



CHAPTER lxxxix.

An Act to confer further powers on the Girvan and Portpatrick Junction Railway Company and for other purposes. A.D. 1886.
—
[25th June 1886.]

WHEREAS by the Girvan and Portpatrick Junction Railway Act 1865 (in this Act called "the Act of 1865") the Girvan and Portpatrick Junction Railway Company (in this Act called "the Company") were incorporated and authorised to make a railway from the Maybole and Girvan Railway (now part of the Glasgow and South-western Railway) at Girvan in the county of Ayr to the Portpatrick Railway in the parish of Old Luce in the county of Wigtown and for that purpose to raise two hundred and fifty thousand pounds by shares and eighty-three thousand three hundred pounds by borrowing: 28 & 29 Vict.
c. cccxviii.

And whereas by the Girvan and Portpatrick Junction Railway Act 1872 (in this Act called "the Act of 1872") powers of user were conferred on the Company jointly with the Portpatrick Railway Company (in this Act called "the Portpatrick Company") of certain portions of the railway of the Portpatrick Company therein described and called "Stranraer section" and "Portpatrick section" and it was provided that the Company should make certain annual payments to the Portpatrick Company in respect of such user and be entitled to become joint owners of the said sections respectively on payment of the capital sums therein provided for: 35 & 36 Vict.
c. clxi.

And whereas by the Act of 1872 the Company were authorised to raise further capital to the extent of ten thousand pounds by shares ordinary or preferential and three thousand three hundred and thirty pounds by borrowing and conditionally as in the Act of 1872 mentioned the further sums of forty thousand pounds and thirty-five thousand pounds by shares and thirteen thousand three hundred and thirty pounds and eleven thousand six hundred and sixty pounds by borrowing:

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38 Vict.
c. xxi.

And whereas by the Girvan and Portpatrick Junction Railway Act 1875 (in this Act called "the Act of 1875") the Company were further authorised to raise sixty-five thousand pounds by new preference shares or stock and twenty-one thousand six hundred pounds by borrowing :

40 Vict.
c. xiii.

And whereas by the Girvan and Portpatrick Junction Railway Act 1877 (in this Act called "the Act of 1877") the Company were authorised to borrow on mortgage any sums not exceeding (in addition to the sums which they were then authorised to borrow) the sum of one hundred thousand pounds or to raise that sum or any part thereof by the creation and issue of debenture stock :

40 & 41 Vict.
c. lx.

And whereas by the Portpatrick Railway Act 1877 powers of user were conferred on the Company jointly with the Portpatrick Company of the pier on the east side of the harbour of Stranraer and all the rails sheds warehouses offices accommodations and conveniences of every description thereon or connected therewith and it was provided that in respect of such user the Company should make payment to the Portpatrick Company of the annual sum therein mentioned and of a yearly sum equal to the interest on the principal sum forming one half of the cost of acquiring and improving the said pier and should also be entitled to become joint owners of the said pier on payment of the capital sum therein provided :

42 & 43 Vict.
c. ccix.

And whereas by the Girvan and Portpatrick Junction Railway Act 1879 (in this Act called "the Act of 1879") the Company were authorised to borrow on mortgage (in addition to the sums which they were already authorised to borrow) (first) the aggregate amount of the principal sums paid and to be paid by the Company in respect of the Company becoming joint owners with the Portpatrick Company of the Stranraer section of that company's railway and of the East Pier of Stranraer in pursuance of an award to be made under an arbitration then pending between the Company and the Portpatrick Company including any sums then paid or expended in connexion with that section and the said East Pier for which the arbitrator should find the Company entitled to credit and (second) any sums not exceeding seventy thousand pounds :

45 & 46 Vict.
c. ccxxix.

And whereas by the Girvan and Portpatrick Junction Railway (Arrangement) Act 1882 (in this Act called "the Act of 1882") it was provided (section 11) that after the passing thereof the Company should not under the provisions of any of the therein and herein-before recited Acts relating to the Company borrow or raise any further moneys and the Company were authorised (section 12) to borrow on mortgage of the revenues of their whole

undertaking a sum not exceeding thirty thousand pounds at a rate of interest not exceeding five per centum per annum which should be applied as therein set forth it being provided that the money so raised and the interest thereon in perpetuity should rank in priority to the A B and C debenture stocks of the Company by the Act of 1882 authorised to be created to the existing mortgages of the Company and to the preference stock of the Company and the interest and dividends thereon and should be and was thereby both as to principal and interest declared to be a first charge in favour of the holders of the mortgages granted therefor upon the undertaking of the Company and upon the gross receipts of the traffic thereon after certain deductions therein mentioned : A.D. 1886.

And whereas by the Act of 1882 (section 13) it was provided that when and so soon as the said sum of thirty thousand pounds or so much thereof as the Company should deem necessary should be raised the Company should further create and issue debenture stocks of several classes to be called A B and C debenture stocks respectively the "A" debenture stock not exceeding in amount one hundred and twenty thousand pounds to be issued to the holders of mortgages of the Company issued under the authority of the Company's Acts of 1865 1872 and 1875 the "B" debenture stock not exceeding in amount one hundred and thirteen thousand pounds to be issued to the holders of mortgages of the Company issued under the authority of the Company's Acts of 1877 and 1879 and the "C" debenture stock not exceeding in amount eighty-two thousand pounds to be issued in exchange and in substitution for Lloyd's bonds or certificates of indebtedness by the Company and also for equal amounts of other general debts to any general creditor who should demand the same :

And whereas the railway of the Company was opened for traffic in October one thousand eight hundred and seventy-seven and has since been worked by the Glasgow and South-western Railway Company (in this Act called "the South-western Company") under working agreements entered into from time to time between the Company and the South-western Company and the South-western Company advanced on mortgage to the Company the sum of twenty thousand pounds part of the thirty thousand pounds which the Company were authorised to borrow under the Act of 1882 :

And whereas the whole authorised share capital of the Company other than so much thereof as was conditionally authorised by the Act of 1872 has been issued with the exception of certain ordinary shares of ten pounds each which are claimed to be held as fully paid up shares in security by persons claiming to be creditors of

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the Company in respect of moneys claimed to be owing to them by the Company and by persons who allege that they are liable for moneys owing by the Company or their respective assigns and the whole borrowing powers of the Company conferred previous to the passing of the Act of 1879 other than the borrowing powers conditionally authorised as before recited were exercised except to the extent of three thousand one hundred and sixty-seven pounds five shillings and eightpence and the borrowing powers conferred by the Act of 1879 were exercised only to the extent of two thousand three hundred pounds :

And whereas the Company have under the powers of the Act of 1882 created the " A " " B " and " C " debenture stocks authorised by that Act and have issued to such of the mortgage holders as applied therefor the portions of the " A " and " B " debenture stocks to which they were entitled but no portion of the " C " debenture stock has yet been issued :

And whereas the South-western Company on the nineteenth day of August one thousand eight hundred and eighty-five gave notice to the Company for the termination on the twenty-eighth day of February one thousand eight hundred and eighty-six of the working agreement then in force and for repayment to them of the said sum of twenty thousand pounds advanced by them to the Company as aforesaid :

And whereas it is expedient that the Company should be authorised to acquire for the purpose of station siding and other accommodation in connexion with their undertaking certain lands herein-after described in the parish of Girvan and county of Ayr :

And whereas by the Act of 1882 it was further provided (section 8) that the holding of or the right to allotment of the A B and C debenture stocks should confer the right to be present in person or by proxy at any meeting of the Company and to vote thereat but that the holding or right to allotment of any of the aforesaid stocks should not diminish any rights of voting in respect of any ordinary shares of the Company (according to the reduced scale by the Act of 1882 prescribed) which such holders of debenture stocks might possess and it was further provided (section 10) that so long as the debenture stock holders were by the provisions of the Act of 1882 entitled to be present in person or by proxy at meetings of the Company and to vote thereat for the purposes of the Companies Clauses Consolidation (Scotland) Act 1845 and for the purposes of any standing order of either House of Parliament the debenture stock holders of the Company should subject to the provisions of the Act of 1882 be deemed proprietors or shareholders of the Company :

And whereas it is expedient that the Company should be empowered to raise a further sum not exceeding twenty-five thousand pounds by the issue of mortgages to rank after the thirty thousand pounds authorised to be borrowed by the Act of 1882 and the interest thereon but in priority to the debenture stocks authorised to be created by the Act of 1882 and to all other existing mortgages of the Company and to the preference stock of the Company and the interest and dividends thereon respectively :

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And whereas the Bill by which this Act was introduced into Parliament has been submitted to a meeting of the proprietors of the Company and approved of by at least three fourths of the proprietors then present in person or by proxy :

And whereas it is expedient that the Company should be enabled from time to time on paying off the thirty thousand pounds which they were authorised to borrow by the Act of 1882 or any part thereof to again borrow the amount so paid off :

And whereas it is expedient that section twenty-two of the Act of 1882 should be amended as herein-after provided and that the Company should during the period herein-after mentioned be empowered as herein-after provided to sell its undertaking to the same parties as the judicial factor to be appointed under the Act of 1882 is by that Act authorised to sell the same :

And whereas plans showing the lands intended to be taken under the powers of this Act and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited with the principal sheriff clerk for the county of Ayr and are herein-after respectively referred to as the deposited plans and books of reference :

And whereas the purposes of this Act 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 Commons in this present Parliament assembled and by the authority of the same as follows :

1. This Act may be cited as the *Girvan and Portpatrick Junction Railway Act 1886.* Short title.

2. The Lands Clauses Consolidation (Scotland) Act 1845 the Lands Clauses Consolidation Acts Amendment Act 1860 and the clauses and provisions of the Companies Clauses Consolidation (Scotland) Act 1845 with respect to the following matters (that is to say) the borrowing of money by the Company on mortgage or bond and the conversion of the borrowed money into capital are

Incorporation of Acts.

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A.D. 1886. — (except where expressly varied by or inconsistent with the provisions of this Act) incorporated with and form part of this Act.

Interpretation.

3. In this Act the expression "the court" means the Court of Session in Scotland or either division thereof or the Lord Ordinary officiating on the Bills in vacation or recess and the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction and in the Acts wholly or partially incorporated with this Act as applied to this Act the expression "the special Act" means this Act.

Additional lands.

4. Subject to the provisions of this Act the Company may enter upon and take compulsorily or by agreement for the purpose of station siding and other accommodation in connexion with their railway the lands herein-after mentioned and all houses and other property thereon respectively delineated upon the deposited plans and described in the deposited books of reference (that is to say):—

Certain lands in the parish of Girvan and county of Ayr situate on the east side of and adjoining the Company's railway near their Girvan Station and extending alongside the said railway about eighteen chains in a south and south-easterly direction from the bridge by which the said railway is carried over Vicarton Street Girvan.

Restriction on displacing persons of labouring class.

5. (1.) The Company shall not under the powers of this Act purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1867 ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until—

(a.) They shall have obtained the approval of the Secretary for Scotland to a scheme for providing new dwellings for the persons residing in such houses or for such number or proportion of such persons as the Secretary for Scotland shall after inquiry deem necessary having regard to the number of persons residing in the houses liable to be taken and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of the houses liable to be taken or to the place of employment of such persons and to all the other circumstances of the case; and

(b.) They shall have given security to the satisfaction of the Secretary for Scotland for the carrying out of the scheme.

(2.) The approval of the Secretary for Scotland to any scheme under this section may be given either absolutely or conditionally

and after the Secretary for Scotland has approved of any such scheme he may from time to time approve either absolutely or conditionally of any modifications in the scheme. A.D. 1886.

(3.) Every scheme under this section shall contain provisions prescribing the time within which it shall be carried out and shall require the new dwellings proposed to be provided under the scheme to be completed fit for occupation before the persons residing in the houses in respect of which the scheme is made are displaced :

Provided that the Secretary for Scotland may dispense with the last-mentioned requirement subject to such conditions (if any) as he may see fit.

(4.) Any provisions of any scheme under this section or any conditions subject to which the Secretary for Scotland may have approved of any such scheme or of any modifications of any such scheme or subject to which he may have dispensed with the above-mentioned requirement shall be enforceable by an order of the Court of Session to be obtained by the Secretary for Scotland.

(5.) If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty not exceeding five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary for Scotland by action in the Court of Session and shall be carried to and form part of the Consolidated Fund of the United Kingdom.

(6.) For the purpose of carrying out any scheme under this section the Company may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require.

(7.) The Company may on any lands belonging to them or purchased or acquired under this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell demise or let or otherwise dispose of such dwellings and any lands purchased or acquired as aforesaid and may apply for the purposes of this section to which capital is properly applicable or any of such purposes any moneys which they may be authorised to raise or apply for the general purposes of their undertaking :

Provided that so long as any lands on which any buildings have been erected or provided by the Company in pursuance of any scheme under this section are held by the Company they shall be appropriated solely for the purpose of dwellings and every

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A.D. 1886. conveyance demise or lease of such lands and buildings by the Company shall contain proper covenants for securing that the buildings on such lands shall be used exclusively for the purpose of dwellings.

(8.) The Secretary for Scotland may direct any inquiries to be held which he may deem necessary in relation to any scheme under this section and for giving effect to any of the provisions of this section and he and any person appointed by him to hold inquiry shall have and may exercise for any purpose in connexion with any scheme under this section all or any of the powers vested in them under the Public Health (Scotland) Act 1867 in the same manner in every respect as if the preparation and carrying into effect of such scheme were one of the general purposes of that Act.

(9.) The Company shall pay to the Secretary for Scotland a sum to be fixed by him in respect of the preparation and issue of any provisional order in pursuance of this section and any expenses incurred by him in relation to any inquiries under this section including the expenses of any witnesses summoned by the person appointed to hold any inquiry and a sum to be fixed by the Secretary for Scotland not exceeding three guineas a day for the services of the person so appointed.

(10.) For the purposes of this section the expression "labouring class" includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

Period for
compulsory
purchase of
lands.

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.

Power to
borrow
further
money.

7. The Company (in addition to the sum of thirty thousand pounds which they are authorised to borrow by the Act of 1882) may from time to time borrow on mortgage of their undertaking any sums not exceeding the sum of twenty-five thousand pounds which shall be applied as follows:—

(1.) In the first place in paying the costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto :

(2.) In the second place in paying the cost of and the costs charges and expenses payable by the Company in connexion with the acquisition of the lands to be acquired by the Company under the powers of this Act :

(3.) In the third place in paying the cost of additional station siding and other accommodation and of the reconstruction of or additions to any existing works necessary to be provided in connexion with the railway of the Company for the proper working thereof: A.D. 1886.

(4.) In the fourth place in providing rolling stock and plant to enable the Company to work their undertaking if they shall resolve so to do.

8. The mortgages to be granted by the Company for the sums which they are by this Act authorised to borrow or any part thereof and the interest thereon shall rank next after the sum of thirty thousand pounds which the Company are authorised to borrow by the Act of 1882 and the interest thereon and in priority to the A B and C debenture stocks of the Company authorised by and created or to be created by the Company under and in pursuance of the Act of 1882 and to the existing mortgages of the Company and the interest thereon respectively. Ranking of money authorised to be borrowed.

9. If the Company after having borrowed the sum of thirty thousand pounds which they are authorised to borrow by the Act of 1882 or any part thereof pay off the same they may again borrow the amount so paid off and so from time to time and all the rights and privileges which attach to the said sum of thirty thousand pounds or any part thereof shall pertain and attach equally to the money hereby authorised to be re-borrowed in lieu of moneys so paid off as aforesaid. Power to re-borrow sums authorised to be borrowed by Act of 1882.

10. Section 22 of the Act of 1882 shall be read and receive effect as if the words "five years" had been inserted therein instead of the words "four years" wherever the same occur in the said section And during the extended period of one year the Company may in such manner and subject to such terms and conditions as shall be approved by the court sell its undertaking to the same parties as the judicial factor could have sold it on the expiry of the period of four years mentioned in the said section Provided that in construing this section the word "undertaking" shall have the same meaning as is attached to it by the Act of 1882 and shall also include all lands and property rights powers and privileges acquired by or conferred on the Company under the provisions of any subsequent Act or this Act. Amendment of section 22 of Act of 1882.

11. The transfer on a sale by the Company of its undertaking in terms of the last preceding section shall be effected by a proper deed of conveyance (which shall be in the form or as nearly as may be in the form set forth in the schedule to this Act) in which the As to conveyance.

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A.D. 1886. — purchase or consideration money shall be fully and truly stated and set forth and which deed shall be duly stamped with the full and proper ad valorem stamp duty on such consideration.

Undertaking
to vest in
purchaser.

12. From and after the consignment of the purchase money in manner herein-after provided and the execution of the deed of conveyance by the Company the undertaking shall be vested in the purchaser subject to all the obligations and liabilities of the Company under the recited Acts with respect to the maintenance repair management regulation working and use of the undertaking or any part thereof and the traffic thereon but freed and by this Act absolutely discharged from all mortgages and all other contracts agreements debts liabilities and engagements of the Company whether directly affecting the undertaking or affecting the Company in respect of the same and from all claims of shareholders in the Company except such mortgages contracts agreements debts liabilities and engagements as have been entered into or incurred by the Company in respect of lands taken under the powers of the recited Acts or this Act Provided always that the purchaser shall not be entitled to exercise the joint user conferred on the Company by the Act of 1872 and the Portpatrick Railway Act 1877 until the moneys from time to time payable in respect of such user are paid The purchaser shall within three months from the date of the transfer produce to the Commissioners of Inland Revenue such deed of conveyance duly stamped as aforesaid and in default of such production the ad valorem stamp duty with interest thereon at the rate of five pounds per centum per annum from the date of the transfer to the day of payment shall be recoverable from the purchaser with full costs of suit and all costs and charges attending the same.

Powers of
Company to
be exercised
by pur-
chaser.

13. Subject to the provisions of this Act all the powers and authorities including the right to levy tolls rates and charges for the use of the undertaking to be transferred which are by the recited Acts and this Act conferred upon the Company shall after the payment of the purchase money be exerciseable and enforceable by the purchaser.

Application
of purchase
money.

14. In the event of a sale by the Company under the provisions of this Act the purchase money shall be consigned in one of the chartered banks in Scotland and be applied under the direction and authority of the court in the order and according to the priorities following :—

(1.) In payment of the compensation and expenses of and incident to the purchase of all lands taken by the Company for the purposes of the undertaking if and so far as unpaid :

- (2.) In paying the costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto so far as not theretofore paid and of the sale of the undertaking and the distribution of the assets of the Company : A.D 1886.
- (3.) In paying the money due at the time to the Portpatrick and Wigtownshire Joint Committee incorporated by the Portpatrick and Wigtownshire Railways (Sale and Transfer) Act 1885 and any interest thereon :
- (4.) In payment to the holders of mortgages issued under the provisions of the Act of 1882 and of this Act of the sums due to them thereunder both principal and interest :
- (5.) In payment to the holders of all other mortgages debentures or debenture stock and the other creditors of the Company of such sums in full discharge and satisfaction of their claims against the Company according to their respective rights and priorities but in such manner and proportions as shall be fixed and determined with respect to each such class having regard to all the circumstances by an arbiter to be appointed by the Railway Commissioners on the application of any of the parties interested :
- (6.) In payment of any balance that may remain to the preference and ordinary shareholders of the Company in such proportions as shall be fixed and determined by the arbiter provided for in the last preceding sub-section.

15. When and so soon as the sale of the undertaking is completed and the purchase money distributed the Company shall cease to exist for any purpose whatsoever. The Company to cease to exist.

16. Nothing in this Act contained relating to the sale of the undertaking or the application of the purchase money shall prejudice or affect any lien or right of retention competent to any person over any deeds writings or documents of the Company or the debts or claims in respect of which such lien or right of retention exists. Saving liens over property of the Company.

17. The book tables or other document in use for the time being containing the general classification of goods carried by goods or merchandise train on the railway of the Company shall during all reasonable hours be open to the inspection of any person without the payment of any fee at every station at which goods or merchandise are received for transmission and such book tables or other document as annually revised shall be kept on sale at the principal office of the Company at a price not exceeding one shilling. Classification table to be open for inspection and copies to be sold.

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Terminal
charges if
any to be
specified on
application.

The Company shall within one week after application in writing made to the secretary of the Company by any person interested in the carriage of any goods which have been or are intended to be carried over the railway render an account to the person so applying in which the charge made or claimed by the Company for the carriage of such goods shall be divided and the charge for conveyance over the railway shall be distinguished from the terminal charges (if any) and if any terminal charge is included in such account the nature and detail of the terminal expenses in respect of which it is made shall be specified.

Penalty.

If the Company fail to comply with the provisions of this section they shall for each offence and in the case of a continuing offence for every day during which the offence continues be liable to a penalty not exceeding five pounds which penalty shall be recovered and applied in the same manner as penalties imposed by the Regulation of Railways Act 1873 section 14.

Interest
not to be
paid on calls
paid up.

18. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation (Scotland) Act 1845.

Deposits
for future
Bills not to
be paid out
of capital

19. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum which by any standing order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking.

Provision as
to general
railway
Acts.

20. Nothing in this Act contained shall exempt the Company or the railway from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised to be taken by the Company.

Costs of Act.

21. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation

thereto shall be paid by the Company and that out of any balance in their hands of the sum of thirty thousand pounds which they were authorised to raise by the Act of 1882 or out of any moneys which they have still power to raise under that Act or are by this Act authorised to raise or otherwise out of the proceeds of any sale of the undertaking of the Company under the Act of 1882 or this Act. A.D. 1886.

SCHEDULE referred to in the foregoing Act.

IN pursuance of the Girvan and Portpatrick Junction Railway Act 1886 and in consideration of the payment by
of the sum of _____ to the Girvan and Portpatrick
Junction Railway Company the said Company does hereby convey assign and
transfer unto _____ the undertaking of the
said Company as defined by that Act: To hold the same unto the said
: And the said
do hereby accept the same accordingly.

In witness whereof (*add testing clause in accordance with the law of Scotland*).

