are held by the Subscribers or their Assigns, and that such Subscribers or their Assigns are legally liable for the same (of which Proof having been given the Certificate of such Sheriff under that Section shall be sufficient Evidence).

Priority of existing Mortgages.

16. All Mortgages granted by the Company before the passing of this Act, and which shall be in force at the Time of the passing of this Act, shall, as regards the Undertaking comprised in and assigned by such Mortgages, have Priority over all Mortgages granted by virtue of this Act.

Debenture Stock.

17. The Company may create and issue Debenture Stock.

Application of Money raised under Act.

18. All Money raised under the Powers of this Act by the Creation of new Shares or Stock, or on Mortgage, shall be applied only to the Purposes by this Act authorized.

Company and Maryport and Carlisle Company authorized to make Agreements.

19. The Company and the *Maryport and Carlisle* Railway Company may from Time to Time enter into Agreements with respect to the Use by the one Company of all or any of the Railways, Stations, and Works of the other Company, and with respect to the Reception, Interchange, Transmission, and Conveyance of Traffic at, from, to, and over their respective Railways, Stations, and Works, and otherwise with respect to their Undertakings and Traffic; and all such Agreements as may be entered into between the said Companies solely under the Authority of this Act shall be deemed binding Agreements within the Meaning of "The Railways Clauses Act, 1863," and Part III. of that Act shall be applicable thereto accordingly.

Powers of Act suspended if Dumfriesshire and Cumberland (Solway) Junction Railway Company obtain Power in the next Session to make a certain Railway.

20. And whereas a Bill is now pending in Parliament to incorporate a Company by the Name of The *Dumfriesshire and Cumberland (Solway) Junction* Railway Company, and to authorize such Company to make a Railway No. 1. from the *Caledonian* Railway near the *Kirtlebridge* Station to the *Maryport and Carlisle* Railway in the Parish of *Aspatria* in the County of *Cumberland*, with certain Branches therefrom: And whereas the Objects of such projected Railway No. 1. and of the Railway by this Act authorized would be effected, and the Construction of a Second Railway avoided, if so much of the said projected Railway No. 1. as lies between *Kirkbride* and a Place called *High Scales* were deviated so as to pass by *Abbey* or *Holme Cultram*: Therefore the Construction of the Railway by this Act authorized shall be suspended until the End of the Session of Parliament which will be in the Year One thousand eight hundred and sixty-five; and if in that Session of Parliament the *Dumfriesshire and Cumberland (Solway) Junction* Railway Company shall obtain an Act authorizing them to abandon so much of their said Railway No. 1. as lies between *Kirkbride* and *High Scales* aforesaid, and in substitution for the same to make, within One Year from the passing of that Act, at their own Expense, a Railway from *Kirkbride viâ Holme Cultram* to *High Scales* aforesaid in such Line and Direction as has been or may be agreed upon between the Company and the *Dumfriesshire and Cumberland (Solway) Junction* Railway Company or the Promoters thereof, then the Railway hereby authorized shall not be constructed, nor the Powers hereby conferred be exercised, and the Company shall not directly or indirectly oppose the passing of such Act so far as relates to the Purposes aforesaid.

Interest not to be paid on Calls paid up.

21. It shall not be lawful for the Company, out of any Money by this Act or any other Acts 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 to any Shareholder any Interest or Dividend 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 that nothing herein contained shall be deemed to 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 Capital.

22. It shall not be lawful for the Company, out of any Money by this Act or any other Acts relating to the 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 in force for the Time being, may be required to be deposited in respect of any Application to Parliament for the Purpose of obtaining

obtaining an Act authorizing the Company to construct any Railway, or execute any other Work or Undertaking.

Railways not exempt from Provisions of present and future General Acts.

23. Nothing herein contained shall be deemed or construed to exempt the Railways by this or the recited Acts authorized to be made from the Provisions of any General Act relating to Railways 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 and of the Rates for small Parcels authorized by the recited Acts or this Act.

Expenses of Act.

24. The Costs and Charges of applying for and obtaining this Act, and incidental thereto, shall be paid by the Company.

Short Title.

25. This Act may be cited for any Purpose as The *North British* Railway (*Abbey Holme* Branch) Act, 1864.

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