CHAPTER ciii.

An Act for enabling the Caledonian Railway Company to make and maintain certain railways in Edinburgh and Leith to acquire lands to raise additional money and for other purposes. [3rd July 1891.]

A.D. 1891.

WHEREAS it is expedient that the Caledonian Railway Company (herein-after called "the Company") should be empowered to make and maintain the railways in Edinburgh and Leith herein-after described to acquire lands for those and other purposes and to raise additional money:

And whereas plans and sections showing the lines and levels of the railways authorised by this Act and the lands which may be taken for the several purposes 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 of the county of Midlothian 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 for all purposes as the Caledonian Railway (Edinburgh and Leith Lines) Act 1891.

Incorporation of Lands Railways and Companies Clauses Acts.

2. The Lands Clauses Acts 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

A.D. 1891.

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 non-payment 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 and the giving of notices 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 as amended by the Railway Companies (Scotland) Act 1867 are (except where and as 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 so incorporated with this Act 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 Company are by this Act authorised to issue and to the holders thereof and the provisions of the Caledonian Railway (Conversion of Stock) Act 1890 shall apply to any ordinary stock created and issued under the authority of this Act.

Interpretation.

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 this Act and the Acts wholly or partially incorporated herewith as applied to this Act the expression "the Company" means the Caledonian Railway Company the expression "the special Act" means this Act the word "schoolmasters" means session clerks and the expression "the railway" means and includes the railways and other works by this Act authorised or any part thereof.

Power to make railways and take lands for purposes thereof.

4. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the railways herein-after described with all proper stations depôts sidings junctions approaches viaducts bridges roads stairs shafts lifts elevators engines communications and other works machinery conveniences and buildings incidental thereto or which may be advantageously or conveniently held or used in connexion with the said railways respectively and may enter upon take and use such of the lands delineated on the said

plans and described in the deposited books of reference as may be required for those purposes.

Description of railways.

5. The railways herein-before referred to and authorised by this Act are—

(1) A railway ("Railway No. 4") two furlongs and two chains or thereabouts in length commencing at a point two hundred and seventy yards or thereabouts measuring in an easterly direction from the centre of the bridge by which Easter Road is carried over the North British Railway and terminating at a point one hundred and ninety yards or thereabouts measuring in a north-easterly direction from the northmost corner of the Edinburgh Eastern Cemetery;

(2) A railway ("Railway No. 5") two furlongs four chains and six yards or thereabouts in length (to be used for the conveyance of merchandise traffic only) commencing at a point forty yards or thereabouts measuring in a north-easterly direction from Pilrig House and terminating at a point on the west side of Leith Walk seventy yards or thereabouts south of the junction of Jane Street and Leith Walk.

Power to acquire certain lands in the parish of Saint Cuthbert.

6. Subject to the provisions of this Act the Company may enter upon take and use the lands in the parish of Saint Cuthbert and county of Midlothian delineated on the deposited plans and described in the deposited books of reference.

Power to take servitudes by agreement.

7. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any servitude right or privilege not being a servitude of water required for the purposes of this Act in over under through or affecting any such lands and the provisions of the said Acts with respect to lands and feu duties or ground annuals so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively.

Restrictions on displacing persons of labouring class.

8. (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 such number of persons as were residing in such houses on the

A.D. 1891.

fifteenth day of December last or for such number of persons as the Secretary for Scotland shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such person 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.

(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 of 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 Provided that the court may if it think fit reduce such penalty.

(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 and for the purpose

of any such purchase section ninety of the Public Health (Scotland) Act 1867 shall be incorporated with this Act and shall apply to the purchase of lands by the Company for the purposes of any scheme under this section in the same manner in all respects as if the Company were a local authority within the meaning of that Act and the scheme were one of the purposes of that Act.

(7) The Company may on any lands belonging to them or purchased or acquired under this section or under any Provisional Order issued in pursuance of 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 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 purposes of their undertaking:

Provided that all lands on which any buildings have been erected or provided by the Company in pursuance of any scheme under this section shall for a period of twenty-five years from the passing of this Act be appropriated for the purpose of dwellings and every 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 during such period of twenty-five years be used exclusively for the purpose of such dwellings and shall be endorsed with notice of this enactment:

Provided also that the Secretary for Scotland may at any time dispense with all or any of the requirements of this sub-section subject to such conditions (if any) as he may see fit.

(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 respectively 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 inquires under this section including the expenses of any witnesses summoned by the person

A.D. 1891.

appointed to hold any such 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 artisans 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 such persons who may be residing with them.

Interference with streets.

9. Subject to the provisions of this Act the Company may for the purpose of constructing the railways by this Act authorised and the works connected therewith temporarily cross alter break open stop up or divert any streets roads lanes pavements and footpaths shown on the deposited plans and described in the deposited books of reference and may during such construction use and appropriate any of the streets roads lanes pavements or footpaths so crossed altered broken open stopped up or diverted and may also during such construction from time to time break open any such streets roads lanes pavements or footpaths when necessary for the protection or repair of any sewers drains or pipes under the same.

For restoration of streets.

10. The Company shall restore the portions of the carriageway and footway of any street road lane pavement or footpath which may be from time to time stopped up by them for traffic for the purposes of the works within three months from the day upon which such portions shall respectively be so stopped up and they shall be liable to a penalty not exceeding ten pounds for every day after the expiration of the said period during which such portions respectively shall not be so restored and such penalty shall be recoverable with costs in the court of the sheriff of the Lothians and Peebles at Edinburgh on summary application by all or any of the proprietors or tenants in that part of the street which is opposite or in the immediate vicinity of the respective portions which shall not be so restored.

For protection of the Corporation of Edinburgh.

11. For the protection of the Corporation of Edinburgh as a municipal corporation and as trustees or commissioners acting in execution of the several public and local and personal Acts by which any powers jurisdiction or authorities are conferred on them (in this section called "the corporation") the following provisions shall unless otherwise agreed between the Company and the corporation

have effect and be binding on the Company in exercising the powers of this Act (that is to say):—

(A) At least fourteen days before the Company commence any works the execution of which would in any way interfere with or affect any of the sewers or drains belonging to the corporation or which they have the right of using the Company shall give to the corporation notice thereof in writing accompanied by the necessary plans sections working drawings and specifications showing the manner in which the railways and works are to be executed and also the means to be employed for protecting the said sewers and drains during the operations of the Company and also the means to be employed for making good any injury or damage to or interference with the said sewers and drains which plans sections working drawings and specifications shall be subject to the approval of the corporation previously to the works of the Company affecting the said sewers and drains being commenced Provided always that if the corporation do not within fourteen days after service of such notice on them intimate to the Company their approval or disapproval of the said plans sections working drawings and specifications the Company may thereupon proceed to execute their said works;

(B) Where any of the works shall or may pass over under or by the side of or so as to interfere with any sewer drain water-course defence or work under the jurisdiction or control of the corporation or shall or may in any way affect the sewerage or drainage of the district under their control the Company shall make good any damage which may be done by their operations to any of the sewers and shall clean out the same should they get silted up in consequence of any of the operations of the Company during or after the construction of the Company's works and shall provide by new altered or substituted works including outfall sewers in such manner as the corporation may deem necessary (and for the construction of which they shall be bound to afford all reasonable facilities and communicate their powers so far as necessary) for the proper protection of and for preventing injury or impediment to the sewers and works herein-before referred to by or by reason of the said intended works or any part thereof and shall save harmless the corporation against all and every the expense to be occasioned thereby and all such works may be done by or under the direction superintendence and control of the corporation at the costs charges and expenses in all respects of the Company and all reasonable costs charges and expenses thereby occasioned shall

A.D. 1891.

be paid by the Company on demand and if any dispute shall arise as to the amount of such costs charges and expenses the same shall be settled as herein-after provided and when any new altered or substituted works as aforesaid or any works or defence connected therewith shall be completed by or at the costs charges and expenses of the Company under the provisions of this Act the same shall thereafter be as fully and completely under the direction jurisdiction and control of the corporation as any sewers or works now or hereafter may be and nothing in this Act shall except as herein-before provided extend to prejudice diminish alter or take away any of the rights powers or authorities vested or to be vested in the corporation but all such rights powers and authorities shall be as valid and effectual as if this Act had not been passed;

(C) The Company shall pay to the corporation the costs and expenses which they may reasonably incur or be put to in superintending the works authorised by this Act or with reference to any of the matters aforesaid;

(D) The special provisions herein contained for the protection of the corporation shall not be deemed to supersede or dispense with the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 but these except in so far as they may be inconsistent with any of the special provisions herein contained shall be and remain in full force and effect;

(E) If the corporation and the Company shall differ upon or with reference to any plans elevations sections or other particulars which under the provisions herein-before contained are to be delivered by the Company to the corporation or as to the mode of carrying out the same or as to any other matter or thing arising out of the said plans elevations sections or particulars or any of the provisions of this and the two next preceding sections of this Act every such difference shall on the application of the Company or of the corporation be referred to the determination of an arbitrator to be mutually agreed upon by the corporation and the Company before the construction of the railways and works are commenced and failing such agreement as may be appointed on the requisition of either of them by the Board of Trade and such arbitrator shall have power to determine the matter in difference and the costs of and incidental to the reference shall be paid by the Company In the event of the death incapacity or failure to act of the arbitrator so appointed and of the corporation and the

Company failing to agree as to another arbitrator the Board of Trade shall as often as occasion requires appoint another arbitrator in room and place of the arbitrator previously appointed as aforesaid.

For protection of the Corporation of Leith.

12. For the protection of the Corporation of Leith the following provisions shall subject to the provisions of this Act and unless otherwise agreed between that corporation and the Company apply and have effect and be binding on the corporation and the Company respectively:—

(A) At least fourteen days before the Company commence any works the execution of which would in any way interfere with or affect any of the streets roads lanes pavements footpaths or public places in the burgh of Leith or which would interfere with or affect the sewers or drains belonging to the Corporation of Leith or which they have the right of using the Company shall give to the corporation notice thereof in writing accompanied by the necessary plans sections working drawings and specifications showing the manner in which the railways and works are to be executed and also the means to be employed for protecting the said streets roads lanes pavements footpaths public places sewers and drains during the operations of the Company and also the means to be employed for making good any injury or damage to or interference with the said streets roads lanes pavements footpaths public places sewers and drains which plans sections working drawings and specifications shall be subject to the approval of the corporation previously to the works of the Company affecting the said streets roads lanes pavements footpaths public places sewers and drains being commenced Provided always that if the corporation do not within fourteen days after service of such notice on them intimate to the Company their approval or disapproval of the said plans sections working drawings and specifications the Company may thereupon proceed to execute their said works;

(B) In every case in which the Company interfere with any street road lane pavement or footpath the Company shall to the satisfaction of the corporation—

(1) Restore the street road lane pavement or footpath so interfered with by the said works or by subsidence occasioned thereby to its original level;

(2) Cause the street road lane pavement or footpath to be maintained till properly consolidated;

A.D. 1891.

(3) Make good the paving and metalling of the street road lane pavement or footpath and wherever necessary cause the street road lane pavement or footpath to be re-paved or re-metalled over their entire width;

(4) Provide and maintain all requisite communications and accesses for foot passengers to and from the houses and other buildings in the streets roads lanes pavements or footpaths so interfered with;

(C) At least two months before the Company commence the construction of any station within the burgh of Leith the Company shall submit to the corporation plans sections and elevations of the booking offices and other buildings and works above ground of the said stations for approval;

(D) Nothing in this Act contained shall prevent the corporation at any future time from carrying out any public improvement or any alterations developments or extensions of the existing or contemplated works in connexion with any department administered by them either above or below the level of the railway and wherever the same are or but for the construction of the railway might have been carried across the railway the Company shall pay to the corporation any additional expense which the corporation may reasonably incur or be put to in the carrying out of the same by reason of the making or maintaining of the railway and works or by any of the operations of the Company nor shall anything in this Act entitle the Company to any compensation for any damage occasioned by such operations of the corporation unless such damage shall have been occasioned by the default or neglect of the corporation;

(E) The Company shall so far as practicable and consistent with the proper carrying out of their undertaking use coke only for any steam or other engine used by them in the construction of the railways or other works under public streets within the burgh of Leith and otherwise the Company shall during such construction be bound to use such engines so as not to be offensive or to cause a nuisance to the neighbourhood;

(F) The agreement set forth in the third Schedule of the Caledonian Railway (Edinburgh Leith and Newhaven Extension Lines) Act 1890 herein-after called the Act of 1890 and section 19 of that Act confirming the same shall so far as applicable

be read and have effect as if the same were incorporated in this Act;

(G) The provisions of sub-sections (B) (C) (D) and (E) of the preceding section of this Act whereof the marginal reference is "For protection of the Corporation of Edinburgh" shall be applicable to the Corporation of Leith and to the sewers drains watercourses defences and other works within the burgh of Leith in like manner as they are applicable to the Corporation of Edinburgh and to similar places and works within that city as therein mentioned and the Corporation of Leith shall have the same rights powers and authorities within the limits of their jurisdiction as by the said section are conferred upon the Corporation of Edinburgh as therein mentioned and the Company shall be under the same obligations towards the Corporation of Leith within their jurisdiction as the Company are by the said section placed under towards the Corporation of Edinburgh within their jurisdiction as therein mentioned.

For protection of gas mains and pipes in Edinburgh and Leith.

13. In carrying the railways by this Act authorised in over or under any streets or lanes in which any gas mains or pipes are laid the Company shall before proceeding to interfere with appropriate or stop up any of such streets or lanes give at least fourteen days' previous notice of their intention so to do to the clerk to the Edinburgh and Leith Corporations Gas Commissioners (herein-after referred to as "the Gas Commissioners") and shall submit a plan and section showing the intended operations and the alterations proposed by which any gas mains and pipes in any such street or lane shall or may be affected or interfered with and the same shall be subject to the reasonable approval of an engineer to be appointed by the Gas Commissioners and any alteration or removal or diversion of any such gas mains or pipes shall be done and executed by the Gas Commissioners or by persons to be employed by them and the expense thereof and all expenses and charges incident thereto and consequent on any of the said works or operations shall be repaid by the Company to the Gas Commissioners and in the event of any leakage from any such gas mains or pipes occurring at any time the Company shall not be entitled to make any claim for damage in respect thereof but only to require the Gas Commissioners to repair the same in a sufficient manner and within a reasonable time and nothing in this Act contained shall prevent the Gas Commissioners or other persons having right to any gas mains or pipes which may be interfered with or affected as aforesaid from having access to the

A.D. 1891.

same at all reasonable times for repairing and inspecting the same and for any other necessary purpose Provided always that the provision herein contained in favour of the Gas Commissioners shall be in addition to and not in substitution for the provisions with respect to the said matters contained in the Railways Clauses Consolidation (Scotland) Act 1845.

Differences to be settled by arbitration.

14. If any difference shall at any time arise between the Company and the Gas Commissioners or their respective engineers with respect to any of the matters referred to in the next preceding section or with reference to the time taken or required for executing any of the works or operations therein mentioned such difference shall be referred to and determined by an engineer to be appointed by the Board of Trade on the application of either the Company or the Gas Commissioners.

For protection of Edinburgh and District Water Trustees.

15. If in carrying the railways and other works by this Act authorised over or under any of the aqueducts conduits or lines of pipe of the Edinburgh and District Water Trustees (herein-after referred to as "the Water Trustees") it shall be found necessary to alter the existing lines or levels of such aqueducts conduits or lines of pipe or any of them or otherwise interfere with the same it shall be done so as not to injuriously affect or interrupt the supply of water conveyed by the same and the Company shall give at least fourteen days' previous notice to the clerk to the Water Trustees before commencing any such works and such crossings and all works necessary therefor and connected therewith shall be executed at the expense of the Company and at the sight and to the reasonable satisfaction of the engineer of the Water Trustees and according to plans to be submitted to and approved by such engineer before such works shall be begun and if the Water Trustees shall incur any expense for works necessary in reference to the crossing of such aqueducts conduits or lines of pipe or any other interference therewith or in reference to access thereto they shall be entitled to full compensation from the Company for such expense and such works to be executed by the Company shall be maintained in good and sufficient repair in all time coming by the Company and the Water Trustees shall have at all times the right of access to such aqueducts conduits or lines of pipe for the repair enlargement alteration and maintenance of the same and the right of laying additional pipes when they shall see fit and which access the Company shall be bound to provide Provided that the Water Trustees shall as far as possible avoid the causing of any interruption or obstruction to the traffic of the railway.

Differences to be settled by arbitration.

16. If any difference shall at any time arise between the Company and the Water Trustees or their respective engineers with respect to the plans or works or any of the other matters referred to in the next preceding section such difference shall be referred to and determined by an engineer to be appointed by the Board of Trade on the application of either the Company or the Water Trustees.

For the protection of the Water of Leith Purification and Sewerage Commissioners.

17. For the protection of the Water of Leith Purification and Sewerage Commissioners section twenty-five of the Act of 1890 shall be applicable to the works to be executed under this Act in the same way and to the same effect as if the said section were herein repeated at length.

For the protection of Trinity Hospital.

18. For the protection of the Governors of the Trinity Hospital the terms conditions and obligations of the agreement in the Second Schedule to the Act of 1890 in so far as the said agreement refers to or affects the lands of Trinity Hospital shall extend to and be applicable to the railways and works proposed to be executed under this Act in the same way and to the same effect as regards the lands of Trinity Hospital as if the railways authorised by this Act had been authorised by the Act of 1890.

Power to enter into agreements for widening streets.

19. Where any lands which the Company may require to purchase for the purposes of the undertaking but which will not remain necessary parts thereof can be advantageously used for widening improving or extending any streets the Company may enter into agreements with the local authorities or other persons having the charge or management of such streets for such widening improvement or extension and the Company may enter into agreements with the persons from whom such lands may be acquired for affording to such persons access to and the right to use such streets.

Company not bound to carry manure.

20. Nothing contained in this Act shall make it compulsory on the Company to carry or shall empower any other company or person to carry on the railways any night soil dung or other offensive matter.

Lands for extraordinary purposes.

21. The quantity of land to be acquired by agreement by the Company for the extraordinary purposes mentioned in the Railways Clauses Consolidation (Scotland) Act 1845 in connexion with the railways authorised by this Act shall not exceed five acres in addition to the lands which they are authorised by this Act to take compulsorily and by any other Acts to take compulsorily or acquire by agreement but nothing in the first mentioned Act or in this Act

A.D. 1891.

shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them upon any land taken by them under the powers of this section.

Period for compulsory purchase of lands.

22. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Power to raise additional capital.

23. The Company may from time to time subject to the provisions of Part II. of the Companies Clauses Act 1863 as amended by the Railway Companies (Scotland) Act 1867 raise any additional capital not exceeding in nominal amount one hundred 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 the Company 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 Company.

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

24. Except as by this Act otherwise provided the capital in new shares or stock created by the 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 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.

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

Dividends on new shares or stock.

26. Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the 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.

Votes in respect of new shares or stock.

27. 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 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 new shares or stock to which a preferential dividend shall be assigned.

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

28. Subject to the provisions of any Act already passed by which the 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 the Company may be authorised to raise capital by new shares or stock the 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 Acts and this Act respectively authorised to raise by the creation and issue of new shares or stock.

Power to borrow for purposes of this Act.

29. The Company may in respect of the additional capital of one hundred thousand pounds which they are herein-before authorised to raise from time to time borrow on mortgage of their undertaking any sums not exceeding in the whole thirty-three 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 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 and the whole amount of the stock in the said capital 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 assignees and also in so far as the said additional capital is raised by shares that such persons or corporations or their executors administrators successors or assignees are legally liable for the same and upon production to such sheriff

A.D. 1891.

of the books of the 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 the appointment of a judicial factor.

30. The mortgagees of the Company under this or any previous Act 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 be not less than ten thousand pounds in the whole.

Power to create debenture stock.

31. The 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 but notwithstanding anything therein contained the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company and shall have priority over all principal moneys secured by such mortgage s.

Existing mortgages to have priority.

32. All mortgages granted by the 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 subject to the provisions of the Acts under which such mortgages were respectively granted 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 the Company.

Application of moneys.

33. All moneys raised under this Act whether by shares or stock or debenture stock or borrowing shall be applied only to those purposes of this Act to which capital is properly applicable.

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

34. The Company may apply towards the purp oses authorised by this Act or any of them to which capital is properly applicable 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.

Period for completion of railways.

35. If the railways by this Act authorised are not completed within five years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for making and completing the said railways or otherwise in relation

thereto shall cease except as to so much thereof as shall then be completed.

Penalty imposed unless railway opened within the time limited.

36. If the Company fail within the period limited by this Act to complete Railway No. 4 by this Act authorised the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until such railway is completed and opened for the public conveyance of passengers or until the sum received in respect of such penalty amounts to five per cent. on the estimated cost of such railway and the said penalty may be applied for by any landowner or other person claiming to be compensated or interested in accordance with the provisions of the next following section of this Act 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 of the Queen's and Lord Treasurer's Remembrancer on behalf 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 Company were prevented from completing or opening such railway 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 penalties.

37. 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 commencment 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 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

A.D. 1891.

recovered by way of penalty or such portion thereof as may not be required as aforesaid shall if a receiver has been appointed or the Company is insolvent and has been ordered to be wound up or the railway or any part thereof has been abandoned be paid to such receiver or to the liquidator or liquidators of the Company or be applied in the discretion of the Court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid to the Company.

Tolls.

38. The Company may demand and take in respect of the use of the railways by this Act authorised to be made or either of them or any part thereof and of carriages and engines thereon and of accommodation and services provided by the Company in connexion therewith any tolls rates and charges not exceeding the tolls rates and charges as the same may be modified under the provisions of the Railway and Canal Traffic Act 1888 which the 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 of accommodation and services provided by the Company in connexion therewith Provided that the said railways by this Act authorised to be made shall as respects tolls rates and charges be considered part of the undertaking of the Company and that only one short distance charge shall be made for the conveyance of any traffic partly thereon or on any part thereof and partly on any other railways of the Company.

Interest not to be paid on calls paid up.

39. 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.

40. 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.

41. 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 by this Act.

Costs of Act.

42. 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.

Printed by Eyre and Spottiswoode,

FOR

T. Digby Pigott, Esq., C.B., the Queen's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
EYRE and SPOTTISWOODE, East Harding Street, Fleet Street, E.C.; or
JOHN MENZIES & Co., 12, Hanover Street, Edinburgh, and
88 and 90, West Nile Street, Glasgow; or
HODGES, FIGGIS, & Co., 104, Grafton Street, Dublin.