



CHAPTER cxlv.

An Act for enabling the Solway Junction Railway Company to dispose of the purchase money for part of their undertaking ; and for other purposes. A.D. 1873.
[21st July 1873.]

WHEREAS the Solway Junction Railway Company (hereinafter called "the Company") were by "The Solway Junction Railway Act, 1864," incorporated and authorised to make and maintain railways in the counties of Dumfries and Cumberland, and to raise a capital of three hundred and twenty thousand pounds in shares, and to borrow one hundred and six thousand six hundred pounds on mortgage of their undertaking, and were by "The Solway Junction Railway (Deviation) Act, 1865," authorised to make and maintain other railways in substitution for portions of the railways authorised by the Act of 1864, and were by "The Solway Junction Railway (Capital) Act, 1866," authorised to raise a further sum of sixty thousand pounds in shares and twenty thousand pounds on mortgage :

And whereas the whole of the said share capital of three hundred and twenty thousand pounds has been issued, and two hundred and forty-nine thousand nine hundred and ninety-eight pounds has been paid thereon, and the whole of the said share capital of sixty thousand pounds has been raised, and of the said sums authorised to be borrowed the sum of one hundred and twenty-five thousand six hundred and seventy pounds has been borrowed upon mortgage of the entire undertaking of the Company :

And whereas by an agreement (hereinafter referred to as "the Caledonian agreement") dated the twenty-second day of March one thousand eight hundred and sixty-seven, and made between the Caledonian Railway Company (hereinafter called "the Caledonian Company") and the Company, and subsequently sanctioned and confirmed by "The Caledonian Railway (Abandonment, &c.) Act, 1869," it was agreed that the Caledonian Company should work all the lines and branches of the Company for a period of thirty years computed as therein mentioned, on the terms therein

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also mentioned, and, subject to Parliamentary power being first obtained thereto, should subscribe towards the undertaking of the Company sixty thousand pounds, in five per cent. preference shares; and should have the option at any time within ten years of taking and purchasing, and that the Company should in that case sell to the Caledonian Company, that portion of the Company's line lying north of the Solway between Annan and the Kirtlebridge Junction of the Caledonian Railway at the cost price thereof, including interest and all other charges incidental to that portion of the line, up to the time of opening of the said line for through traffic; and that in case of any difference arising as to the amount of such cost price, interest, and charges as aforesaid, the same should be settled by arbitration under "The Railway Companies Arbitration Act, 1859:"

And whereas by "The Solway Junction Railway Act, 1867," the Caledonian Company were authorised to subscribe to the undertaking of the Company, and they afterwards subscribed for and paid up and now hold the whole of the sixty thousand pounds authorised by the said Act of 1866, which was created in five per cent. preference shares of the Company:

And whereas the Caledonian Company, in exercise of the option reserved to them by the Caledonian Agreement, have elected to purchase the portion of the Company's line lying north of the Solway, between Annan and the Kirtlebridge Junction of the Caledonian Railway, and the same is agreed between the said two Companies to be that portion of the Solway Junction Railway which extends from the junction of that railway with the Caledonian Railway called Kirtlebridge Junction to the station of the Solway Junction Railway at Annan, and to include the lands, works, and conveniences connected with the said portion of Railway, and one half pro indiviso of the said station, and of the lands, works, and conveniences connected therewith, which portion of railway including as aforesaid is herein-after referred to as the Annan and Kirtlebridge line:

And whereas it has been agreed between the said two Companies that the price to be paid by the Caledonian Company for the Annan and Kirtlebridge line shall be and it is fixed at the sum of eighty-four thousand pounds, and such a further sum of money as shall be equal to the aggregate amount of all moneys already paid by the Company to owners, lessees, and occupiers respectively of any land taken and used for the Annan and Kirtlebridge line for or on account of purchase and compensation moneys in respect of such land, and for interest accrued thereon up to the thirtieth day of June one thousand eight hundred and seventy, and for costs, charges, and expenses in respect of such land, but under deduction of one half of

all costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of "The Caledonian Railway (Solway Junction Purchase) Act, 1873," or otherwise in relation thereto, including one half of the amount of stamp duty with which that Act is, as therein provided, to be stamped. And the said price is so agreed and fixed upon the condition that the Caledonian Company shall pay and satisfy to all owners, lessees, and occupiers of land, and to all land valuers, arbiters, and oversmen respectively employed in or about the ascertaining or determining the amount of any purchase or compensation money for any land taken and used for the purposes of the Annan and Kirtlebridge line, all such unsatisfied claims and demands of such persons respectively as they respectively are or but for the said sale would have been by law entitled to have and receive or recover from the Company for or in respect of any such land, and any interest thereon up to the thirtieth day of June one thousand eight hundred and seventy, and any costs, charges, and expenses of such persons respectively in relation or incidental to or consequent upon the taking and using of or the ascertaining and determining the purchase money and compensation to be paid for and the manifestation of the title to and the conveyance of such land respectively, and that the Caledonian Company shall at all times indemnify the Company from and against the same :

And whereas owing to divers causes the Company have for some time been embarrassed in their affairs and unable to pay the interest on their mortgage debt or any portion of that debt, and they have not been able to renew any of their mortgages, and they are likewise indebted to landowners and other creditors in large sums of money :

And whereas to enable the Company to meet their engagements it is expedient that the provisions in this Act contained should be made for effecting an arrangement of the affairs of the Company, and applying the purchase money to be paid by the Caledonian Company :

And whereas the mortgagees of the Company, to the extent of upwards of three fourths in value, have assented in writing to this Act, and there are no bond or judgment creditors of the Company :

And whereas the Caledonian Company, as holders of all the preference shares of the Company, have assented to this Act :

And whereas the Company have not issued any debenture stock :

And whereas the simple contract debts of the Company amount to thirty-eight thousand pounds or thereabouts :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

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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 as "The Solway Junction Railway Act, 1873."

Provision of Act herein named incorporated.

2. Part III. (relating to debenture stock) of "The Companies Clauses Act, 1863," is (except where expressly varied by this Act) incorporated with and forms part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Act partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction ; the expressions "the railways" and "the undertaking" mean respectively the railways and the undertaking of the Company ; "the court" means, with respect to England, the High Court of Chancery in England, and, with respect to Scotland, the Court of Session ; and the expression "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or the Act partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute.

Application of purchase moneys.

4. The Company shall, subject to the other provisions of this Act, appropriate and apply the price to be paid by the Caledonian Company for such purchase as aforesaid as follows ; viz.,

1. As to so much thereof as shall be necessary for the purpose in paying and satisfying all unsatisfied claims and demands of owners, lessees, and occupiers of lands taken and used by the Company for the purposes of their existing railway and for any interest thereon, and for any costs, charges, and expenses which such persons are respectively by law entitled to have and receive or recover from the Company, save and except such of the said claims and demands as the Caledonian Company are by "The Caledonian Railway (Solway Junction Purchase) Act, 1873," required to pay and satisfy ;
2. As to so much thereof as shall be necessary for the purpose, in paying the costs, charges, and expenses of the Company incurred and to be incurred in and about the transaction of the sale and transfer to the Caledonian Company of the Annan and Kirtlebridge line, and in and about the other parliamentary and law expenses incurred by the Company

since the year one thousand eight hundred and seventy, but not exceeding in the whole the sum of five thousand pounds;

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3. As to so much thereof as shall be necessary for the purpose, in paying to the mortgagees of the Company in satisfaction of all arrears of interest due to them up to the thirty-first day of December one thousand eight hundred and seventy-two, interest on their respective mortgages at the rate of four per centum per annum from the respective times at which any unpaid interest thereon respectively began to accrue up to the thirty-first day of December one thousand eight hundred and seventy-two, and in paying further to the mortgagees forty per centum on the amount of the respective principal sums of their mortgages;

4. And as to the residue thereof (if any), in paying the costs of constructing additional stations, sidings, and works, and towards the general purposes of the Company.

5. All powers of the Company to raise money by mortgage under any Acts passed previously to the passing of this Act are absolutely cancelled, extinguished, and determined.

Former borrowing powers extinguished.

6. The Company may create and issue debenture stock, not exceeding the sum of one hundred and ten thousand pounds, to be charged upon the undertaking remaining unsold prior to all shares or stock of the Company, and to bear such interest as is in this Act provided from the 31st day of December 1872.

Power to issue debenture stock.

7. So much of such debenture stock shall be issued to and accepted by each mortgagee and general creditor of the Company as shall be equal to, and the same shall be in satisfaction of, the amounts due and remaining unpaid to him on the first day of January one thousand eight hundred and seventy-three (after the payment of the sums herein-before provided to be paid on the existing mortgages of the Company), and the residue of such debenture stock may be issued for raising money to be applied in constructing additional sidings and works, and towards the general purposes of the Company.

Appropriation of debenture stock.

8. No stock shall be issued for any fractional part of a pound less than ten shillings, and all fractions of a pound above ten shillings shall be deemed a pound, and no stock shall be transferred so as to create a fractional part of a pound.

Fractional parts of a pound.

9. The Company shall call in and cancel their existing mortgages, and ascertain their general debts, and shall issue to the holders of such mortgages, and the general creditors of the Company, certificates of debenture stock under this Act: Provided that the

Certificates of debenture stock to be issued in exchange for

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other securities and to general creditors.

Company shall not be bound to issue any such certificate until the holders of the mortgages deliver to the Company to be cancelled or prove to the reasonable satisfaction of the Company the loss or destruction of the mortgages in respect of which the new certificate is to be issued.

Notice by advertisements for creditors.

10. The said mortgages of the Company may be called in and the general debts of the Company ascertained by advertisements published once in each of two successive weeks in the London Gazette and in a London daily newspaper, and in some newspaper published in the county of Cumberland.

New stock to be subject to same trusts.

11. All debenture stock issued by virtue of this Act, either wholly or partially in satisfaction of any mortgage or general debt of the Company, shall be subject and liable to the same trusts, powers, provisions, declarations, agreements, charges, liens, and incumbrances as immediately before the passing of this Act affected the then existing mortgages or general debts for which it is substituted, and so as to give effect to and not revoke any testamentary disposition of or affecting such then existing mortgages or general debts.

On issue of new stock old securities, &c. to be cancelled.

12. All mortgages, general debts, and interest, in satisfaction of or substitution for which debenture stock shall be issued under the powers of this Act shall, upon such issue being made, be absolutely cancelled and extinguished.

Dividends on preference shares.

13. The sixty thousand pounds preference shares of the Company shall thenceforth bear a dividend at the reduced rate of four per centum per annum, with such participation in surplus income as is herein-after provided.

Application of income.

14. The income received by the Company in respect of each half year, beginning from the thirty-first day of December one thousand eight hundred and seventy-two, after deduction of the proportion for the time being receivable by the Caledonian Company under the Caledonian agreement, and after payment of all working and incidental expenses, including due and proper maintenance of the permanent way, rolling stock, and stations, and other buildings, and of all rates, taxes, and tithes, and all other things chargeable to revenue, save and except (during the continuance of the Caledonian Agreement) such of the matters and things aforesaid as are by that Agreement made payable out of the Caledonian Company's share of the gross receipts, shall be applied in the manner and with the priorities following; (that is to say,)

1. In payment of the interest for such half year on the debenture stock for the time being issued at the rate of three and a half per centum per annum :

2. In payment of the dividends for such half year on the preference shares or stock of the Company : A.D. 1873.

3. In payment of a dividend on the ordinary shares or stock of the Company :

Provided, that any deficiency in the income of any half year to satisfy any of the purposes aforesaid shall not be made good out of the income of any subsequent half year, except that the deficiency of the income in any half year to pay the interest on the debenture stock for that half-year shall be made good out of any excess of the income in any of the eight next succeeding half years over what is sufficient to pay such interest for each such half-year; and that the deficiency of the income in any half-year to pay the dividends on the preference shares or stock for that half year shall be made good out of any excess of the income in the next succeeding half year over what is sufficient to pay the interest on debenture stock and dividends on preference shares or stock for such succeeding half year: Provided also, that whenever at any ordinary meeting at which a dividend is intended to be declared the profits shown upon the scheme prepared for that purpose and considered by the directors applicable to dividend shall exceed an amount sufficient to pay a dividend at the rate of four per centum per annum upon the ordinary stock and shares for the time being of the Company, after payment of all charges upon income entitled to take precedence thereof, the surplus shall be apportioned among the holders of the said preference shares or stock and the holders of ordinary stock and shares for the time being, according to their respective holdings and the amount paid thereon.

15. All holders of any of the debenture stock or preference shares or stock of the Company shall have the option at any time, upon giving three months notice in writing to the Company, terminating at the end of any half year, of converting their respective stock or shares into ordinary stock or shares of the Company at par, and thereupon the debenture stock or preference shares or stock so converted shall be cancelled, and the requisite amount of ordinary stock or shares shall be issued in exchange for the same and added to and shall thenceforth rank with the ordinary stock or shares of the Company, and the holders of debenture stock or preference shares or stock making such exchange shall from thenceforth have in all respects the same rights and liabilities in respect of their respective amounts of ordinary stock or shares of the Company as other holders of like amounts of ordinary stock or shares.

Conversion
of debenture
stock or
preference
shares into
ordinary
shares.

16. If and whenever the Company obtain power to sell and do sell the remaining portion of their railway, so much of the pur- Provision for
redemption
of debenture

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chase moneys as shall be necessary for that purpose shall, as and when received, be applied in the redemption at par of the said debenture stock, or of so much as shall then exist, and in the payment of all (if any) arrears of interest thereon which shall under the provisions of this Act be then payable.

Interest not
to be paid on
calls paid up.

17. The Company shall not, out of any money by this 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 Act, 1845."

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

18. 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.

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

19. Nothing in this Act contained shall exempt the 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, authorised by the Act of 1864.

Expenses of
Act.

20. 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.