CHAPTER cxlvii.

An Act to authorise the Edinburgh Suburban and Southside Junction Railway Company to construct new railways and to abandon part of their authorised railways and for other purposes. [24th July 1882.]

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WHEREAS by the Edinburgh Suburban and Southside Junction Railway Act 1880 (in this Act called "the Act of 1880") the Edinburgh Suburban and Southside Junction Railway Company (in this Act called "the Company") were incorporated for making and maintaining certain railways on the south side of Edinburgh in the Act of 1880 described with a share capital of two hundred and twenty-five thousand pounds and with power to borrow not exceeding seventy-five thousand pounds: 43 & 44 Vict. c. cxciv.

And whereas it is expedient that the Company be authorised to construct the railways herein-after described and to abandon and relinquish the construction of part of the Railway No. 1 and also the Railway No. 3 authorised by the Act of 1880:

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 clerk of 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:

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Short title.

1. This Act may be cited as the Edinburgh Suburban and Southside Junction Railway Act 1882.

Incorporation of Acts. 8 & 9 Vict. c. 19. 23 & 24 Vict. c. 106. 8 & 9 Vict. c. 33. 26 & 27 Vict. c. 92.

2. The Lands Clauses Consolidation (Scotland) Act 1845 the Lands Clauses Consolidation Acts Amendment Act 1860 the Railways Clauses Consolidation (Scotland) Act 1845 and Part I. (relating to construction of a railway) and Part III. (relating to working agreements) of the Railways Clauses Act 1863 are (except where expressly varied by this Act) incorporated with and form part 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 The expression "the railways" means the railways by this Act authorised.

Power to make railways.

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 junctions sidings approaches works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for that purpose The railways herein-before referred to and authorised by this Act will be situated in the county of Edinburgh and are—

First—A railway (No. 1) one furlong and one chain and one half of a chain or thereabouts in length to be wholly situate in the parish of Liberton commencing by a junction with the Railway No. 1 authorised by the Act of 1880 at or near the point on that railway indicating five miles one furlong measuring along the same from the commencement thereof in the parish of St. Cuthberts at its authorised junction with the North British Railway (Edinburgh and Glasgow Section) as shown on the plans deposited for and referred to in the Act of 1880 and in a field in the parish of Liberton numbered 59 on said plans and terminating by a junction with the St. Leonard's Branch Railway of the North British Railway at a point thereon 425 yards or thereabouts measuring eastwards along that railway from the south-east corner of the gatekeeper's cottage at or near the level crossing of the road leading from Cairntows to Wester Duddingston and by a junction with Railway No. 2 herein-after described at or near a point 425 yards or thereabouts measuring eastwards along the said St. Leonard's Branch

Railway from the south-east corner of the gatekeeper's cottage before mentioned.

Second—A railway (No. 2) one mile two furlongs and five chains and one half of a chain or thereabouts in length to be wholly situate in the parish of Liberton commencing by a junction with the said St. Leonard's Branch Railway at a point thereon 290 yards or thereabouts measuring eastwards along that railway from the south-east corner of the gatekeeper's cottage before mentioned and terminating by a junction with the northmost line of rails of the said St. Leonard's Branch Railway at a point thereon 640 yards or thereabouts measuring eastwards along that railway from the face of the east abutment of the bridge carrying that railway over the turnpike road leading from Niddry Mill to Portobello.

Third—A railway (No. 3) four furlongs and one chain or thereabouts in length commencing in the parish of Liberton by a junction with the said St. Leonard's Branch Railway and with Railway No. 2 herein-before described at or near a point on the said St. Leonard's Branch Railway and the said Railway No. 2 three hundred and seventy yards or thereabouts measuring eastwards along the said St. Leonard's Branch Railway from the face of the east abutment of the bridge carrying that railway over the said turnpike road leading from Niddry Mill to Portobello and terminating in the said parish of Liberton by a junction with the Hawick Branch Railway of the North British Railway at a point on that railway thirty yards or thereabouts measuring southwards along the same from the centre of the archway or culvert carrying the same over Niddry Burn.

Fourth—A railway (No. 4) one mile two furlongs and seven chains and one-half of a chain or thereabouts in length commencing in the said parish of Liberton by a junction with the said St. Leonard's Branch Railway and with Railway No. 2 herein-before described at or near a point on the said St. Leonard's Branch Railway and the said Railway No. 2 five hundred yards or thereabouts measuring eastwards along the said St. Leonard's Branch Railway from the said face of the east abutment of the said bridge carrying that railway over the said turnpike road leading from Niddry Mill to Portobello and terminating in the parish of Inveresk by a junction with the main line or Berwick section of the North British Railway at a point thereon six hundred and fifty yards or thereabouts measuring south-eastwards along the same from the point of

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junction therewith of the Musselburgh Branch Railway of the North British Railway.

Provided that the said Railways No. 1 No. 3 and No. 4 by this Act authorised shall be constructed as double lines of railway and that the said Railway No. 2 by this Act authorised shall be constructed as a single line of railway.

Power to take easements &c. by agreement.

5. 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 servitude 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 ground annuals or feu-duties so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements servitudes rights and privileges as aforesaid respectively.

Owners may be required to sell to Company parts only of certain buildings.

6. And whereas in the exercise by the Company of the powers of this Act it may happen that portions only of certain houses buildings or manufactories shown on the deposited plans will be sufficient for the purposes of the Company and that such portions may be severed from the remainder of the said properties without material detriment thereto.

Therefore notwithstanding section 90 of the Lands Clauses Consolidation (Scotland) Act 1845 the owners of and persons interested in the houses buildings or manufactories described in the First Schedule to this Act and whereof parts only are required for the purposes of the Company may (if such portions can in the judgment of the jury arbiters oversman or other authority assessing or determining the compensation under that Act be severed from the remainder of the said properties without material detriment thereto) be required to sell and convey to the Company the portions only of the premises so required without the Company being obliged or compelled to purchase the whole or any greater portion thereof the Company paying for the portions required by them and making compensation for any damage sustained by the owners thereof or other parties interested therein by severance or otherwise.

Period for compulsory purchase of lands.

7. 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.

Height and span of bridges.

8. The Company may make the arches of the bridges for carrying the railways over the roads next herein-after mentioned of any

heights and spans not less than the heights and spans herein-after mentioned in connexion therewith respectively (that is to say) :—

No. on deposited Plans.	Parish.	Description of Road.	Height.	Span.
			Ft. in.	Ft. in.
Railway No. 2.				
15	Liberton - -	Turnpike - -	13 6	24 6
Railway No. 4.				
13	Inveresk - -	Turnpike - -	15 0	25 0

Providing for bridge at Niddrie Mains.

9. The Company shall at their own expense and before opening for traffic any part of the railways by this Act authorised carry the occupation road numbered on the deposited plans 29 in the parish of Liberton by means of a bridge or bridges to be constructed in the line thereof over the St. Leonard's Branch Railway and the sidings in connexion therewith and the Railways No. 2 No. 3 and No. 4 by this Act authorised such bridge or bridges and the approaches thereto to have a width throughout between the fences or parapets thereof of not less than sixteen feet measured on the square and such approaches to be not steeper than one in sixteen the necessary land for the approaches to be given by Major William John Wauchope or other the proprietor for the time being of the estate of Niddrie free of cost to the Company.

Period for completion of works.

10. 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 same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Authorised railways to be abandoned.

11. The Company shall abandon and relinquish the construction of so much of the Railway No. 1 authorised by the Act of 1880 as lies between the point of junction therewith of the Railway No. 1 by this Act authorised and the termination thereof and shall also abandon and relinquish the construction of the Railway No. 3 authorised by the Act of 1880 and on and after the passing of this Act the Company shall except only as is by this Act otherwise expressly provided be absolutely freed from all obligations with

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respect to the making and maintaining of the said portion of the said Railway No. 1 and of the said Railway No. 3 both authorised by the Act of 1880.

Compensation for damage to land by entry &c.

12. The abandonment by the Company under the authority of this Act of any portion of any railway or works shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels or probing or boring to ascertain the nature of the soil or setting out of the line of railway and shall not prejudice or affect the right of the owner or occupier of any land which may have been temporarily occupied by the Company to receive compensation for such temporary occupation or for any loss damage or injury which may have been sustained by such owner or occupier by reason thereof or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation (Scotland) Act 1845 or the Act of 1880.

Compensation to be made in respect of railways abandoned.

13. Where before the passing of this Act any contract may have been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to the railway and portion of railway authorised to be abandoned by this Act and which shall not be required for the purposes of any of the works by this Act authorised the Company shall be released from all liability to purchase or to complete the purchase of any such lands but notwithstanding full compensation shall be made by the Company to the owners and occupiers or other persons interested in such lands for injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice and the amount and application of the compensation shall be determined in the manner provided by the Lands Clauses Consolidation (Scotland) Act 1845 as amended by any subsequent Act for determining the amount and application of compensation paid for lands taken under the provisions thereof.

New lines of railway to be part of the Company's undertaking.

14. Subject to the provisions herein contained the railways by this Act authorised to be constructed shall for all purposes of tolls rates and charges for the carriage of passengers animals goods and minerals and for all other purposes whatsoever including the purposes of the agreement with the North British Railway Company scheduled to and confirmed by the Act of 1880 be part of the railways of the Company as if the Company had by the Act of 1880 been authorised to make and maintain the same but the tolls rates and charges for the conveyance of passengers and goods

arising and terminating on the said railways shall not by reason of the prolongation of the line exceed the tolls rates and charges which might have been levied under the provisions of the said Act.

Providing for completion of railways.

15. Whereas pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her present Majesty chapter twenty the sum of eleven thousand two hundred and fifty pounds (in this Act called "the Deposit Fund") is now standing in the name of the Queen's Remembrancer of the Court of Exchequer in Scotland in respect of the application to Parliament for the Act of 1880 and by that Act it was provided that notwithstanding anything contained in the said Act the deposit fund should not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act or the survivors or survivor of them (herein-after called "the depositors") unless the Company should previously to the expiration of the period limited by the Act of 1880 for the completion of the railways by that Act authorised have opened the same for the public conveyance of passengers but that if within such period as aforesaid the Company should open any portion of the said railways for the public conveyance of passengers then on production of a certificate of the Board of Trade to the effect therein provided the Court should on the application of the depositors or the majority of them order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they should direct And whereas the railways authorised by this Act are in substitution for the railway and portion of the railway authorised by the Act of 1880 and by this Act authorised to be abandoned Be it therefore enacted that notwithstanding anything contained in the said Act of the ninth year of the reign of Her present Majesty chapter twenty if the period limited by this Act shall expire before the Company shall have opened the railways hereby authorised for the public conveyance of passengers the deposit fund shall be applied in the manner herein-after specified Provided that if within such period as aforesaid the Company open any portion of the railways for the public conveyance of passengers then on production of a certificate of the Board of Trade specifying the length of the portion of the railways opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the railways so opened bears to the entire length of the railways authorised by the Act of 1880 in so far as not abandoned and by this Act the Court shall on the application of the depositors or the majority of them order the portion of the deposit

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fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified and it shall not be necessary to produce any certificate of this Act having passed anything in the first above-mentioned Act to the contrary notwithstanding.

Application of deposit.

16. The deposit fund shall be applicable and after due notice in the Edinburgh Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railways authorised by the Act of 1880 in so far as not hereby authorised to be abandoned and this Act or any portion thereof or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by the Act of 1880 and by this Act and for which injury or loss no compensation or inadequate compensation has 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 deposit fund shall have been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and shall accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the said Court thinks fit to order on the application of the Solicitor to 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 judicial factor has been appointed shall wholly or in part be paid or transferred to such judicial factor 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 Provided that until the deposit fund has been repaid to the depositors or has become otherwise applicable as herein-before mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.

Running powers over portion of St. Leonard's Branch Railway.

17. The Company and any company or person lawfully working or using the railways of the Company or any part thereof may run over work and use with their own or other engines trucks wagons and carriages and by their clerks officers and servants for the

purposes of traffic of every description the following portion of railway (that is to say):

So much of the St. Leonard's Branch Railway of the North British Railway as lies between the point of junction therewith of the Railway No. 1 by this Act authorised and the junction of that Branch Railway with the Hawick Branch of the said North British Railway together with all stations sidings roads ways buildings platforms booking and other offices warehouses approaches water supplies telegraphs points junctions signals machinery engines engine sheds standing room for engines works and conveniences on or connected or used with the said portion of railway.

And as regards traffic conveyed by them the Company may demand and take the same tolls and charges upon and in respect of the said portion of railway as the owners thereof are entitled to demand and take.

Local traffic not to be interfered with.

18. In using the said portion of the said St. Leonard's Branch Railway before described under the powers by this Act conferred the Company shall not except with the consent in writing of the owners of the same take up any traffic at any station on the said portion of the said railway and deliver the same at any other station thereon.

Owners of said portion of railway to give effect to running powers.

19. The owners of the said portion of the said St. Leonard's Branch Railway shall from time to time from the expiration of one month after notice in writing so to do given to them by the Company make all arrangements and afford and render all services and facilities for giving full effect to the powers of running over and using the same conferred by this Act on the Company and any company or person lawfully working or using the railways of the Company or any part thereof.

Tolls and terms for use of portion of railway.

20. The tolls and other moneys to be paid and the terms and conditions to be observed and performed by the Company for and in respect of the use of the said portion of the said St. Leonard's Branch Railway and the services and facilities aforesaid and the apportionment of the tolls rates and charges in respect of the through route over which the traffic may be carried may be from time to time agreed on between the Company and the owners of the said portion of railway or in case of difference shall be determined by arbitration as herein-after provided Provided that in using the said portion of railway the Company shall be subject to the byelaws and regulations for the time in force of the owners of such railways.

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Arbitrations.

22 & 23 Vict. c. 59.

36 & 37 Vict. c. 48.

21. Any matter arising under this Act between the Company and the owners of the said portion of railway which is by this Act appointed to be determined by arbitration shall be determined by arbitration under the provisions of the Railway Companies Arbitration Act 1859 or may at the instance of any of the parties be referred to the Commissioners acting under the Regulation of Railways Act 1873 in lieu of being referred to arbitration.

Tolls on traffic conveyed on railways worked continuously.

22. During the user under the powers of this Act of the said portion of the St. Leonard's Branch Railway the railways of the Company and the said portion of the St. Leonard's Branch Railway shall for the purposes of tolls and charges be considered as one railway and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railways of the Company and partly on the said portion of railway or any of them for a less distance than three miles tolls and charges may only be charged as for three miles and in respect of passengers for every mile or fraction of a mile beyond three miles tolls and charges as for one mile only and in respect of animals and goods for every quarter of a mile or fraction of a quarter of a mile beyond three miles tolls and charges as for a quarter of a mile only and no other short distance charge shall be made for the conveyance of passengers animals or goods partly on the railways of the Company and partly on the said portion of railway or any of them.

Power to apply Company's funds to purposes of Act.

23. The Company may apply for the purposes of this Act any money which they have raised or which they have power to raise by virtue of the Act of 1880 and which may not be required by them for any special purpose for which that money was directed to be applied.

Classification table to be open to inspection. Copies to be sold.

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

Terminal charges if any to be specified on application.

The Company shall within one week after application in writing made to the secretary of the Company by any person interested in the carriage of any goods which have been or are intended to be carried over the railway render an account to the person so applying in which the charge made or claimed by the Company for the

carriage of such goods shall be divided and the charge for conveyance over the railway shall be distinguished from the terminal charges if any and if any terminal charge is included in such account the nature and detail of the terminal expenses in respect of which it is made shall be specified.

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

Provision as to general Railway Acts.

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

Costs of Act.

26. 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.

SCHEDULE referred to in the foregoing Act.

Describing Houses, Buildings, and Manufactories of which portions only are required by the Company.

Parish.	Numbers on deposited Plans.
Liberton	20 20

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