ANNO VICESIMO SEXTO & VICESIMO SEPTIMO

VICTORIÆ REGINÆ.

****

Cap. xcvi.

An Act for authorizing the *Oswestry and Newtown* Railway Company to make a Branch to *Aberbechan*, and to raise additional Capital; and for other Purposes. [29th *June* 1863.]

18 & 19 Vict. c. lxxxvi. 23 & 24 Vict. cc. ci. & cxxxix. and 24 & 25 Vict. c. cxvii.

WHEREAS by "The *Oswestry, Welchpool, and Newtown* Railway Act, 1855," "The *Oswestry and Newtown* Railway Act, 1860," "The *Oswestry and Newtown* (*Porthywaen* Branch) Act 1860," and "The *Oswestry and Newtown, Llanfyllen* and *Kerry* Branches, Act, 1861," the *Oswestry and Newtown* Railway Company (herein-after called the Company) were incorporated, and authorized to make a Railway from the *Oswestry* Branch of the *Great Western* Railway at *Oswestry* to the *Llanidloes and Newtown* Railway at *Newtown*, with Branches therefrom to the *Porthywaen* Lime Rocks, to *Llanfyllin* and *Kerry*, and to the *Llanymynech* Lime Rocks: And whereas a Branch Railway from the *Oswestry and Newtown* Railway, near *Cilgwrgan*, to *Aberbechan* in the County of *Montgomery* would be of public Advantage, and the Company are willing, if authorized by Parliament, to make the Railway: And whereas it is expedient that the Powers for the compulsory Purchase of certain Lands in the Parishes of *Oswestry* and *Llanyblodwell* in the County of *Salop*, and *Welchpool, Montgomery*, and *Newtown*, in the County of

of *Montgomery*, granted by the recited Acts, or some or One of them, should be revived, and the Time limited for the Exercise of the Powers should be extended, and the Company should be empowered to purchase certain other Lands in the same Parishes, or some of them: And whereas it is expedient that the Company should be authorized to raise further Sums for Purposes authorized by the recited Acts and this Act: And whereas the Objects of this Act cannot be attained 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. 18. & 20., 23 & 24 Vict. c. 106., and Part of 8 & 9 Vict. c. 16. incorporated.

1. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation Act, 1845," and Sections Six to Sixty-four, both inclusive, of "The Companies Clauses Consolidation Act, 1845," are respectively incorporated with this Act.

Same Meanings to Words in incorporated Acts as in this Act.

2. The Words and Expressions to which by the Acts incorporated with this Act Meanings are assigned have in this Act the same Meanings, unless excluded by the Subject or Context.

Power to make Railway.

3. The Company may make and maintain the following Railway, with all proper Stations, Approaches, Works, and Conveniences connected therewith; (that is to say,)

A Railway (in this Act called "the *Aberbechan* Branch"), commencing by a Junction with the *Oswestry and Newtown* Railway, near *Cilgwrgan*, and terminating in the Piece of Land numbered on the Plans deposited for the Purposes of this Act 5, in the Township of *Gwestydd*, in the Parish of *Llanllwchairn*, and near to *Aberbechan*, all in the County of *Montgomery*.

Railway to be made according to deposited Plans.

4. And whereas Plans and Sections of the Railway showing the Line and Levels thereof, and the Lands required for the Purposes of the Undertaking, and also a Book of Reference to the Plans, have been deposited with the Clerks of the Peace for the Counties of *Montgomery* and *Salop* respectively: Therefore, subject to the Provisions of this Act, the Railway may be made in the Line and upon the Lands delineated on the said Plans and described in the Books of Reference and according to the Levels defined on the Sections; and the Company may enter upon, take, and use all or any of the Lands which they require for the Purposes of the Undertaking.

Power to alter engineering Work.

5. Notwithstanding anything in "The Railways Clauses Consolidation Act, 1845," contained, the Company, in the Construction of the Railway, may deviate from the Line of any Arches or Viaducts described in

in the deposited Plans or Sections, so that the Deviation be made within the Limits of Deviation shown on those Plans, and subject to the Limitations contained in the Eleventh, Twelfth, and Fifteenth Sections of that Act, and so that the Nature of the Work, as described, be not altered, and the Company may also substitute any other engineering Work, not shown on the Plans or Sections, instead of a Viaduct, Arch, or Arches as shown thereon: Provided that every such Substitution be authorized by a Certificate of the Board of Trade, and the Board of Trade is hereby empowered to grant such Certificates, provided it shall appear to them upon due Inquiry that the Company have acted in the Matter with good Faith, and that the Owners, Lessees, and Occupiers of the Land in which the Substitution is intended to be made, consent thereto, and also that the Safety and Convenience of the Public will not be diminished thereby; but nothing herein contained shall take away or affect any of the Powers given to the Company, or to the Board of Trade, by the Eleventh, Twelfth, Fourteenth, or Fifteenth Section of "The Railways Clauses Consolidation Act, 1845."

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 require for any of the extraordinary Purposes specified in "The Railways Clauses Consolidation Act, 1845," in connexion with the Railway, not exceeding in the whole Three Acres.

Period for Completion of Works.

8. The Railway shall be completed within Four Years from the passing of this Act, and on the Expiration of that 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 Railways not completed, &c. within a limited Period, Company to be liable to a Penalty.

9. If the Railway shall not be completed and opened for public Traffic within the Period of Four Years from the passing of this Act, then and thenceforth the Company shall be liable to a Penalty of Fifty Pounds *per* Day, to be recoverable as a Debt due to 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.

10. The

Railway Tolls.

10. The Tolls and Charges which the Company may demand and take in respect of the Railway shall not exceed the maximum Rates of Toll and Charge authorized to be taken on the *Oswestry and Newtown* Railway, and in estimating the Amount of Toll or Charge in respect of any Traffic conveyed partly on the Railway and partly on the *Oswestry and Newtown* Railway, the Railway and the *Oswestry and Newtown* Railway shall be deemed One Railway.

Extending Period for compulsory Purchase of certain Lands.

11. And whereas the Lands which the Company require for Station Purposes, and which were subject to the Powers for the compulsory Purchase of Lands granted by the recited Acts, or some of them, are set forth in the Schedule to this Act, and are also defined and described in Plans and Books of Reference which have been deposited with the Clerks of the Peace of the Counties of *Salop* and *Montgomery* respectively: Therefore, subject to the Provisions of this Act, the Company from Time to Time within but not after the Period of Two Years from the passing of this Act, may enter upon, take, and use such of those Lands as they require for any of the Purposes of their Undertaking.

Revival of Powers of the Company for the Purchase of certain Lands which they were authorized to take by 18 & 19 Vict. c. lxxxvi.

12. And whereas certain other Lands which the Company require for the Purposes of their Undertaking, and which were subject to the Powers for the compulsory Purchase of Lands granted by "The *Oswestry, Welchpool, and Newtown* Railway Act, 1855," are defined and described on the Plans and Books of Reference referred to in that Act, and are also described in the Schedule (B.) to this Act annexed, by Reference to the same Plans: Therefore the Powers which were granted to the Company by the Act of 1855 for the compulsory Purchase and taking of so much of the Lands described in the Schedule (B.) as are coloured Pink upon a Plan signed by *William Nathaniel Massey* Esquire, the Chairman of the Committee of the House of Commons, to whom this Act when a Bill was referred, and which Plan so signed has been deposited in the Private Bill Office of the House of Commons, are by this Act revived, and may be exercised by the Company in respect of those Lands coloured Pink, or any of them, at any Time within One Year next after the passing of this Act, but on the Expiration of that Period those revived Powers shall cease.

Parties aggrieved by Extension of Time may have Compensation for additional Damage.

13. The Justices, Arbitrators, Umpires, or Juries who shall award or assess the Compensation to be made by the Company to the Owners or Occupiers of or other Persons interested in any of the Lands required by the Company and for the Purchase of which the Powers are by this Act extended or revived, shall in estimating the Amount of such Compensation have regard to and make Compensation for the additional Damage (if any) sustained by such Owners, Occupiers, or other Persons by reason of the Extension or Revival of the Powers.

14. The

Contracts not to be prejudiced.

14. The Extension or Revival of the Powers for the Purchase of Lands shall not in anywise prejudice or affect any Contract entered into or Notice given by the Company before the passing of this Act for purchasing, taking, or using any Lands which, under the recited Acts or any of them, the Company were entitled to purchase, take, or use, but every such Contract and Notice respectively shall be construed and shall take effect, and the same Proceedings shall be had thereunder, and all Parties thereto shall be entitled to the same Rights and Remedies in respect thereof, both in Law or in Equity, as if such Extension or Revival had not happened.

Power to Company to raise Capital by new Shares, &c.

15. The Company from Time to Time, with the Consent of Three Fifths at least of the Votes of the Shareholders present in person or by proxy at any General Meeting convened with special Notice of the Purpose, may raise by the Creation of new Shares or Stock in their Undertaking any further Sums of Money not exceeding in the whole Two hundred thousand Pounds.

Power to attach Preference to Shares, &c. created under this Act.

16. The Company from Time to Time, with the Consent of Three Fifths at least of the Votes of the Shareholders present in person or by proxy at any General Meeting convened with special Notice of the Purpose, may attach to all or any Shares or Stock created by them under the Powers of this Act, either in perpetuity or for a limited Period, Preferential Dividends not exceeding the Rate of Five Pounds *per Centum per Annum* upon the Amount from Time to Time paid thereon in priority to the Ordinary Stock or Shares of the Company.

Saving Rights of existing Preference Shareholders.

17. This Act or the granting of any such Preference or Priority shall not prejudice or affect any Preference or Priority in Payment of Interest or Dividends on any other Shares or Stock which may have been previously granted by the Company in pursuance of or which may have been confirmed by any Act of Parliament or otherwise lawfully subsisting.

If Year's Revenue insufficient for Dividend subsequent Revenue not charged.

18. If the Revenue of the Company available for Dividend in any One financial Year of the Company ending with the Thirty-first Day of *December* shall be insufficient to pay the Dividend due upon any Preference Shares or Stock to be created under this Act it shall not be lawful for the Company to make good the Deficiency, or any Part thereof, from the Revenue of the Company available for Dividend in any subsequent financial Year or from any other Funds of the Company.

Terms, &c. to be stated on Certificates.

19. The Terms and Conditions to which any Preference Shares created under this Act are subjected by the Provisions of this Act shall be clearly stated upon the Certificate of every such Preference Share.

Amount and issuing of Shares.

20. All Shares created by the Company under this Act shall be of such nominal Amount, and shall be issued, apportioned, and allotted to such Persons and in such Manner as shall be determined by the Resolution of any General Meeting of the Company convened for the Purpose of authorizing the Creation of such Shares, with due Notice of such Object.

Issuing of Stock.

21. All Stock created by the Company under this Act shall be issued, apportioned, and allotted in such Manner and to such Persons paying the full nominal Value thereof as shall be determined by the Resolution of any General Meeting of the Company convened for the Purpose of authorizing the Creation of such Stock, with due Notice of such Object.

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

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

Power to borrow on Mortgage.

23. The Company, in addition to any Sums which they are authorized to borrow under any other Acts of Parliament, may from Time to Time borrow on Mortgage such Sums as they think fit, not exceeding in the whole Sixty-six thousand six hundred and sixty Pounds, but no Part of that Money shall be borrowed until the whole of the additional Capital of Two hundred thousand Pounds shall have been subscribed for or taken, and One Half of that Amount shall have been actually paid up, nor until the Company shall have proved to the Justice who is to certify under the Fortieth Section of "The Companies Clauses Consolidation Act, 1845" (before he so certifies), that all the said additional Capital of Two hundred thousand Pounds has been subscribed for or taken *bonâ fide*, and is held by the Subscribers or their Assigns, and that such Subscribers or their Assigns are legally liable for the same, of which Proofs having been given, the Certificate of the Justice under that Section shall be sufficient Evidence.

Priority of existing Mortgages.

24. All Mortgages of the Company granted before and 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.

Application of Money raised under Act.

25. All Money raised under this Act by new Shares or Stock, or on Mortgage, shall be applied in the first instance to the Purposes by this Act authorized, and, subject thereto, shall be applicable to the Purposes authorized by the other Acts relating to the Company.

Interest not to be paid on Calls paid up.

26. 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,

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; but 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 Act, 1845," in that Behalf contained.

Deposits for future Bills not to be paid out of Capital.

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

For Protection of Shropshire Union Canal.

28. And whereas the *Aberbechan* Branch is proposed to be carried across the Canal and Towing-path of the *Shropshire* Union Railways and Canal Company (herein-after called the Canal Company), in the Parish of *Llanllwchairn*, and it is expedient to provide against Injury or Obstruction being occasioned by means of the Railway to the Canal: Therefore the Company shall, in carrying the Railway over the Canal, make to the reasonable Satisfaction of the Canal Company's Engineer and shall at all Times thereafter maintain and keep in perfect Repair a good and substantial Bridge of Brick, Stone, or Iron over the Canal and the Towing-path thereof, with proper Approaches to the Bridge; and no Part of the Arch or Opening of the Bridge over the Canal and Towing-path shall be less than Eight Feet above the Top Water Level; and the Bridge shall be of such Width and Curve as shall leave an open and uninterrupted navigable Waterway in the Canal of not less than Twenty-five Feet in Width, and a Towing-path of not less than Five Feet in Width, and the Piers or Abutments of the Bridge shall be placed in such Position adjoining the Canal and Towing-path as shall be reasonably approved by the Canal Company's Engineer. During the Construction of the Bridge, and during any necessary Repairs thereof, there shall at all Times be left a free, open, uninterrupted, navigable Waterway in the Canal of not less than Ten Feet in Width, and a Towing-path of not less than Five Feet in Width, and a Space above the Canal and Towing-path of not less than Eight Feet in Height in the clear above the Top Water Level.

Penalty in Case of Obstruction to the said Canal.

29. If, in the Execution of the Works by this Act authorized, or by reason of the Want of Repair of any such Works, or of the Bridge over the Canal, or of any of the Slopes, Banks, or Walls of the Railway near the

the Canal, the Canal or its Towing-path be obstructed, and Boats or other Vessels navigating or using the Canal be stopped or impeded in their Passage along the same, or the Towing or Haulage be interfered with, or if the navigable Waterway and Towing-path by this Act required to be preserved, be at any Time contracted to a less Width than is by this Act prescribed, or the Supply of Water to the Canal be diverted so that it be injuriously affected or be diminished, or any of the Works, Slopes, or Embankments of the Canal be injured, then and in any such Case the Company shall pay to the Canal Company Fifty Pounds for every Day during which any such Injury or Obstruction continues.

Repair of Bridge, &c.

30. If the Bridge over the Canal or the Towing-path, the Walls under the Bridge, or the several Approaches, Side Slopes, or Banks of the Railway next to the Canal or any of them, or any Part thereof, shall be constructed otherwise than is authorized by this Act, or be not at all Times kept in good Repair, the Canal Company from Time to Time may remove or alter the same and do all requisite and proper Repairs, the Company shall pay to the Canal Company the Amount of the Expenses in that Behalf.

Protection of Aberbechan Aqueduct.

31. In constructing the *Aberbechan* Branch Railway over the Canal it shall not be lawful for the centre Line of the Railway to be placed at a greater or less Distance than One hundred and sixty Feet from the Extremity of the South-western Abutment Wing of the *Aberbechan* Aqueduct without the Consent of the Canal Company.

Sidings to connect the Aberbechan Branch with Canal.

32. The Company, if required by the Canal Company at any Time within Three Years after the passing of this Act shall, at the Expense of the Canal Company, construct or permit to be constructed, within the Limits of Deviation defined on the deposited Plans, Sidings to connect the *Aberbechan* Branch with the *Aberbechan* Limekilns and with the Canal at or near the *Freestone Loch*, and shall, at the Expense of the Canal Company, purchase all Lands within the Limits of Deviation required for that Purpose.

Saving Rights of the Shropshire Union Railways and Canal Company.

33. Nothing in this Act shall authorize the Company, either permanently or temporarily, to enter upon, take, or use any of the Land, Canal, Works, or Property of the Canal Company, or in any Manner to alter or interfere with the Canal or the Works connected therewith, except for the Purpose of making, repairing, or renewing the Bridge and Works, without in every instance the previous Consent of the Canal Company in Writing under their Common Seal, nor, except as aforesaid, shall anything in this Act take away, prejudice, or alter any of the Rights, Privileges, Powers, or Authorities of the Canal Company, but all their Rights, Privileges, Powers, and Authorities under the several Acts of Parliament relating thereto or otherwise are by this Act and subject to the Provisions thereof expressly saved and reserved.

34. And

Repealing Part of Porthywaen Branch Act relating to the Misses Newell's Tramway.

34. And whereas by "The *Oswestry and Newtown* Railway (*Porthywaen* Branch) Act, 1860," the Company were required to construct a Fence or Screen between the Railway thereby authorized and the Tramway from *Porthywaen* to *Crickheath*, held on Lease by the Misses *Newell*, according to such Plan as might be determined by Arbitration in case of Difference between the Company and the Lessees in the Manner in the Act mentioned: And whereas by Agreement with the Lessees the Railway has been constructed in such a Manner as to render such Fence or Screen unnecessary: Therefore so much of the Act as requires the Company to make such Fence or Screen is hereby repealed.

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

35. Nothing in this Act contained shall be deemed or construed to exempt the Railways by this Act 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 this Act.

Expenses of Act.

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

Short Title.

37. This Act may for all Purposes be cited as "*Oswestry and Newtown* Railway Act, 1863."

SCHEDULE referred to in the foregoing Act.

TABLE SHOWING THE LANDS IN RESPECT OF WHICH THE COMPULSORY POWERS OF PURCHASE ARE EXTENDED.

N.B.—"1860" means "The Oswestry and Newtown Railway Act, 1860," and "1861" means "The Oswestry and Newtown Railway (Llanfyllen and Kerry Branches) Act, 1861."

Number on Plans of Act of 1855.	Name of Parish.	Act by which Time for compulsory Powers extended.	Number on Plans of Act of 1855.	Name of Parish.	Act by which Time for compulsory Powers extended.
215	Oswestry.		253a	Oswestry.	
216	"	1860	253b	"	
218	"	1860	253c	"	
219	"		253d	"	
219a	"		255	"	
220	"		256	"	
221	"		257	"	
222	"		258	"	
223	"		259	"	
224	"		259a	"	
225	"		259b	"	
226	"		259c	"	
227	"	1860	259d	"	
228	"	1860	259e	"	
232	"		260	"	
233	"		261	"	
234	"		262	"	
235	"		262a	"	
236	"		265	"	
237	"		266	"	
238	"		266a	"	
239	"		266b	"	
240	"		266c	"	
242	"	1860	271	"	
243	"	1860	271a	"	
244	"	1860	271b	"	
245	"		272	"	
246	"		273	"	
248	"		275	"	
248a	"		276	"	
250	"		276a	"	
250a	"		277	"	
250b	"		277a	"	
251	"		281	"	
251a	"		287	"	
253	"		289	"	1860

Oswestry and Newtown Railway Act, 1863.

Number on Plans of Act of 1855.	Name of Parish.	Act by which Time for compulsory Powers extended.
291	Oswestry.	1860
292	,,	1860
296	,,	1860
297	,,	
298	,,	1860
299	,,	1860
299a	,,	
300	,,	1860
301	,,	1860
301a	,,	1860
301b	,,	
302	,,	1861
303	,,	1860
304	,,	1861
305	,,	1861
306	,,	1861
307	,,	1861
308	,,	1861
309	,,	1861
310	,,	1861
310a	,,	
311	,,	1861
312	,,	1861
313	,,	1861
314	,,	1861
25	Welchpool.	1861
30	,,	1861
30a	,,	
31	,,	1861
31a	,,	
49	,,	1860
49a	,,	
52	,,	1860
53	,,	1860
53a	,,	1860
55	,,	1860
55a	,,	
56	,,	1860
57	,,	1860
58	,,	1860
59	,,	1860
60	,,	1860
61	,,	1860
61a	,,	
62	,,	
63	,,	
65	,,	
70	,,	
71	,,	
72	,,	
73	,,	
74	,,	
75	,,	
76	,,	1860
76a	,,	
77	,,	1860
77a	Welchpool.	
77b	,,	
80	,,	1860
85	,,	
86	,,	1860
16	Montgomery.	
17	,,	1860
19	,,	
19a	,,	
20	,,	
22	,,	1860
22a	,,	
25	,,	1860
25a	,,	
26	,,	1860
26a	,,	
27	,,	1860
29	,,	1860
29a	,,	
30	,,	1860
2	Newtown.	
3	,,	
7	,,	
8	,,	
9	,,	
12	,,	
14	,,	
16	,,	
18	,,	
19	,,	
20	,,	
21	,,	
21a	,,	
23	,,	
23a	,,	
24	,,	
25	,,	
26	,,	
26a	,,	
27	,,	
28	,,	
28a	,,	
28b	,,	
29	,,	
36	,,	
36a	,,	
37	,,	
38	,,	
39	,,	
40	,,	
41	,,	
42	,,	
44	,,	
48	,,	
49	,,	

SCHE-

Oswestry and Newtown Railway Act, 1863.

SCHEDULE (B.)

No. on Plans referred to in "The Oswestry, Welchpool, and Newtown Railway Act, 1855."	Name of Parish.
9	Llanyblodwell.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1863.