CHAPTER clxxxvi.

An Act for enabling the Caledonian Railway Company to make Branch Railways connecting their Wilsontown Branch with their Cleland and Midcalder Line; and for other purposes. [21st July 1873.] A.D. 1873.

WHEREAS the formation by the Caledonian Railway Company (herein-after called "the Company") of branch railways connecting their Wilsontown branch with their Cleland and Midcalder line, in the counties of Edinburgh and Lanark, as herein-after described, would be of great public and local advantage:

And whereas it is expedient that the Company should be empowered to make and maintain the said branch railways and to raise money for the purposes thereof:

And whereas plans and sections showing the lines and levels of the railways authorised by 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 lands required or which may be taken for the purposes or under the powers of this Act, were duly deposited with the principal sheriff clerks for the said counties, 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:

1. This Act may be cited as "The Caledonian Railway (Wilsontown and West Calder Junction) Act, 1873." Short title.

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Provisions of Acts herein named 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 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 Railway Company; the expression "the special Act" means this Act; and the expressions "the railway" and "the undertaking" mean respectively the railways and the undertaking by this Act authorised.

Power to make railways according to deposited plans.

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, and all proper stations, sidings, approaches, works, and conveniences in connexion therewith 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. The railways herein-before referred to and authorised by this Act are—

A railway, in this Act called Railway No. 8, four miles or thereabouts in length, commencing by a junction with the Company's Wilsontown branch, at a point about two hundred and twenty yards westward from the houses of Lower Haywood, and terminating at a point about two hundred and sixty yards south-eastward from the farm buildings of Doveridge, which Railway No. 8, and works connected therewith, will be situate in the parish of Carnwath in the county of Lanark, and the parish of West Calder in the county of Edinburgh; and

A railway, in this Act called Railway No. 9, two miles seven furlongs eight chains and fourteen yards or thereabouts in length, commencing by a junction with Railway No. 8, at the point herein-before described as the point of termination of that railway, and terminating by a junction with the Company's Cleland and Midcalder line, at or near the accommodation bridge under the said line, near the eastern junction with that line of the Company's loop line called Railway No. 6 in "The Caledonian Railway (Cleland and Midcalder Railway and Branches) Act, 1865," which Railway No. 9, and works connected therewith, will be situate in the parish of West Calder in the county of Edinburgh.

Power to raise money by the issue of ordinary or preference shares or stock.

5. The Company may, subject to the provisions of Part II. of "The Companies Clauses Act, 1863," raise any additional sum or sums, not exceeding in the whole sixty 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.

6. 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.

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Votes in respect of new shares or stock.

7. 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.

8. 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.

9. 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 sum not exceeding in the whole twenty thousand pounds; but no part of such sum shall be borrowed until the whole additional capital of sixty 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 additional 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 additional capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such additional 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.

Arrears may be enforced by appointment of a judicial factor.

10. 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.

11. 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.

Power to create debenture stock.

12. 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.

13. 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.

14. 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.

Lands for extraordinary purposes.

15. 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," shall not exceed three 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.

Period for compulsory purchase of lands.

16. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Powers of lateral deviation.

17. The Company, notwithstanding the provisions of "The Railways Clauses Consolidation (Scotland) Act, 1845," may deviate from the lines of the railways by this Act authorised, as delineated on the deposited plans, to any extent within the limits of deviation shown on those plans.

Inclination of certain roads.

18. In altering for the purposes of this Act the roads next herein-after mentioned the Company may make the same of any inclinations not steeper than the inclinations herein-after mentioned in connexion therewith respectively; that is to say,

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No. on deposited Plans.	Parish.	Description of Road.	Intended Inclination.
		Railway No. 8.	
251	West Calder -	Parish - -	1 in 12.
		Railway No. 9.	
297	West Calder -	Parish - -	1 in 12.

Height and span of certain bridges.

19. The Company may make the arches of the bridges for carrying the railways by this Act authorised over the roads 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 roads respectively; (that is to say,)

No. on deposited Plans.	Parish.	Description.	Height.	Span.
		Railway No. 8.		
			Feet.	Feet.
66	West Calder - -	Parish road - -	14	15
251	West Calder - -	Parish road - -	12	20

Power to stop up a certain road, &c.

20. In constructing the railways by this Act authorised, the Company may, notwithstanding the provisions of "The Railways Clauses Consolidation (Scotland) Act, 1845," permanently stop up the road and railway siding next herein-after mentioned, without substituting others therefor; (that is to say,)

No. on deposited Plans.	Parish.	Description.
	Railway No. 8.	
39 } 40 }	Carnwath - -	Public road.
	Railway No. 9.	
339	West Calder - -	Railway siding.

New portions of road to be subject to same provisions as

21. All new portions of road authorised by the provisions of "The Railways Clauses Consolidation (Scotland) Act, 1845," as incorporated with this Act, to be formed in lieu of roads altered or diverted, shall, as respects management, maintenance, and tolls

(where tolls are leviable), and in all other respects, be held as parts of and be subject to the same provisions as the existing roads altered or diverted as aforesaid respectively. existing roads.

Power to take easements, &c. by agreement.

22. 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 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.

Penalty imposed unless lines are opened within period limited.

23. If the Company fail within the period limited by this Act to complete the railways authorised to be made by this Act, 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 the said railways are 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 railways or portions of railway not so completed; 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 named 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 lines respectively 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.

24. 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

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other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said railways 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 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 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 Company, or be otherwise applied as part of the assets of the Company, for the benefit of the creditors thereof.

Period for completion of works.

25. 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 to be exercised, except as to so much thereof as is then completed.

Tolls.

26. The Company may demand and take in respect of the use of the railways by this Act authorised, or any of them 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 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 railways by this Act autho-

rised 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 those railways or any of them, and partly on the Caledonian Railway.

Interest not to be paid on calls paid up.

27. 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 conformity with "The Companies Clauses Consolidation (Scotland) Act, 1845."

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

28. 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.

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

29. Nothing in this Act contained shall exempt the railways 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.

30. 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.

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