CHAPTER ccxxxiv.

An Act to authorise the Great North of Scotland Railway Company to acquire additional lands and for other purposes. [14th August 1890.]

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WHEREAS the Great North of Scotland Railway Company (in this Act called "the Company") were incorporated by the Great North of Scotland Railway Act 1846 and the powers of that Act have been from time to time extended by other Acts which were consolidated and amended by the Great North of Scotland Railway Consolidation Act 1859 and have been extended by other Acts passed since that date: 9 & 10 Vict. cap. ciii. 22 & 23 Vict. cap. viii.

And whereas the Company require additional land for various purposes in connexion with their undertaking and it is expedient that they should be empowered to purchase and hold the same and to raise additional capital for the purposes of this Act and for the providing of additional carriages and waggons station and other works and signalling and interlocking appliances and that the other provisions contained in this Act should be made:

And whereas plans showing the lands to be taken for the purposes of this Act and also a book of reference to such plans 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 sheriff clerks for the counties of Aberdeen and Kincardine respectively and are herein-after respectively referred to as the deposited plans and book 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

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ommons in this present Parliament assembled and by the authority of the same as follows:—

Short title.

1. This Act may be cited as the Great North of Scotland Railway Act 1890.

Incorporation of Lands Clauses Acts.

2. The Lands Clauses Acts are (except where expressly varied by or inconsistent with this Act) incorporated with and form part of this Act.

Extending certain provisions of Companies Clauses Acts.

3. The clauses and provisions of the Companies Clauses Consolidation (Scotland) Act 1845 with respect to—

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 borrowed money into capital;
The consolidation of 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 also Parts I. II. and III. of the Companies Clauses Act 1863 relating respectively to the cancellation and surrender of shares to additional capital and to debenture stock:

are (except where expressly varied by this Act) incorporated with and form part of this Act and shall so far as applicable apply to the Company and to the capital by this Act authorised to be raised.

Interpretation.

4. In this Act the several words and expressions to which meanings are assigned by the Acts incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction.

Period for compulsory purchase of lands.

5. 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.

Company may apply funds and

6. The Company may apply towards the purposes of this Act any money which they are already authorised to raise and which may

not be required by them for the purposes for which the same was authorised to be raised and they may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise in addition to the capital which they are already authorised to raise any further capital for the purposes of this Act and other purposes of and connected with their undertaking not exceeding in the whole two hundred thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partly by any one or more of those methods 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 part of the amount of such share shall have been paid in respect thereof and the capital so raised by the Company shall subject to the provisions of this Act form part of the capital of the Company.

raise additional capital.

7. Subject to the provisions of this Act and except as by or under the powers of this Act otherwise provided the new shares or stock issued under the powers of this Act shall in proportion to the aggregate amount thereof from time to time held by the same person at the same time entitle the respective holders thereof to the same dividends and profits and confer on them the like qualifications and the like right of voting (if any) as the like amount of existing shares or stock of the Company of the same class or description.

Qualification of new shares or stock.

8. The shares or stock to be created under the powers of this Act shall be entitled to the preferential dividend (if any) which may be attached thereto by the Company and such preferential dividend shall be payable half-yearly whenever there are profits enough declared at any half-yearly ordinary general meeting to be applicable to pay such preferential dividends after satisfying the dividend and arrears of dividend (if any) then due upon any preference shares or stock of the Company previously created or issued but if the profits divided in respect of any half year between the thirty-first day of July and the thirty-first day of January be insufficient to pay such half year's dividend in full the deficiency shall be made up out of the profits of the second half year applicable to such dividend but no deficiency of dividend on the preferential shares or stock to be created under the powers of this Act for any year shall be made up out of the profits of any subsequent year or out of any other funds of the Company Provided also that if in the first half of any year there be profits applicable to the purposes

Extent of preferential dividends.

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of dividend upon the ordinary shares or stock of the Company after satisfying the dividend and arrears of dividend (if any) due upon any other preference shares or stock of the Company previously created and issued and also the dividend for such half year upon the preference shares or stock to be created under the powers of this Act it shall be lawful for the Company to declare a dividend for such half year on such ordinary shares or stock.

Power to borrow.

9. The Company may from time to time borrow on mortgage of the undertaking in respect of the additional capital by this Act authorised any sum not exceeding in the whole sixty-six thousand pounds but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are 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 shares for the whole of such capital have been issued and accepted and that one half of such capital has been paid up and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one half of so much of the said additional capital as is to be raised by means of stock is fully paid up and the Company have proved to such sheriff as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted and to the extent aforesaid paid up bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also so far as the said additional capital is raised by shares that such persons or corporations their executors administrators successors or assigns 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.

For appointment of a receiver or 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 receiver or judicial factor In order to authorise the appointment of a receiver or judicial factor in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver or judicial factor is made shall not be less than ten thousand pounds in the whole.

Saving priority of existing mortgages.

11. 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 as regards the undertaking comprised in and assigned by such mortgages and subject to the provisions of the Acts under which such mortgages were respectively granted have priority over all mortgages to be 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.

12. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 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 mortgages.

Application of moneys.

13. All moneys raised by the Company under this Act whether by shares or stock debenture stock or borrowing shall be applied to the purposes of this Act and to the general purposes of the Company being in all cases purposes to which capital is properly applicable.

Receipt in case of persons not sui juris.

14. If any money is payable to a holder of shares or stock in the Company being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Company may acquire additional lands.

15. Subject to the provisions of this Act the Company may purchase and take by compulsion or agreement and may hold the lands herein-after described which are delineated upon the deposited plans and described in the deposited book of reference (that is to say):—

(A) Lands in the parish of Old Machar and royal burgh and city of Aberdeen and county of Aberdeen known as the "Palace Buildings" situated on the south side of Union Street and lying between the railway of the Company and Bridge Street;

(B) Lands in the parish of Saint Nicholas and royal burgh and city of Aberdeen and county of Aberdeen belonging to Alexander Hadden and Sons situate on the east side of the Aberdeen (Joint) Station and to the north of Guild Street;

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(c) Lands near Crathes Station in the parish of Banchory Ternan and county of Kincardine belonging to Sir Robert Burnett of Leys Baronet and situate on the north side of the Company's railway and to the westward of the said Crathes Station.

For the protection of Sir Robert Burnett.

16. With regard to the taking and use by the Company of the lands near Crathes Station in the parish of Banchory Ternan in the county of Kincardine belonging or reputed to belong to Sir Robert Burnett of Leys Baronet which are shown on the deposited plans the following provisions shall have effect:—

(1) Notwithstanding anything on the deposited plans the Company shall not take or use any greater part of the said lands being three acres in extent or thereabouts than is coloured pink on a plan signed by Sir Richard Paget Baronet the Chairman of the Committee of the House of Commons to whom the Bill for this Act was referred a copy of which plan is deposited in the Private Bill Office of the House of Commons;

(2) The Company may occupy and use the piece of land coloured pink on the said plan for a term of twenty-one years from the date of the passing of this Act and may excavate and remove therefrom such stone gravel or other materials as they may require during such period and the Company shall pay to the said Sir Robert Burnett or his successors in estate in respect of the exclusive occupation and use of the said land and materials and also in respect of severance and injury to amenity (if any) a sum per annum to be agreed on or failing agreement to be determined according to the provisions of the Lands Clauses Acts;

(3) The Company shall continue to use for the said term of twenty-one years the piece of land now in their occupation coloured blue on the said signed plan and shall in respect thereof pay to the said Sir Robert Burnett or his successors in estate a rent per annum to be agreed on or failing agreement to be determined as aforesaid;

(4) The Company shall plant the piece of ground coloured brown on the said signed plan with ornamental trees to the reasonable satisfaction of the said Sir Robert Burnett or his successors in estate and they shall pay to the said Sir Robert Burnett or his successors in respect of the occupation of such piece of ground during the said term of twenty-one years a rent per annum to be agreed on or failing agreement to be determined as aforesaid;

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(5) The Company shall remove the surface soil of the said piece of land coloured pink on the said signed plan from which they purpose excavating gravel or materials and shall preserve the same and at the expiration of the said term of years the Company shall level down the slope of any bank on the said pieces of land coloured pink and blue so that the ground shall have a slope not steeper than one in six and shall relay thereon the surface soil removed by them as aforesaid so that the said land shall be left in a state fit for cultivation Provided that in forming such slope the Company may extend it beyond the land coloured pink but not further than twenty yards they being always bound to restore the surface soil of any land they may so interfere with and pay surface damages.

Restriction on taking houses of labouring class.

17.—(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 occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers:

(2) For the purposes of this section the expression "labouring class" includes mechanics artizans 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.

As to Palace Buildings Aberdeen.

18. It shall be lawful for the Company to adapt furnish and use the whole or any part of the buildings at Aberdeen hereinbefore mentioned as Palace Buildings for the purpose of a hotel and to let for any purpose such parts thereof as they may not require to occupy and to alter and adapt the said buildings as they may think fit for those purposes.

Interest not to be paid on calls paid up.

19. 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.

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 other railway or to execute any other work or undertaking.

Provision as to general Railway Acts.

21. Nothing in this Act contained shall exempt the Company or their 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.

Costs of Act.

22. 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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