



CHAPTER ccxliv.

An Act to authorise the Edinburgh, Loanhead, and Roslin Railway Company to make and maintain certain new Railways ; and for other purposes. A.D. 1873.
[5th August 1873.]

WHEREAS by "The Edinburgh, Loanhead, and Roslin Railway Act, 1870," (herein-after called the recited Act,) the Edinburgh, Loanhead, and Roslin Railway Company (herein-after called the Company) was incorporated and were authorised to make and maintain the Edinburgh, Loanhead, and Roslin Railway : 33 & 34 Vict. c. xlvi.

And whereas it is expedient that the Company should be authorised to construct the railways herein-after mentioned, and for that purpose should be authorised to raise a further sum of money, and that further powers should be conferred upon them :

And whereas it is expedient to sanction agreements between the Company and the North British Railway Company with respect to the use, management, working, and maintenance of the railways by this Act authorised or any part thereof :

And whereas plans and sections, describing the lines and levels of the intended new railways and the lands to be taken for the purposes thereof, and a book of reference to such plans, containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of such lands, have been deposited with the principal sheriff clerk of the county of Edinburgh, and which are herein-after referred to as the deposited plans and sections and the deposited book of reference :

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 ; (that is to say,)

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A.D. 1873. Short title. 1. This Act may be cited for all purposes as "The Edinburgh, Loanhead, and Roslin Railway Act, 1873."

Provisions of general 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," and also Part I. of "The Railways Clauses Act, 1863," relating to construction of a railway, are (except where expressly varied by this Act) incorporated with and form part of this Act.

Certain provisions of Companies Clauses Acts incorporated. 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, with respect to the transfer or transmission of shares, with respect to the payment of subscriptions and the means of enforcing the payment of calls, with respect to the forfeiture of shares for non-payment of calls, with respect to the remedies of creditors of the Company against the shareholders, with respect to the borrowing of money by the Company on mortgage or bond, with respect to the conversion of the borrowed money into capital, with respect to the consolidation of the shares into stock, with respect to the general meetings of the Company and the exercise of the right of voting by the shareholders, with respect to the giving of notices, and with respect to the provision to be made for affording access to the special Act by all parties interested, and Parts I., II., and III. of "The Companies Clauses Act, 1863," (as amended by "The Companies Clauses Act, 1869,") relating respectively to 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.

Interpretation of terms. 4. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective meanings unless there be something in the subject or context repugnant to such construction; the expression "the Company" means "the Edinburgh, Loanhead, and Roslin Railway Company;" and the expressions "the railways" and "the undertaking" mean respectively the railways and the undertaking by this Act authorised.

Power to make variations and railways according to deposited plans. 5. 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, 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

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in the deposited books of reference as may be required for that purpose. A.D. 1873.

The railways herein-before referred to and authorised by this Act are, —

First. A railway (No. 1), 2 miles 3 furlongs and 113 yards or thereabouts in length, commencing in the parish of Lasswade by a junction with the authorised Edinburgh, Loanhead, and Roslin Railway, and terminating in the parish of Glencorse otherwise Glencross, all in the county of Edinburgh.

Second. A railway (No. 2), 5 furlongs and 67 yards or thereabouts in length, commencing in the parish of Glencorse otherwise Glencross at the point herein-before described as the termination of Railway No. 1, and terminating in the parish of Penicuik, all in the county of Edinburgh.

Provided always, that it shall not be lawful for the Company to enter upon, take, or use any of the lands (other than turnpike and other public roads and streets) required for railway No. 2 without the consent in writing of the owners of such lands and of any persons holding leases thereof for terms of which not less than twenty years shall at the time of entry be unexpired, and if the compensation to be paid to any such owner or lessee in respect of any such lands belonging to or held in lease by him shall not have been agreed upon before or at the time when such consent is given by him such compensation shall be fixed in the manner provided by "The Lands Clauses Consolidation (Scotland) Act, 1845," with respect to the purchase and taking of lands otherwise than by agreement.

6. The Company may from time to time raise any sum not exceeding thirty-six thousand pounds by the creation and issue of new ordinary shares or stock. Power to raise additional capital.

7. The Company shall not issue any share created under the authority of this Act, nor shall any 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 is paid in respect thereof. Shares not to issue until one fifth paid up.

8. One fifth of the amount of a share shall be the greatest amount of a call, and two months at least shall be the interval between successive calls, and four fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share. Calls.

9. Subject to the provisions of this Act, the Company, with the authority of three fourths of the votes of the shareholders present, Power to divide shares.

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in person or by proxy, at a general meeting of the Company specially convened for the purpose, may from time to time divide any share in their capital into half shares, of which one shall be called "preferred half share" and the other shall be called "deferred half share," but the Company shall not so divide any share under the authority of this Act unless and until not less than sixty per centum upon such share has been paid up, and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share (being the whole amount payable thereon), and the residue to the credit of the preferred half share.

Dividends on half shares.

10. The dividend which would from time to time be payable on any divided share if the same had continued an entire share shall be applied in payment of dividends on the two half shares in manner following, (that is to say,) first in payment of dividend after such rate not exceeding six per centum per annum as shall be determined once for all at a general meeting of the Company specially convened for the purpose on the amount for the time being paid up on the preferred half share, and the remainder, if any, in payment of dividend on the deferred half share, and the Company shall not pay any greater amount of dividend on the two half shares than would have from time to time been payable on the entire share if the same had not been divided.

Dividend on preferred shares to be paid out of the profits of the year only.

11. Each preferred half share shall be entitled out of the profits of each year to the dividend which may have been attached to it by the Company as aforesaid in priority to the deferred half share bearing the same number, but if in any year ending the thirty-first day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half share for that year 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.

Half shares to be registered and certificates issued.

12. Forthwith after the creation of any half shares the same shall be registered by the directors, and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued, and the directors shall issue certificates of the half shares accordingly, and shall cause an entry to be made in the register of the entire shares of the conversion thereof, but the directors shall not be bound to issue a certificate of any half share until the certificate of the existing entire share be delivered to them to be cancelled, unless it be shown to their satisfaction that such certificate is destroyed or lost, and on any certificate being so delivered up the directors shall cancel it.

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13. The terms and conditions on which any preferred half share or deferred half share created under this Act is issued shall be stated on the certificate of each such half share.

Terms of issue to be stated in certificates.

14. The provisions of "The Companies Clauses Consolidation (Scotland) Act, 1845," with respect to the forfeiture of shares for non-payment of calls, shall apply to all preferred half shares created under the authority of this Act, and every such preferred half share shall for that purpose be considered an entire share distinct from the corresponding deferred half share, and until any forfeited preferred half share shall be sold by the directors all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards payment of any expenses attending the declaration of forfeiture thereof and of the arrears of calls for the time being due thereon with interest.

Forfeiture of preferred shares.

15. No preferred half share created under the authority of this Act shall be cancelled or be surrendered to the Company.

Preferred shares not to be cancelled or surrendered.

16. The several half shares under this Act shall be half shares in the capital of the Company, and every two half shares (whether preferred or deferred or one of each) held by the same person shall confer such right of voting at meetings of the Company and (subject to the provisions herein-before contained) shall confer and have all such other rights, qualifications, privileges, liabilities, and incidents as attach and are incident to an entire share.

Half shares to be half shares in capital.

17. The Company may from time to time borrow on mortgage any sum not exceeding in the whole twelve thousand pounds, but no part thereof shall be borrowed until the whole of the said additional capital of thirty-six thousand pounds 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 or portion of stock 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 assigns, and that such persons or corporations, their executors, administrators, successors, or assigns, are legally liable for the same; and upon production to the sheriff of the books of the Company, and of such other evidence as he

Power to borrow on mortgage.

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Priority of principal moneys secured by existing mortgages.

18. The principal money secured by 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, have priority over the principal moneys secured by any mortgages granted by virtue of this Act.

For appointment of a judicial factor.

19. Section 18 of the Edinburgh, Loanhead, and Roslin Railway Act, 1870, is hereby repealed, and in lieu thereof be it enacted that the mortgagees of the Company may enforce payment of the 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 one thousand pounds in the whole.

Debenture stock.

20. 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 created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Application of moneys.

21. All moneys raised under this Act, whether by shares, stock, debenture stock, or borrowing, shall be applied to the purposes of this Act only.

Power to apply corporate funds to purposes of Act.

22. The Company may apply to the purposes of this Act any of the moneys which they now have in their hands or which they have power to raise by virtue of any Act relating to the Company and which may not be required for the purposes to which they are by any such Act made specially applicable.

Lands for extraordinary purposes.

23. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in "The Railways Clauses Consolidation (Scotland) Act, 1845," shall not exceed one acre.

Powers for compulsory purchases limited.

24. 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.

Saving rights of the Principal

25. And whereas it is necessary that the lands, hereditaments, and works belonging to Her Majesty or vested in Her Majesty's

Principal Secretary of State for the War Department for the public service should be preserved intact and free from all obstruction: Be it therefore enacted, that nothing in this Act contained shall authorise the Company to enter upon, use, or interfere with any land, soil, or water, or any right in respect thereof, or to take away, lessen, prejudice, or alter any of the rights, privileges, or powers vested in or exercised by the said Principal Secretary for the time being without his previous consent signified in writing under his hand, and which consent the said Principal Secretary for the time being is hereby authorised to give.

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Secretary of
State for
War.

26. 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, a sum of one thousand eight hundred pounds, being five per centum upon the amount of the estimate in respect of the railways, has been deposited with the Court of Exchequer of Scotland in respect of application to Parliament for this Act: Be it enacted, that notwithstanding anything contained in the said Act the said sum of one thousand eight hundred pounds so deposited as aforesaid in respect of the application for this Act shall 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, unless the Company shall previously to the expiration of the period limited by this Act for completion of the railways either open the railways for the public conveyance of passengers or prove to the satisfaction of the Board of Trade that the Company have paid up one half of the amount of the capital by this Act authorised to be raised by means of shares or stock and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital, and if the said period shall expire before the Company shall either have opened the railways for the public conveyance of passengers or have given such proof as aforesaid to the satisfaction of the Board of Trade the said sum of money deposited as aforesaid shall be applied in the manner hereinafter specified, 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 above-mentioned Act to the contrary notwithstanding.

Deposit
money not to
be repaid
until line
opened or
half the
capital paid
up and
expended.

27. The said sum of money deposited as aforesaid shall be applicable, and after due notice in the Edinburgh Gazette shall be applied, towards compensating any landowners or other persons

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of deposit.

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whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the 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 said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, 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 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 said sum of money 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 person or persons or the majority of the persons named in such warrant or order as aforesaid, or the survivors or survivor of them.

Period for
completion
of railways.

28. The railways shall be completed within three years from the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for executing the railways, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof respectively as shall then be completed.

Railways to
form part of
undertaking
of Company.

29. The railways shall for the purposes of tolls, rates, and charges, and for all other purposes whatsoever, form part of the undertaking of the Company.

Sections 43 &
44 of recited
Act to apply
to railways
hereby autho-
rised.

30. Sections 43 and 44 of the recited Act shall extend and apply to the railways, and be read and have effect as if the railways had been authorised by the recited Act.

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31. It shall not be lawful for the Company out of any money by this Act authorised to be raised by shares or stock, or by debenture stock, or by the exercise of any power of borrowing, to pay interest or dividend to any shareholder on the amount of calls made in respect of the shares held by him: Provided that this Act shall not 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."

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Interest not to be paid on calls paid up.

32. It shall not be lawful for the Company out of any money by this Act authorised to be raised to pay or deposit any sum of money 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.

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

33. Nothing herein contained shall be deemed or construed to exempt the railways from the provisions of any general Act relating to railways, and 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.

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

34. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing this Act, and otherwise in relation thereto, shall be paid by the Company.

Expenses of Act.

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

