CHAPTER clxxxiii.

An Act to authorise the North British Railway Company to make a Railway in the county of Cumberland to stop up part of the Glasgow Dumbarton and Helensburgh Railway to raise additional Capital and for other purposes. A.D. 1881.

[11th August 1881.]

WHEREAS the following work would be of public advantage (that is to say):—

A railway (in this Act called "Railway No. 4") one furlong one chain and one yard in length commencing in the parish of Saint Mary Carlisle in the county of Cumberland by a junction with the railway authorised by the Carlisle Citadel Station Act 1873 and therein called Railway No. 3 at or near the southern side of the Caldew Bridge and terminating in the same parish in lands called Denton Holme belonging or reputed to belong to the Company the Midland Railway Company and the Glasgow and South Western Railway Company or some or one of them; 36 & 37 Vict. c. clxxxvii.

And it is expedient that the Company should be authorised to make the said railway:

And whereas plans and sections showing the line and levels of the intended railway and a book of reference to the said plans containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act have been deposited with the clerk of the peace for the county of Cumberland at his office in Carlisle which said documents are in this Act respectively referred to as the deposited plans sections and books of reference:

And whereas part of the Glasgow Dumbarton and Helensburgh Railway of the Company will be rendered unnecessary by the opening of the railway authorised by the North British Railway (General Powers) Act 1879 (in this Act called "the Act of 1879") which is now in course of construction and it is expedient that the 42 & 43 Vict. c. xlviii.

A.D. 1881.

Company should be authorised to abandon and disuse the same as a railway and to sell the lands upon which the same is situate:

43 & 44 Vict. c. clxvii.

And whereas by the North British (Amalgamations, &c.) Act 1880 (section twenty) the Company were authorised to redeem at par the Port Carlisle five per centum preference stock therein referred to amounting to the sum of thirty-five thousand pounds and it is expedient that the Company should be authorised to raise the capital required for such redemption and also for the general purposes of the Company including additional rolling stock and the works by this Act authorised:

And whereas the objects aforesaid 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 North British Railway (General Powers) Act 1881.

Incorporation of general Acts.

2. The Lands Clauses Consolidation Acts 1845 1860 and 1869 the Railways Clauses Consolidation Act 1845 Part I. of the Railways Clauses Act 1863 relating to construction of a railway and the provisions of the Companies Clauses Consolidation (Scotland) Act 1845 with respect to the several matters following (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 giving of notices and the provision to be made for affording access to the special Act and Parts I. II. and III. of the Companies Clauses Act 1863 relating respectively to cancellation and surrender of shares to additional capital and to debenture stock are (except where expressly varied by or inconsistent with this Act) incorporated with and form part of this Act.

8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.
8 & 9 Vict. c. 20.
26 & 27 Vict. c. 92.
8 & 9 Vict. c. 17.
26 & 27 Vict. c. 118.

Interpretation.

3. In this Act—

The expression "the incorporated Acts" shall mean the Acts and parts of Acts incorporated with this Act;

The several words and expressions to which meanings are assigned by the incorporated Acts shall have the same respective meanings;

In the incorporated Acts for the purposes of this Act

The expression "the special Act" shall mean this Act;

The expression "the Company" or "the Promoters of the undertaking" or other like expression shall mean the North British Railway Company;

In the incorporated Acts for the purposes of this Act and in this Act

The expression "superior courts" or "court of competent jurisdiction" or any other like expression shall be read and have effect as if the debt or demand with respect to which the expression is used was a simple contract debt and not a debt or demand created by statute

unless in any of the cases aforesaid there be something in the subject or context repugnant to such construction.

Power to make railway &c.

4. Subject to the provisions of this Act the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the railway herein-before described with all proper stations sidings approaches works and conveniences connected therewith 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.

Railway to form part of Company's undertaking.

5. Subject to the provisions of this Act the railway by this Act authorised shall for the purposes of tolls and charges and in all other respects form part of the undertaking of the Company.

Denton Holme Station Agreement to apply to railway.
29 & 30 Vict. c. cclxvi.
39 & 40 Vict. c. cxxxiv.

6. The provisions of the Agreement between the Company and the Midland Railway Company set forth in the schedule to and confirmed by the North British Railway (New Works) Act 1866 as extended and varied by the North British Railway (Additional Powers) Act 1876 and therein called "the Denton Holme Station Agreement," and all proceedings of the Companies interested in the said station, or of any joint committee appointed by them under the said Agreement which relate to the said station, shall apply to the railway by this Act authorised and the lands which the Company may acquire under the powers of this Act for the purposes thereof.

Limiting time for compulsory purchase.

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.

Protection of Caledonian Railway Company as respects Railway No. 4.

8. The centre line of Railway No. 4 where formed on the lands of the Caledonian Railway Company shall not without the previous consent of that Company under their common seal be deviated more than six feet to the eastward of the centre line of that railway as

A.D. 1881.

delineated on the deposited plans and the Company shall not without such consent enter upon take or use any greater extent of the Caledonian Railway Company's lands or property on the eastern side of the centre line of the said railway as the same shall be constructed than is necessary for making the eastern half of a double line of railway and for the erection of a signal box and apparatus in connexion therewith in such position and of such dimensions as shall be agreed upon by the engineers for the time being of the Caledonian Railway Company and the Company or failing agreement as shall be determined by arbitration under the provisions of the Railway Companies Arbitration Act 1859.

22 & 23 Vict. c. 59.

Power to take easements &c. by agreement.

9. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of such 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 the line is opened within the time limited.

10. If the Company fail within the period limited by this Act to complete Railway No. 4 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 that railway is 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 railway not 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 Her Majesty's Paymaster-General on behalf of the Chancery Division of the High Court of Justice in England 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 the

17 & 18 Vict. c. 31.

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 penalty.

11. Every sum of money so recovered by way of penalty as aforesaid shall be applicable and after due notice in the London 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 commencement construction or abandonment of the railway not completed or of 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 Chancery Division of the High Court of Justice in England 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 Chancery Division of the High Court of Justice in England 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.

12. If the railway by this Act authorised and herein-before described is 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 railway or otherwise in relation thereto shall cease to be exercised except as to so much thereof as are then completed.

Tolls.

13. The Company may demand and take in respect of the railway by this Act authorised such tolls and charges as they think fit not exceeding the rates of tolls and charges authorised to be taken

A.D. 1881.

22 & 23 Vict. c. xxiv.

28 & 29 Vict. c. cccviii.

on the Border Union Line of the North British Railway under the Border Union (North British) Railways Act 1859 as modified by the second and third sections of the Schedule (B) to the North British and Edinburgh and Glasgow Railway Companies Amalgamation Act 1865 and in estimating the amount of toll or charge in respect of any traffic conveyed partly on the railway by this Act authorised and partly on any other railways of the Company the railway by this Act authorised and such other railways shall be deemed one railway.

Power to abandon part of Glasgow Dumbarton and Helensburgh Railway.

14. When the railway authorised by the Act of 1879 is completed and opened for traffic the Company may shut up and cause to be disused as a railway so much of the North British Glasgow Dumbarton and Helensburgh Railway as lies between the respective points of junction therewith of the said authorised railway and may at any time within ten years after the same shall have been shut up subject to the provisions contained in the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the sale of lands not required for the purposes of the undertaking sell the site thereof and shall apply the purchase money to any of the purposes for which money by this Act authorised to be raised by shares or stock or mortgage is applicable. Before stopping up the said portion of railway the Company shall publish notice of their intention to stop up the same in each of two consecutive weeks in a newspaper published in the county of Dumbarton and such notice shall specify the day upon which the same will be stopped up which day shall not be earlier than six clear days after the second publication of the notice.

8 & 9 Vict. c. 33.

Power to apply existing authorised capital to purposes of this Act.

15. The Company may raise and apply to the purposes of this Act any money which they are authorised to raise by any other Act and which may not be required for purposes to which by that Act it is authorised to be applied.

Power for Company to raise capital by shares or stock.

16. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise by the creation and issue at their option of ordinary shares or stock or new preference shares or stock or wholly or partially by one or more of those modes respectively any additional capital not exceeding in the whole the several amounts following (that is to say): With respect to the redemption of the Port Carlisle five per centum preference stock the amount of thirty-five thousand pounds and with respect to the general purposes of the Company including additional rolling stock and to the other purposes of this Act the amount of one hundred and eighteen thousand pounds.

Shares or stock to form part of Company's general capital.

17. All shares or stock to be created by the Company under the authority of this Act shall subject to the provisions of this Act form part of the general capital of the Company.

One fifth part of the shares to be paid on issue.

18. It shall not be lawful for the Company to issue any share to be created under the powers 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 part of the amount of such share shall have been paid up in respect thereof.

Calls.

19. Twenty per centum on the amount of any share shall be the largest amount of any call which may be made thereon and there shall be an interval of not less than three months between any two successive calls and the Company shall not call up more than three-fourths of a share in any year.

Power to borrow on mortgage.

20. The Company may in respect of the additional capital of one hundred and eighteen thousand pounds which they are by this Act authorised to raise by the creation and issue of shares or stock from time to time borrow on mortgage as herein-after mentioned such sums as they think fit not exceeding in the whole thirty-nine thousand three hundred pounds (that is to say) when sixty thousand pounds in respect of such additional capital has been bonâ fide paid up and certified as herein-after mentioned they may borrow on mortgage any sum of money not exceeding twenty thousand pounds and the remaining nineteen thousand three hundred pounds when the residue of the said capital of one hundred and eighteen thousand pounds has been bonâ fide paid up and certified as herein-after mentioned but no such borrowing powers shall be exercised by the Company until they shall prove 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 for raising such additional capital or some part thereof have been bonâ fide paid up to the extent in money of sixty thousand pounds in respect of the said sum of twenty thousand pounds and of a further sum of fifty-eight thousand pounds making with the said sum of sixty thousand pounds one hundred and eighteen thousand pounds in respect of the said sum of nineteen thousand three hundred pounds intended to be borrowed 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 proofs aforesaid have been given which certificate shall be sufficient evidence thereof.

Provisions of Act of 1880 as

21. The provisions of the North British Railway (Amalgamations &c.) Act 1880 authorising the appointment of a receiver or

to appointment of a receiver or judicial factor repealed.

judicial factor for principal or interest moneys due upon any mortgages of the Company are hereby repealed but subject and without prejudice to any appointment of a receiver or judicial factor or proceedings taken under or by virtue of such provisions and in force or pending at the time of the passing of this Act.

Appointment of a receiver or judicial factor.

22. 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.

23. 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.

24. 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 money raised under Act.

25. 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.

Interest not to be paid on calls paid up.

26. The Company shall not out of any money by this or any other Act 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.

27. The Company shall not out of any money by this or any other 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.

28. 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.

Costs of Act.

29. 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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