CHAPTER ccxxviii.

An Act for authorising and carrying into effect the purchase by the Caledonian Railway Company of the portion of the Solway Junction Railway lying between Aṅnan and Kirtlebridge Junction ; and for other purposes. [5th August 1873.] A.D. 1873.

Agreement dated 22nd March 1867.

WHEREAS an Agreement, dated the twenty-second day of March one thousand eight hundred and sixty-seven, was entered into between the Caledonian Railway Company (herein-after called "the Company"), and the Solway Junction Railway Company (herein-after called "the Solway Company"), whereby it was, inter alia, provided that the Company should have the option, at any time during ten years from the said date, of taking and purchasing, and that the Solway Company should in that case sell to the Company, that portion of the Solway Company's line lying north of the Solway between Annan and the Kirtlebridge Junction of the Caledonian Railway at the cost price thereof, including interest and all other charges incidental to that portion of the line up to the time of opening thereof; and that the said two Companies (herein-after called "the two Companies") should concur in a joint application to Parliament for authority for the said purchase and sale :

And whereas the said agreement was sanctioned and confirmed by "The Caledonian Railway (Abandonment, &c.) Act, 1869 :"

And whereas the Company resolved to avail themselves of the said option, and intimated such resolution to the Solway Company in the month of February one thousand eight hundred and seventy-two ; and it is expedient that the said purchase and sale should be authorised and carried into effect, and that the Company should be empowered to raise money for enabling them to pay the purchase money :

And whereas the Annan and Kirtlebridge line, as in the third section of this Act defined, is the subject agreed to be so purchased and sold ; and it has been agreed between the two companies that

A.D. 1873.

the price to be paid by the Company for the same shall be and it is fixed at the sum of eighty-four thousand pounds, and such a further sum of money as shall be equal to the aggregate amount of all moneys already paid by the Solway Company to owners, lessees, and occupiers respectively of any land taken and used for the Annan and Kirtlebridge line, for or on account of purchase and compensation moneys in respect of such land, and for interest accrued thereon up to the thirtieth day of June one thousand eight hundred and seventy, and for costs, charges, and expenses in respect of such land, but under deduction of one half of all costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, including one half of the amount of stamp duty with which this Act is to be stamped as herein-after provided; and the said price is so agreed and fixed upon the condition that the Company shall pay and satisfy to the parties respectively entitled thereto, and shall indemnify the Solway Company from all such unsatisfied claims and demands of owners, lessees, and occupiers of lands and other persons as are provided by this Act to be paid by the Company:

And whereas by a Bill now pending in Parliament, and to be cited as "The Solway Junction Railway Act, 1873," provision is intended to be made, with the consent of the mortgagees of the Solway Company, for the distribution of the price of the Annan and Kirtlebridge line, in such manner as to secure to them the payment of certain interest on their mortgages, and of forty per cent. of the principal thereof, and for the cancellation of such mortgages, and the issue to the holders thereof of a new debenture stock, secured over the remainder of the undertaking of the Solway Company, in satisfaction of the unpaid residue of such mortgages; and for the purpose of facilitating the carrying into effect of the purposes of the said Bill it is expedient that the Annan and Kirtlebridge line should upon payment of the said price be by this Act transferred to and vested in the Company, freed and discharged as in this Act is provided:

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 Railway (Solway Junction Purchase) Act, 1873."

A.D. 1873.

Provisions of Acts herein named incorporated.

2. 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 Company are by this Act authorised to issue, and to the holders thereof.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Annan and Kirtlebridge line" means and includes that portion of the Solway Junction Railway which extends from the junction of that railway with the Caledonian Railway, called Kirtlebridge Junction, to the station of the Solway Junction Railway at Annan, and the lands, works, and conveniences connected with the said portion of railway, together with one half pro indiviso of the said station, and of the lands, works, and conveniences connected therewith; and the expression "the price" means the price, as defined in the preamble of this Act, to be paid by the Company to the Solway Company; and in the Acts partially incorporated with this Act, as applied to this Act, the expression "the Company" means the Caledonian Railway Company; the expression "the special Act" means this Act; and the expressions "the railway" and "the undertaking" mean respectively the portion of railway and station and works connected therewith and the undertaking by this Act authorised to be vested in the Company.

A.D. 1873.

Payment of price.

4. Within one month after the passing of this Act the Company shall pay the price to the Solway Company.

On payment of price and intimation thereof in London and Edinburgh Gazettes, line to be vested in Caledonian Company, freed of mortgage and other debts.

5. Upon payment of the price to the Solway Company, of which payment the receipt of three directors of the Solway Company shall be sufficient evidence, the Company shall be discharged of such price and shall not be responsible for the further application thereof; and the Company shall intimate such payment in the London and Edinburgh Gazettes, and thereupon the Annan and Kirtlebridge line, as herein-before defined, and all the power, rights, and privileges of the Solway Company in respect thereof, under the several Acts of Parliament relating to that Company and the Acts incorporated therewith or otherwise, shall be and are hereby transferred to and vested in the Company, freed and disburdened of all then existing mortgages, and from all claims of compensation in respect of land (except such as are by this Act provided to be paid by the Company), and from all other debts, incumbrances, and obligations affecting or capable of being made to affect the same, excepting the annual feu duties and public and parochial burdens exigible in respect thereof; and the Company may thereafter hold and use the Annan and Kirtlebridge line, and exercise and enjoy the said powers, rights, and privileges in the same manner as if the said line had been originally part of their own undertaking, and the said powers, rights, and privileges had been originally granted to them, but subject, as respects the said station at Annan and the lands, works, and conveniences connected therewith, to the equal powers, rights, and privileges of the Solway Company, as continuing owners of one half pro indiviso thereof.

Providing for custody of title deeds, &c.

6. Upon payment of the price as aforesaid, all deeds, writings, plans, and other documents in the custody or power of the Solway Company or of their agents or solicitors which relate solely to land on any part of the Annan and Kirtlebridge line, except the station at Annan shall become the property of and be delivered to the Company; and all deeds, writings, plans, and other documents in the custody or power of the Solway Company or of their agents or solicitors which relate as well to land upon as to land not upon the Annan and Kirtlebridge line, where the value of the land upon that line exceeds the value of the land not upon that line, shall be placed in the custody of the Company; and all other deeds, writings, plans, and other documents in the custody or power of the Solway Company or of their agents or solicitors which relate in whole or in part to land on the Annan and Kirtlebridge line shall be retained by the Solway Company in their custody: Provided always, that each of the said Companies shall at all times produce the deeds, writings, plans,

and other documents in the custody or power of them or of their agents or solicitors which relate as well to land upon as to land not upon the Annan and Kirtlebridge line to the other Company, on the request and at the expense of such other Company, whenever it may be necessary for the manifestation, defence, and support of the title of the Company requiring such production to any land to which such documents relate, and in which such last-mentioned Company are for the time being interested, and shall also supply to and on the request and at the expense of such last-mentioned Company true and attested or other copies thereof, and abstracts thereof and extracts therefrom.

Payment of stamp duty in respect of transfer of line.

7. The Company shall, within six months after the payment of the price as aforesaid, produce to the Commissioners of Inland Revenue a copy of this Act, printed by Her Majesty's printers, and duly stamped with an ad valorem stamp duty of the same amount as would have been payable in respect of a conveyance on payment of such price; and if the Company shall not, within the said period of six months, produce to the said Commissioners such copy of this Act, duly stamped as aforesaid, the said ad valorem stamp duty shall be recoverable from the Company with full costs of suit and all charges attending the same.

Company to pay unsatisfied claims of landowners and others.

8. The Company shall pay and satisfy to all owners, lessees, and occupiers of land, and to all land valuers, arbiters, and oversmen respectively employed in or about the ascertaining or determining the amount of any purchase or compensation money for any land taken and used for the purposes of the Annan and Kirtlebridge line, all such unsatisfied claims and demands of such persons respectively as they respectively are or but for this Act would have been by law entitled to have and receive or recover from the Solway Company for or in respect of any such land, and any interest thereon up to the thirtieth day of June one thousand eight hundred and seventy, and any costs, charges, and expenses of such persons respectively in relation or incidental to or consequent upon the taking and using of, or the ascertaining and determining the purchase money and compensation to be paid for, and the manifestation of the title to, and the conveyance of such land respectively; and all such unsatisfied claims and demands of such persons respectively may be recovered by them respectively from the Company in any court of competent jurisdiction; and the Company shall at all times indemnify the Solway Company from and against the same.

Power to raise money by the issue

9. The Company may, subject to the provisions of Part II. of "The Companies Clauses Act, 1863," raise any additional capital

A.D. 1873.

of ordinary or preference shares or stock.

not exceeding in the whole seventy-five 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: 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.

Shares not to issue until one fifth paid up.

10. The Company shall not issue any share created under the authority of this Act, nor shall any such share vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount of such share is paid in respect thereof.

Votes in respect of new shares or stock.

11. 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.

Capital under several Acts of this session may be raised by shares or stock of one class.

12. If, by any other Act or Acts passed in the present session of Parliament, whether before or after the passing of this Act, the Company be authorised to raise any capital by the issue of new shares or stock (whether ordinary or preference), the Company may, if they think fit, subject to the provisions of such other Act or Acts and of this Act, raise by the issue of shares or stock of one and the same class, and entitled to the same privileges, all or any part or parts of the aggregate capital which they are by such other Act or Acts and this Act authorised to raise by the issue of shares or stock.

Power to borrow on mortgage.

13. The Company may from time to time borrow on mortgage, in addition to the amount which they are or may be authorised to borrow by any other Act of Parliament, any sums not exceeding in the whole twenty-four thousand pounds; but no part thereof shall be borrowed until the whole capital of seventy-five thousand pounds by this Act authorised to be raised is issued and accepted, and one half thereof 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 the whole of such capital has been issued and accepted, and that one half thereof has been paid up, and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof, before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide, and is held by the persons or

corporations to whom the same was issued, or their executors, administrators, successors, or assignees, and that such persons or corporations, or their executors, administrators, successors, or assignees, are legally liable for the same; and upon production to such sheriff 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 shall be sufficient evidence thereof. A.D. 1873.

Arrears may be enforced by appointment of a judicial factor.

14. The mortgagees of the 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.

15. All mortgages and bonds 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 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 the Company.

Debenture stock.

16. 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."

Application of moneys.

17. 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.

18. The 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.

Interest not to be paid on calls paid up.

19. The Company shall not, out of any money by this Act or any other Act relating to the 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 Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in comformity with "The Companies Clauses Consolidation (Scotland) Act, 1845."

A.D. 1873.

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

20. 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 railway, or to execute any other work or undertaking.

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

21. Nothing in this Act contained shall exempt the portion of railway by this Act authorised to be vested in the Company 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 the Acts relating to the Solway Company.

Expenses of Act and stamp duty.

22. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, including the amount of stamp duty payable as herein-before provided, shall be paid by the Company and the Solway Company in equal proportions.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1873.