CHAPTER xxxi.

An Act for enabling the Caledonian Railway Company to make a connecting Line and Junction between their Railway and the North British Railway at Wester Dalry, near Edinburgh, and for extending to certain traffic, passing viâ that Junction, certain powers, rights, and facilities vested in the said Company with respect to the North British Railway; and for other purposes. [30th June 1874.] A.D. 1874.

WHEREAS the railways of the Caledonian Railway Company (herein-after called "the Caledonian Company") and of the North British Railway Company (herein-after called "the North British Company") approach each other at Wester Dalry, near Edinburgh, and the Caledonian Company purchased, certain lands in the parish of Saint Cuthbert which could be conveniently used for the formation of a connecting line and junction between the said railways at that place, but by "The Caledonian Railway (Additional Powers) Act, 1872," whereby such purchase was sanctioned, it was provided that the Caledonian Company should not, under the powers of that Act, or of "The Railways Clauses Consolidation (Scotland) Act, 1845," or under any other powers then vested in them, construct such connecting line or junction without the previous consent of the North British Company, under their common seal: 35 & 36 Vict. c. cxiv.

And whereas by "The North British and Edinburgh and Glasgow Railway Companies Amalgamation Act, 1865" (herein-after called "the Act of 1865"), certain facilities, running and other powers, rights, and privileges, with respect to certain railways, stations, watering places, works, and conveniences of the North British Company, and the accommodation and services to be rendered thereat, were conferred upon the Scottish Central Railway Company; and it was by that Act provided, that if a Bill then pending in Parliament, to authorise an amalgamation of the Scottish Central Railway Company with the Caledonian Company, should be passed into a law, the 28 & 29 Vict. c. cccviii.

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provisions of the said Act should, after such amalgamation, apply to the Caledonian Company in like manner and to the same extent as but for such amalgamation they would have applied to the Scottish Central Railway Company:

And whereas the said Bill was passed into a law, whereby the facilities, running and other powers, rights, and privileges hereinbefore referred to are now vested in the Caledonian Company:

And whereas it would be for the public advantage that the Caledonian Company should be empowered to make and maintain the said connecting line and junction (which connecting line is hereinafter called "the Wester Dalry Junction Line"), and that the said facilities, running and other powers, rights, and privileges should be extended and applied, under the modifications herein-after provided, to certain traffic passing or intended to pass viâ the junction with the North British Company's main line by this Act authorised (herein-after called "Damhead Junction"), between certain stations and places on and beyond the railways of the Caledonian Company and of the North British Company (herein-after called "the two Companies") respectively, and that certain other provisions should be made with respect to the forwarding, viâ the said junction, of traffic of the two Companies respectively; and the North British Company are willing that the authority of Parliament should be obtained for those several purposes, on the terms and subject to the conditions herein-after specified:

And whereas plans and sections showing the line and levels of the said connecting line and the lands which may be permanently taken for the purposes thereof, and also certain other lands which may be temporarily occupied under the powers of this Act, and books of reference containing the names of the owners and lessees or reputed owners and lessees, and of the occupiers of those respective lands, were duly deposited with the principal sheriff clerk for the county of Edinburgh, and are herein-after respectively referred to as the deposited plans, sections, 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:

Short title.

1. This Act may be cited as "The Caledonian and North British Railway Companies Act, 1874."

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Provisions of certain general Acts incorporated.

2. "The Lands Clauses Consolidation (Scotland) Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation (Scotland) Act, 1845," Part I. (relating to construction of a railway) of "The Railways Clauses Act, 1863," the clauses and provisions of "The Companies Clauses Consolidation (Scotland) Act, 1845," with respect to the following matters; (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, the general meetings of the Company, and the exercise of the right of voting by the shareholders, the making of dividends, the giving of notices, and the provision to be made for affording access to the special Act by all parties interested, and Part I. (relating to cancellation and surrender of shares), Part II. (relating to additional capital), and Part III. (relating to debenture stock) of "The Companies Clauses Act, 1863," are (except where expressly varied by this Act) incorporated with and form part of this Act; and all the provisions of "The Companies Clauses Consolidation (Scotland) Act, 1845," which relate to stock into which shares in the capital of the Company have been converted or consolidated, shall apply to the stock which the Caledonian Company are by this Act authorised to issue, and to the holders thereof.

Interpretation of terms.

3. In this Act 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 Company" means the Caledonian Company; the expression "the special Act" means this Act; and the expressions "the railway" and "the undertaking" mean respectively the railway and the undertaking by this Act authorised.

Power to make railway according to deposited plans.

4. Subject to the provisions of this Act, the Caledonian Company may make, and shall, with all due dispatch complete, and thereafter maintain, in the line and according to the levels shown on the deposited plans and sections, the railway herein-after described, and all proper stations, sidings, approaches, works, and conveniences in connexion therewith, and may by agreement acquire, and may enter upon and use, such of the lands delineated on the said plans of the railway and described in the deposited books of reference thereto as

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may be required for those purposes, and may form the junction herein-after mentioned with the North British Company's main line in the manner and subject to the conditions specified in sections nine, ten, eleven, and twelve of "The Railways Clauses Act, 1863." The railway herein-before referred to and authorised by this Act is,—

A railway six furlongs five chains and eleven yards or thereabouts in lengh, commencing by a junction with the Caledonian Company's line which connects their main line from Carlisle to Edinburgh, near Dalry House, with their Granton Branch, at a point near and on the western side of the bridge by which the said line from their main line to their Granton Branch is carried over the turnpike road near Dalry Cemetery, and terminating by a junction with the North British Company's main line from Edinburgh to Glasgow, at a point near and on the eastern side of the bridge or viaduct by which that line is carried over the Water of Leith, all in the parish of St. Cuthbert and county of Edinburgh.

Power to occupy temporarily and take materials from certain lands.

5. In addition to the lands herein-before authorised to be acquired by agreement, the Caledonian Company may, compulsorily or by agreement, and without making any previous payment, tender, or deposit, enter upon, occupy, and use, during such portion of the period by this Act limited for the construction of the railway and works by this Act authorised, as they may find necessary for such construction, so much of the land or rubbish hills on the northern side of Craigleith Quarry, and on the eastern side of their said Granton Branch, and so much of the road between the said rubbish hills and that branch as are delineated on the deposited plans thereof and described in the deposited books of reference to those plans, all situate in the parishes of St. Cuthbert and Cramond, in the county of Edinburgh, or such parts thereof as they may find necessary, and may take from the said land or rubbish hills such materials as they may require for the construction of the said railway and works: Provided always, that they shall, before entering on the said land, give three weeks notice in writing of their intention to the owners, lessees, and occupiers of such land, and shall pay to the said owners, lessees, and occupiers full compensation for all materials so taken, and for all loss, injury, and damage sustained by them respectively by reason of the exercise, as respects the said land, of the powers hereby conferred on the Caledonian Company; and the amount of such compensation shall, failing agreement, be determined in the manner prescribed by "The Lands Clauses Consolidation (Scotland) Act, 1845," with

respect to the purchase and taking of lands otherwise than by agreement.

Power to raise additional capital.

6. The Caledonian Company may, subject to the provisions of Part II. of "The Companies Clauses Act, 1863," raise any additional capital, not exceeding in nominal amount thirty thousand pounds, by the issue at their option of new ordinary shares or stock, or new preference shares or stock, or wholly or partially by any one or more of those modes respectively; but they shall not issue any share of less nominal value than ten pounds, nor shall any share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof: Provided that if in any year ending on the thirty-first day of January there are not profits available for the payment of the full amount of preferential dividend or interest for that year on any such new preference shares or stock, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the said Company.

Except as otherwise provided, new shares or stock to be subject to the same incidents as other shares or stock;

7. Except as by this Act otherwise provided, the capital in new shares or stock created by the Caledonian Company under this Act, and the new shares or stock therein, and the holders thereof respectively, shall be subject and entitled to the same powers, provisions, liabilities, rights, privileges, and incidents whatsoever, in all respects, as if that capital were part of the now existing capital of the said Company of the same class or description, and the new shares or stock were shares or stock in that capital.

and to form part of capital of Company.

8. The capital in new shares or stock so created shall form part of the capital of the Caledonian Company.

Dividends on new shares or stock.

9. Every person who becomes entitled to such new shares or stock shall in respect of the same be a holder of shares or stock in the Caledonian Company, and shall be entitled to a dividend with the other holders of shares or stock of the same class or description, proportioned to the whole amount from time to time called and paid on such new shares, or to the whole amount of such stock, as the case may be.

Right of voting in respect thereof.

10. Each holder of new shares or stock in the capital by this Act authorised to be raised shall be entitled to the same number of votes in respect thereof which the possession of an equal nominal amount of the existing capital stock of the Caledonian Company would have conferred upon him: Provided always, that except as otherwise expressly provided by the resolution creating the same, no person shall be entitled to vote in respect of any such new shares or stock to which a preferential dividend shall be assigned.

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New shares or stock raised under this Act, and any other Act of past or present sessions, may be of same class.

11. Subject to the provisions of any Act already passed by which the Caledonian Company are authorised to raise capital by new shares or stock, and to the provisions of this Act and of any other Act passed in the present session of Parliament, whether before or after the passing of this Act, by which that Company may be authorised to raise capital by new shares or stock, the said Company may if they think fit raise, by the creation and issue of new shares or stock of one and the same class, all or any part of the aggregate capital which they are by such other Act and this Act respectively authorised to raise by the creation and issue of new shares or stock.

Power to borrow on mortgage.

12. The Caledonian Company may, in respect of the additional capital of thirty thousand pounds which they are by this Act authorised to raise, from time to time borrow on mortgage any sum not exceeding in the whole ten thousand pounds, but no part thereof shall be borrowed until shares or stock, or shares and stock, for the whole of the said additional capital are issued and accepted, and one half of such capital is paid up, and the said Company 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 shares or stock, or shares and stock, for the whole of such capital have been issued and accepted, and that one half of such capital has been paid up, and that not less than one fifth part of the amount of each separate share in such portion of the said capital as is raised by means of shares has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such shares or stock, or shares and stock, as the case may be, were issued and accepted, and such one half of the said capital was paid up bonâ fide, and that such shares or stock, or shares and stock, as the case may be, are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and also, in so far as the said capital is raised by shares, that such persons or corporations, or their executors, administrators, successors, or assigns, are legally liable for the same; and upon production to such sheriff of the books of the said Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

Arrears may be enforced by appointment of a judicial factor.

13. The mortgagees of the Caledonian Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a judicial factor. In order to authorise the appointment of a judicial factor in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than ten thousand pounds in the whole.

Existing securities to have priority.

14. All mortgages and bonds granted by the Caledonian Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing hereof, shall during the continuance of such mortgages and bonds have priority over any mortgages granted by virtue of this Act; but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by that Company.

Power to create debenture stock.

15. The Caledonian Company may create and issue debenture stock, subject to the provisions of Part III. of "The Companies Clauses Act, 1863," as amended by "The Railway Companies (Scotland) Act, 1867."

Application of moneys.

16. All moneys raised under this Act, whether by shares or stock, or debenture stock or borrowing, shall be applied for the purposes of this Act only.

Company may apply to purposes of this Act funds not required for other purposes.

17. The Caledonian Company may apply towards the purposes authorised by this Act any capital or funds belonging to or authorised to be raised by them, and which may not be required for the purposes for which the same were authorised to be raised or directed to be applied.

Height and span of certain bridges.

18. The Caledonian Company may make the arches of the bridges for carrying the railway by this Act authorised over the railways and road next herein-after specified of any heights and spans not less than the heights and spans herein-after mentioned in connexion with the last-mentioned railways and road respectively; (that is to say,)

No. on deposited Plans.	Parish.	Description.	Height.	Span.
			Feet.	Feet.
2	St. Cuthbert	Railway	14	28
3	St. Cuthbert	Railway	14	28
15	St. Cuthbert	Parish road	16	20

Power to take easements, &c. by agreement.

19. Persons empowered by "The Lands Clauses Consolidation (Scotland) Act, 1845," to sell and convey or release lands may, if they think fit, subject to the provisions of that Act and of "The Lands Clauses Consolidation Acts Amendment Act, 1860," and of this Act, grant to the Caledonian Company any easement, right, or privilege, not being an easement of water required for the purposes of this Act, in, over, or affecting any such lands; and the provisions of the said Acts with respect to lands and rentcharges, so far as the same are applicable in this behalf, shall extend and apply to such grants and to such easements, rights, and privileges as aforesaid respectively.

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Penalty imposed unless line opened within period limited.

20. If the Caledonian Company fail within the period limited by this Act to complete the railway authorised to be made by this Act, they shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the said railway is completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the works; and the said penalty may be applied for by any landowner or other person claiming to be compensated, in accordance with the provisions of the next following section of this Act, or by the solicitor of Her Majesty's Treasury, and in the same manner as the penalty provided in section three of "The Railway and Canal Traffic Act, 1854;" and every sum of money recovered by way of such penalty as aforesaid shall be paid, under the warrant or order of such court or judge as is specified in that section, to an account opened or to be opened in the name and with the privity of the Queen's Remembrancer of the Court of Exchequer in Scotland, in the bank and to the credit specified in such warrant or order, and shall not be paid thereout except as herein-after provided; 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 said Company were prevented from completing or opening such line by unforeseen accident or circumstances beyond their control; provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Application of penalty.

21. Every sum of money so recovered by way of penalty as aforesaid shall be applicable, and after due notice in the Edinburgh Gazette shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said railway or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Caledonian Company by this Act, and for which injury or loss no compensation or inadequate compensation shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Exchequer in Scotland may seem fit; and if no such compensation shall be payable, or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum or sums of money recovered by way of penalty, or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty, and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer,

in such manner as the Court of Exchequer in Scotland thinks fit to order, on the application of the solicitor of Her Majesty's Treasury, and shall be carried to and form part of the consolidated fund of the United Kingdom, or in the discretion of the court, if the Caledonian Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver, or to the liquidator or liquidators of the said Company, or be otherwise applied as part of the assets of that Company for the benefit of the creditors thereof.

Period for completion of works.

22. If the railway by this Act authorised is not completed within three years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Caledonian Company for making and completing the said railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Tolls.

23. The Caledonian Company may demand and take, in respect of the use of the railway by this Act authorised, or any part thereof, and of carriages and engines thereon, and in respect of accommodation and services provided by them in connexion therewith, any tolls, rates, and charges, not exceeding the tolls, rates, and charges which the said Company are by "The Caledonian Railway (Lanarkshire and Midlothian Branches) Act, 1866," authorised to demand and take in respect of the use of the railways by that Act authorised to be made, and of carriages and engines thereon, and in respect of accommodation and services provided by them in connexion therewith; provided that the railway by this Act authorised shall be considered in all respects part of the Caledonian Railway, and only one short-distance charge shall be made for the conveyance of any traffic partly on that railway and partly on the Caledonian Railway.

Extending Caledonian Company's running powers and facilities over North-British Railway under Act of 1865 to certain traffic passing viâ Damhead Junction to and from stations on their own lines and other places;

24. In addition and without prejudice to the rights and powers conferred upon the Caledonian Company by sections twenty-five to thirty-seven inclusive, and fifty-seven of the Act of 1865, the powers conferred on that Company by those sections shall extend and apply to traffic of every description passing or intended to pass from stations or places on the railways of the Caledonian Company northward of Larbert Junction, or places beyond viâ the North British Company's line between Larbert Junction and Damhead Junction, and viâ Damhead Junction, to the stations of the Caledonian Company in Edinburgh, Leith, or Granton, or to stations on their railway between Edinburgh and Carlisle, or places beyond, and vice versâ; and also to traffic of every description passing or intended to pass viâ Damhead Junction from Grangemouth to the Caledonian Company's stations in Edinburgh, Leith, or Granton, or to stations on their railways

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southward or westward of Edinburgh, or places beyond, and vice versâ, subject to the following modifications, videlicet:

(*a.*) For the purposes of all goods, mineral, and live stock traffic conveyed by the Caledonian Company under the provisions of this section, the thirty-second section of the Act of 1865 shall be read as if the per-centage therein specified as to be retained by that Company on account of working expenses were forty per centum instead of twenty-five per centum:

(*b.*) If in any year after the opening of the Wester Dalry Junction line the net amount paid to the North British Company in respect of goods, mineral, and live stock traffic of the Caledonian Company conveyed under the provisions of this section shall be less than three thousand pounds, the Caledonian Company shall, at the end of every such year in all time coming, whether any such traffic shall have been so conveyed or not, pay to the North British Company the sum of three thousand pounds, or, as the case may be, the difference between such net amount and the said sum of three thousand pounds:

(*c.*) When the Caledonian Company, under the powers by this Act conferred on them, run trains for coaching traffic between their station in Edinburgh and Larbert Junction, they shall stop at Damhead Junction all or such of their trains carrying coaching traffic as may from time to time be required by the North British Company for the purpose of taking on and setting down, and shall take on and set down at Damhead Junction the coaching traffic of the North British Company to Larbert Junction or places northward thereof to which the Caledonian Company book or carry coaching traffic by such trains, and vice versâ; and the Caledonian Company shall also, if so required, forward by such trains through carriages belonging to the North British Company, to or from all places northward of Larbert Junction to or from which through carriages of the Caledonian Company are sent by such trains.

and to certain traffic passing viâ that junction to and from stations on North British Railway.

25. The powers conferred on the Caledonian Company by the sections herein-before mentioned of the Act of 1865 shall likewise extend and apply to traffic of every description passing or intended to pass from any station on the North British Company's line between Larbert Junction and Damhead Junction to any station of the Caledonian Company between Edinburgh and Carlisle (excluding Carlisle), and vice versâ; and also to coaching traffic passing or intended to pass between any station on the said line of the North

British Company and any station of the Caledonian Company at Edinburgh, Leith, or Granton; and also (during such time as the Caledonian Company are working coaching traffic under the powers herein-before contained) to passenger traffic passing or intended to pass between any station on the said line of the North British Company and any other station thereon, subject to the following modifications, videlicet:

(*a.*) As respects any such coaching traffic arising at any station on the said line of the North British Company, and terminating at any other station on that line, or at any station of the Caledonian Company in Edinburgh, Leith, or Granton, and vice versâ, section thirty-two of the Act of 1865 shall be read as if the per-centage therein specified as to be retained by the Caledonian Company on account of working expenses on the North British Company's line were fifteen per centum instead of twenty-five per centum:

(*b.*) As respects any such coaching traffic arising at any station on the said line of the North British Company, and terminating at any station of the Caledonian Company in Edinburgh, Leith, or Granton, and vice versâ, the Caledonian Company shall not at any time charge lower rates for the whole distance than those charged at the time by the North British Company in respect of traffic of a similar description conveyed by them between the same places:

(*c.*) As respects any such passenger traffic between any station on the said line of the North British Company and any other station thereon, that Company, notwithstanding the said provisions of the Act of 1865, shall, subject to the provisions of their Acts, fix the tolls, rates, and charges in respect of such traffic, which shall be the same as those charged by them at the time in respect of similar traffic conveyed by themselves on the said line between the same places.

Certain trains to stop at Damhead Junction for taking on and setting down traffic.

26. When the North British Company run trains for coaching traffic between Edinburgh and Larbert Junction, they shall stop at Damhead Junction all or such of their trains carrying coaching traffic as may from time to time be required by the Caledonian Company for the purpose of taking on and setting down, and shall take on and set down, at Damhead Junction the coaching traffic of the Caledonian Company from any of their stations in Edinburgh, Leith, or Granton or from any station on their railway between Edinburgh and Carlisle or places beyond, to Larbert Junction, or places northward thereof, to which the North British Company book or carry coaching traffic by

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such trains, and vice versâ; and the North British Company shall also, if so required, forward by such trains through carriages belonging to the Caledonian Company to or from all places northward of Larbert Junction to or from which through carriages of the North British Company are sent by such trains.

Limiting use of Damhead Junction.

27. Except with the consent of the North British Company, the Caledonian Company shall not carry goods, mineral, or live stock traffic from or to stations upon the North British Company's said line between Larbert Junction and Damhead Junction, to or from stations of the Caledonian Company in Edinburgh, Leith, or Granton; and, except with such consent as aforesaid, the Damhead Junction shall not be used for the conveyance of any traffic other than such as is provided for by this Act.

Interest not to be paid on calls paid up.

28. The Caledonian Company shall not, out of any money by this Act or any other Act relating to that Company authorised to be raised, pay interest or dividend 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 said 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.

29. The Caledonian 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 Houses 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 said Company to construct any other railway, or to execute any other work or undertaking.

Railways not exempt from provisions of present and future general Acts.

30. Nothing in this Act contained shall exempt either of the two companies, or the railway by this Act authorised to be made, 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 by this Act.

Expenses of Act.

31. 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 two Companies in equal proportions.

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