

[53 & 54 VICT.] *Caledonian Railway (Edinburgh, Leith, and Newhaven Extension Lines) Act, 1890.* [Ch. clxvii.]



CHAPTER clxvii.

An Act for enabling the Caledonian Railway Company to make and maintain certain Railways extending their Undertaking in Edinburgh Leith and Newhaven and other Works in the County of Midlothian and to raise additional Money and for other purposes. A.D. 1890.

[4th August 1890.]

WHEREAS it is expedient that the Caledonian Railway Company (herein-after called "the Company") should be empowered to make and maintain the several railways extending their undertaking in Edinburgh Leith and Newhaven and the street-widening herein-after described and to raise additional money :

And whereas plans and sections showing the lines and levels of the several railways and the street-widening 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 and under the powers of this Act were duly deposited with the principal sheriff clerk of the county of Midlothian 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 :

1. This Act may be cited for all purposes as the Caledonian Railway (Edinburgh Leith and Newhaven Extension Lines) Act 1890. Short title.

[Price 2s. 3d.]

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Incorporation of
Lands Railways and
Companies
Clauses Acts.

2. The Lands Clauses Acts the Railways Clauses Consolidation (Scotland) Act 1845 Part I. (relating to construction of a railway) of the Railways Clauses Act 1863 the clauses and provisions of the Companies Clauses Consolidation (Scotland) Act 1845 with respect to the following matters (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 nonpayment 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 general meetings of the Company and the exercise of the right of voting by the shareholders the making of dividends and the giving of notices and Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by the Railway Companies (Scotland) Act 1867 are (except where and as expressly varied by this Act) incorporated with and form part of this Act and all the provisions of the Companies Clauses Consolidation (Scotland) Act 1845 so incorporated with this Act which relate to stock into which shares in the capital of the Company have been converted or consolidated shall apply to the stock which the Company are by this Act authorised to issue and to the holders thereof.

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 And in this Act and the Acts wholly or partially incorporated herewith as applied to this Act the expression "the Company" means the Caledonian Railway Company the expression "the special Act" means this Act the word "schoolmasters" means session clerks and the expression "the railway" means and includes the railways street-widening and other works by this Act authorised or any part thereof.

Power to
make rail-
ways and
street-widen-
ing and
take lands
for purposes
thereof.

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 and the street-widening all herein-after described with all proper stations sidings junctions approaches viaducts bridges roads stairs communications and other works machinery conveniences and buildings incidental thereto or which may be advantageously or conveniently held or used in

connexion with the said several railways respectively 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. A.D. 1890.

5. The railways and street-widening herein-before referred to and authorised by this Act are—

Description
of railways
and street-
widening.

(1) A railway ("Railway No. 2") one mile seven furlongs four chains and three yards or thereabouts in length commencing by a junction with the Leith Branch of the Caledonian Railway at a point thereon three hundred and twenty yards or thereabouts measuring in a south-westerly direction along that branch from the bridge by which the New Cut or Craighall Road is carried over the said Leith Branch and terminating at a point on the eastern side of Lochend Road two hundred and fifty yards or thereabouts measuring in a south-easterly direction from the south end of Woodville Terrace in the burgh of Leith;

(2) A railway ("Railway No. 3") one mile two furlongs and two chains or thereabouts in length commencing at the point herein-before described as the point of termination of Railway No. 2 and terminating on property belonging to the Company at a point one hundred and forty yards or thereabouts measuring in a south-easterly direction from the east end of the northmost branch of the Edinburgh Dock;

(3) A railway ("Railway No. 5") one furlong nine chains and five yards or thereabouts in length commencing by a junction with the Leith Branch of the Caledonian Railway at a point thereon immediately on the west side of the bridge by which the Newhaven Road is carried over the said Leith Branch and terminating by a junction with Railway No. 2 at a point thereon two hundred and thirty yards or thereabouts measuring in a northerly direction from the junction of the New Cut or Craighall Road with the Ferry Road;

(4) A railway ("Railway No. 6") five furlongs one chain and eight yards or thereabouts in length commencing by a junction with Railway No. 3 at a point thereon one hundred and fifty yards or thereabouts measuring in an easterly direction from the house called Sea Cot and terminating at a point on the property of the Edinburgh Roperie and Sailcloth Company Limited two hundred yards or thereabouts measuring in a westerly direction from the house called Sea Lodge;

(5) A widening (in this Act referred to as "the street-widening") of that portion of the street or lane leading from Saint Cuth-

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bert's Lane to Maitland Street commencing at the point where the Atholl Crescent Meuse Lane joins that street or lane and terminating at the point where that street or lane joins Atholl Crescent.

Company to
acquire an
easement
only over a
certain
property.

6. Notwithstanding anything in this Act contained or shown on the deposited plans and sections the Company shall not in constructing Railway No. 3 by this Act authorised be entitled to acquire any portion of the property numbered 193 on the deposited plans in the parish of South Leith so far as the same shall belong to the commissioners for the harbour and docks of Leith but instead of acquiring such property the Company may acquire such easement in or over the same as shall enable them to carry Railway No. 3 across it in such manner and with a bridge of such span or spans as may be agreed upon between the Company and the said commissioners or as failing agreement may be decided by an arbitrator to be appointed by the Board of Trade on the application of either party.

For the pro-
tection of
the North
British Rail-
way Com-
pany.

7. For the protection of the North British Railway Company (herein-after called "the North British Company") the following provisions shall unless otherwise agreed between the North British Company and the Company apply and have effect:—

- (1) The bridge for carrying Railway No. 2 over the lines of railway of the North British Company shall be formed of one clear span of not less than seventy-five feet on the square and with a clear headway of not less than fourteen feet throughout and the centre line of Railway No. 2 shall not without the consent of the North British Company be deviated to the south-westward from the centre line shown on the deposited plans at the point of crossing;
- (2) The bridge for carrying Railway No. 3 over the line of railway of the North British Company shall be formed of one clear span of not less than fifty-five feet on the square and with a clear headway of not less than fourteen feet throughout and the centre line of Railway No. 3 shall not without the consent of the North British Company be deviated to the westward from the centre line shown on the deposited plans at the point of crossing;
- (3) All works connected with the said bridges and with the crossings of the railways by this Act authorised over the railways works and lands of the North British Company shall be respectively of such design and materials as shall be approved of by the engineer for the time being of that company and shall be constructed and completed under the superintendence

and to the reasonable satisfaction in all respects of such engineer and according to working plans sections and specifications to be submitted to and approved of by him previously to the commencement of the works affecting the property of that company and shall be constructed and for ever maintained by and at the expense of the Company Provided always that if any difference shall arise between the said companies or their engineers with respect to the design materials construction or maintenance of any of the said works such difference shall be conclusively determined by an engineer to be appointed by the Board of Trade on the application of either of the said companies ;

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(4) The said bridges and works shall be made and for ever maintained and used and all operations connected therewith shall be conducted in such manner as not to injure or endanger the stability of the railways of the North British Company or any of the works connected therewith and so as to cause as little interruption impediment or inconvenience as practicable to the traffic of that company and if in the execution maintenance or use of any of the said bridges or works of the Company any injury be caused to the North British Company's railways or works or any interruption impediment or inconvenience be occasioned to their traffic the Company shall pay all damages arising from or consequent on such injury interruption impediment or inconvenience ;

(5) Nothing in this Act shall authorise the Company without the previous consent in writing of the North British Company under their common seal to enter upon or interfere with any railway works or lands of that company further or otherwise than is necessary for constructing across the same the works herein-before specified in manner herein-before specially provided nor to alter the line or levels of any of the works of that company nor to take or acquire any of their lands or any right therein other than an easement or right of making maintaining and using their said works across the same in manner aforesaid.

8. For the protection of the Leith Cemetery Company Limited (herein-after called "the cemetery company") the following provisions shall unless otherwise agreed between the cemetery company and the Company have effect (that is to say) :—

For the protection of the Leith Cemetery Company Limited.

(A) Where Railway No. 6 passes through land belonging to the cemetery company and at present within the boundaries of the cemetery to be acquired by the Company for the purposes of this Act the Company shall notwithstanding anything herein

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or in the deposited plans contained construct the railway save as herein-after mentioned on an embankment not exceeding eighteen feet in height to formation level of railway and in such a manner as not in any way to disturb or interfere with any graves in which bodies are interred ;

(B) The Company shall on the ground to be acquired by them from the cemetery company and at present within the boundaries of the cemetery construct and for ever maintain a sufficient retaining wall between the cemetery and the railway eight feet high above the surface of the cemetery and founded at a depth of not less than eight feet below the surface of the cemetery and having neatly square snecked face-work on the cemetery side with a suitable hewn stone coping and which wall shall be the property of the cemetery company and the Company shall make cover with suitable soil and maintain in all time coming a sloping bank between the retaining wall and the level of the rails constructed in a manner approved by the cemetery company and which bank the Company shall plant with trees and shrubs of a kind approved by the cemetery company ;

(c) The company shall form a proper carriage entrance eighteen feet wide to the cemetery from the Portobello Road at the point where the present gateway is and shall carry the railway over the said entrance upon an ornamental bridge with a headway of fifteen feet and a span of eighteen feet according to a design to be previously submitted to and approved by the cemetery company and the Company shall also erect at the entrance from the Portobello Road under the said bridge suitable gate pillars of hewn stone and a double malleable iron ornamental gateway of a similar design to the cemetery company's western entrance gate ;

(D) Whereas in the execution of the works by this Act authorised certain of the burial areas or compartments and of the sewers drains walks and drives of the cemetery will require alteration rearrangement deviation and reconstruction the cemetery company are hereby authorised to make such alteration rearrangement deviation and reconstruction as may be necessary or expedient and the Company shall pay to the cemetery company the cost thereof as the same shall be certified by an architect or surveyor to be appointed by the cemetery company ;

(E) The Company shall not erect telegraph poles on their railway where it passes through the ground to be acquired from the cemetery company ;

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- (F) The Company shall make good all injury and damage caused to the cemetery and to the walls drives walks sewers drains and turf thereof and to the shrubs plants and tombstones therein in the course of the construction of the works by this Act authorised;
- (G) Notwithstanding anything contained in this Act or in the Acts incorporated therewith the Company shall not be entitled after expiry of six months from the passing of this Act to exercise the compulsory powers to acquire the lands of the cemetery company or any part thereof by this Act and by the incorporated Acts conferred upon them ;
- (H) The provisions in this section in favour of the cemetery company shall be in addition to and not in substitution for any of the provisions affecting them contained in this Act or in the Acts incorporated therewith ;
- (I) If any difference shall at any time arise between the Company and the cemetery company or their respective engineers with respect to any of the matters referred to in this section such difference shall be referred to and determined by an arbiter to be appointed by the sheriff of the Lothians and Peebles on the application of either the Company or the cemetery company.
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9. Upon the completion of the street-widening by this Act authorised the Company may subject to the terms and conditions of the agreement set forth in the Second Schedule to this Act stop up and discontinue as a public street so much of Saint Cuthbert's Lane as lies between Rutland Street and the junction with Saint Cuthbert's Lane of the before-mentioned street or lane leading from Saint Cuthbert's Lane to Maitland Street and may appropriate the site of the portion of Saint Cuthbert's Lane so stopped up and discontinued.

Power to stop up portion of Saint Cuthbert's Lane.

10. In altering for the purposes of this Act the road next herein-after mentioned the Company may make the same of any inclination not steeper than the inclination herein-after mentioned (that is to say) :—

Inclination of a certain road.

No. on deposited Plans.	Parish.	Description of Road.	Intended Inclination.
	RAILWAY No. 3.		
174	South Leith	Public	1 in 25 on one side.

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Power to
stop up
portions of
existing
roads where
diversions
substituted.

11. Where any new portions of road authorised by the provisions of this Act or of the Railways Clauses Consolidation (Scotland) Act 1845 as incorporated with this Act to be formed in lieu of existing roads altered or diverted are respectively completed and opened the Company may except where otherwise expressly provided by this Act permanently stop up and cause to be discontinued those portions of existing roads for which such new portions of road are respectively substituted and the sites of any portions of existing roads so stopped up when and so far as the same shall be bounded on both sides by property of the Company shall subject to the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to mines lying under or near the railway belong to and be vested in the Company and (except as aforesaid) all such new portions of road shall as respects management and maintenance and in all other respects be held as parts of and be subject to the same provisions as the existing roads for portions of which the same are respectively substituted. Provided always that where any such new portion of road is formed through or along lands belonging wholly or partly to any person through or along whose lands the superseded portion of existing road for which such new portion of road is substituted passes the value of the site of so much of the said superseded portion of road as passes through or along the lands of such owner and is given up to him shall be taken into account in estimating the compensation payable to him for the land taken from him for such new portion of road.

Power to
take servi-
tudes by
agreement.

12. Persons empowered by the Lands Clauses Acts to sell and convey lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any servitude right or privilege not being a servitude of water required for the purposes of this Act in over under through or affecting any such lands and the provisions of the said Acts with respect to lands and feu duties or ground annuals so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively.

Owners may
be required
to sell parts
only of
certain
properties.

13. And whereas in the exercise of the powers of this Act it may happen that portions only of the lands buildings or manufactories shown on the deposited plans may be sufficient for the purposes of this Act and that such portions may be severed from the remainder of the said properties without material detriment thereto Therefore notwithstanding section ninety of the Lands Clauses Consolidation (Scotland) Act 1845 the owners of and other persons interested in the lands buildings or manufactories described

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in the First Schedule to this Act annexed and whereof portions only are required for the purposes of this Act may (if such portions can in the opinion of the jury arbiters or other authority to whom the question of disputed compensation shall be submitted be severed from the remainder of such properties without material detriment thereto) be required to sell and convey to the Company such portions only without the Company being obliged or compellable to purchase the whole or any greater portion of such properties the Company always paying for the portions taken by them and making compensation for any damage sustained by the owners of such properties and other persons interested therein by severance or otherwise Provided always that if in any case in the opinion of the jury arbiters or other authority as aforesaid any such portion cannot be severed from the remainder of such property without material detriment thereto the Company may at any time within one month after the date of the final decision of such jury arbiters or other authority withdraw their notice to treat for the portion required by them and thereupon they shall pay to the owner of and other persons interested in the property in respect of which or of any portion of which they have given notice to treat all loss and damage sustained and all costs charges and expenses (as the same shall be taxed as between solicitor and client) reasonably incurred by them in consequence of such notice. Provided also that nothing in this section contained shall be held as determining whether the properties described in the said First Schedule are or are not subject to the provisions of section ninety of the Lands Clauses Consolidation (Scotland) Act 1845. A.D. 1890.

14. (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 which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until— Restrictions
on displacing
persons of
labouring
class.

(A) They shall have obtained the approval of the Secretary for Scotland to a scheme for providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of December last or for such number of persons as the Secretary for Scotland shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place

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of employment of such persons and to all the other circumstances of the case ; and

(B) They shall have given security to the satisfaction of the Secretary for Scotland for the carrying out of the scheme.

(2) The approval of the Secretary for Scotland to any scheme under this section may be given either absolutely or conditionally and after the Secretary for Scotland has approved of any such scheme he may from time to time approve either absolutely or conditionally of any modification in the scheme.

(3) Every scheme under this section shall contain provisions prescribing the time within which it shall be carried out and shall require the new dwellings proposed to be provided under the scheme to be completed fit for occupation before the persons residing in the houses in respect of which the scheme is made are displaced :

Provided that the Secretary for Scotland may dispense with the last-mentioned requirement subject to such conditions (if any) as he may see fit.

(4) Any provisions of any scheme under this section or any conditions subject to which the Secretary for Scotland may have approved of any such scheme or of any modifications of any such scheme or subject to which he may have dispensed with the above-mentioned requirement shall be enforceable by an order of the court of session to be obtained by the Secretary for Scotland.

(5) If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary for Scotland by action in the court of session and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the court may if it think fit reduce such penalty.

(6) For the purpose of carrying out any scheme under this section the Company may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require and for the purpose of any such purchase section ninety of the Public Health (Scotland) Act 1867 shall be incorporated with this Act and shall apply to the purchase of lands by the Company for the purposes of any scheme under this section in the same manner in all respects as if the Company were a local authority within the meaning of that Act and the scheme were one of the purposes of that Act.

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(7) The Company may on any lands belonging to them or purchased or acquired under this section or under any Provisional Order issued in pursuance of this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell demise let or otherwise dispose of such dwellings and any lands purchased or acquired as aforesaid and may apply for the purposes of this section to which capital is properly applicable or any of such purposes any moneys which they may be authorised to raise or apply for the purposes of their undertaking : A.D. 1890.

Provided that all lands on which any buildings have been erected or provided by the Company in pursuance of any scheme under this section shall for the period of twenty-five years from the date of the scheme be appropriated solely for the purpose of such dwellings and every conveyance demise or lease of such lands and buildings by the Company shall contain proper covenants for securing that the buildings on such lands shall during such period of twenty-five years be used exclusively for the purpose of such dwellings and shall be endorsed with notice of this enactment :

Provided also that the Secretary for Scotland may at any time dispense with all or any of the requirements of this subsection subject to such conditions (if any) as he may see fit.

(8) The Secretary for Scotland may direct any inquiries to be held which he may deem necessary in relation to any scheme under this section and for giving effect to any of the provisions of this section and he and any person appointed by him to hold inquiry shall have and may exercise for any purpose in connexion with any scheme under this section all or any of the powers vested in them respectively under the Public Health (Scotland) Act 1867 in the same manner in every respect as if the preparation and carrying into effect of such scheme were one of the general purposes of that Act.

(9) The Company shall pay to the Secretary for Scotland a sum to be fixed by him in respect of the preparation and issue of any Provisional Order in pursuance of this section and any expenses incurred by him in relation to any inquiries under this section including the expenses of any witnesses summoned by the person appointed to hold any such inquiry and a sum to be fixed by the Secretary for Scotland not exceeding three guineas a day for the services of the person so appointed.

(10) For the purposes of this section the expression "labouring class" includes mechanics artisans labourers and others working

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A.D. 1890. — 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.

Confirming
agreement
with Corpo-
ration of
Edinburgh.

15. The minute of agreement between the Company and the lord provost magistrates and council of the city of Edinburgh (herein-after called "the Corporation of Edinburgh") as set forth in the Second Schedule to this Act is hereby confirmed and made binding upon the Company and the Corporation of Edinburgh respectively.

Interference
with streets.

16. Subject to the provisions of this Act the Company may for the purpose of constructing the railways and the street-widening temporarily cross alter break open stop up or divert any streets roads lanes pavements and footpaths shown on the deposited plans and described in the deposited books of reference and may during such construction use and appropriate any of the streets roads lanes pavements or footpaths so stopped up or diverted and may also during such construction from time to time break open any such streets roads lanes pavements or footpaths when necessary for the protection or repair of any sewers drains or pipes under the same.

For restora-
tion of
streets.

17. The Company shall restore the portions of the carriageway and footway of any street road lane pavement or footpath which may be from time to time stopped up by them for traffic for the purposes of the works within three months from the day upon which such portions shall respectively be so stopped up and they shall be liable to a penalty not exceeding ten pounds for every day after the expiration of the said period during which such portions respectively shall not be so restored and such penalty shall be recoverable with costs in the court of the sheriff of the Lothians and Peebles at Edinburgh on summary application by all or any of the proprietors or tenants in that part of the street which is opposite or in the immediate vicinity of the respective portions which shall not be so restored.

For protec-
tion of the
Corporation
of Edin-
burgh.

18. For the further protection of the Corporation of Edinburgh as a municipal corporation and as trustees or commissioners acting in execution of the several public and local and personal Acts by which any powers jurisdiction or authorities are conferred on them (in this section called "the corporation") the following provisions

shall have effect and be binding on the Company in exercising the powers of this Act (that is to say):— A.D. 1890.

(A) At least fourteen days before the Company commence any works the execution of which would in any way interfere with or affect any of the streets roads lanes pavements footpaths or public places in the city and royal burgh of Edinburgh or which would interfere with or affect the sewers or drains belonging to the corporation or which they have the right of using the company shall give to the corporation notice thereof in writing accompanied by the necessary plans sections working drawings and specifications showing the manner in which the railways and works are to be executed and also the means to be employed for protecting the said streets roads lanes pavements footpaths public places sewers and drains during the operations of the Company and also the means to be employed for making good any injury or damage to or interference with the said streets roads lanes pavements footpaths public places sewers and drains which plans sections working drawings and specifications shall be subject to the approval of the corporation previously to the works of the Company affecting the said streets roads lanes pavements footpaths public places sewers and drains being commenced Provided always that if the corporation do not within fourteen days after service of such notice on them intimate to the Company their approval or disapproval of the said plans sections working drawings and specifications the Company may thereupon proceed to execute their said works ;

(B) In every case in which the Company interfere with any street road lane pavement or footpath the Company shall to the satisfaction of the corporation—

- (1) Restore the street road lane pavement or footpath so interfered with by the said works or by subsidence occasioned thereby to its original level ;
- (2) Cause the street road lane pavement or footpath to be maintained till properly consolidated ;
- (3) Make good the paving and metalling of the street road lane pavement or footpath and wherever necessary cause the street road lane pavement or footpath to be re-paved or re-metalled over their entire width ;
- (4) Provide and maintain all requisite communications and accesses for foot passengers to and from the houses and other buildings in the streets roads lanes pavements or footpaths so interfered with ;

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- (c) Where any of the works shall or may pass over under or by the side of or so as to interfere with any sewer drain water-course defence or work under the jurisdiction or control of the corporation or shall or may in any way affect the sewerage or drainage of the district under their control the Company shall make good any damage which may be done by their operations to any of the sewers and shall clean out the same should they get silted up in consequence of any of the operations of the Company during or after the construction of the Company's works and shall provide by new altered or substituted works including outfall sewers in such manner as the corporation may deem necessary (and for the construction of which they shall be bound to afford all reasonable facilities and communicate their powers so far as necessary) for the proper protection of and for preventing injury or impediment to the sewers and works herein-before referred to by or by reason of the said intended works or any part thereof and shall save harmless the corporation against all and every the expense to be occasioned thereby and all such works may be done by or under the direction superintendence and control of the corporation at the costs charges and expenses in all respects of the Company and all reasonable costs charges and expenses thereby occasioned shall be paid by the Company on demand and if any dispute shall arise as to the amount of such costs charges and expenses the same shall be settled as herein-after provided and when any new altered or substituted works as aforesaid or any works or defence connected therewith shall be completed by or at the costs charges and expenses of the Company under the provisions of this Act the same shall thereafter be as fully and completely under the direction jurisdiction and control of the corporation as any sewers or works now or hereafter may be and nothing in this Act shall except as herein-before provided extend to prejudice diminish alter or take away any of the rights powers or authorities vested or to be vested in the corporation but all such rights powers and authorities shall be as valid and effectual as if this Act had not been passed ;
- (D) The Company shall pay to the corporation the costs and expenses which they may reasonably incur or be put to in superintending the works authorised by this Act or with reference to any of the matters aforesaid ;
- (E) The special provisions herein contained for the protection of the corporation shall not be deemed to supersede or dispense with the provisions of the Railways Clauses Consolidation

(Scotland) Act 1845 but these except in so far as they may be inconsistent with any of the special provisions herein contained shall be and remain in full force and effect ;

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- (F) If the corporation and the Company shall differ upon or with reference to any plans elevations sections or other particulars which under the provisions herein-before contained are to be delivered by the Company to the corporation or as to the mode of carrying out the same or as to any other matter or thing arising out of the said plans elevations sections or particulars or any of the provisions of this and the two next preceding sections of this Act every such difference shall on the application of the Company or of the corporation be referred to the determination of an arbitrator to be mutually agreed upon by the corporation and the Company before the construction of the railway and works are commenced and failing such agreement as may be appointed on the requisition of either of them by the sheriff of the Lothians and Peebles and such arbitrator shall have power to determine the matter in difference and the costs of and incidental to the reference shall be paid by the Company In the event of the death incapacity or failure to act of the arbitrator so appointed and of the corporation and the Company failing to agree as to another arbitrator the sheriff of the Lothians and Peebles shall as often as occasion requires appoint another arbitrator in room and place of the arbitrator previously appointed as aforesaid.

19. The minute of agreement between the Company and the provost magistrates and council of the burgh of Leith (herein-after referred to as "the Corporation of Leith") as set forth in the Third Schedule to this Act is hereby confirmed and made binding on the Company and the corporation of Leith respectively.

Confirming
scheduled
agreement
with the
Corporation
of Leith.

20. For the further protection of the Corporation of Leith the following provisions shall apply and have effect viz. :—

For protec-
tion of the
Corporation
of Leith.

- (A) The provisions of the preceding section of this Act whereof the marginal reference is "For protection of the Corporation of Edinburgh" shall be applicable to the Corporation of Leith and to the public places roads streets lanes footpaths sewers drains pavements watercourses defences and other works within the burgh of Leith in like manner as they are applicable to the Corporation of Edinburgh and to similar places and works within that city as therein mentioned and the Corporation of Leith shall have the same rights powers and authorities within the limits of their jurisdiction as by the said section are conferred upon the Corporation of Edinburgh as therein men-

[Ch. clxvii.] *Caledonian Railway (Edinburgh, [53 & 54 Vict.]
Leith, and Newhaven Extension Lines) Act, 1890.*

A.D. 1890.

tioned and the Company shall be under the same obligations towards the Corporation of Leith within their jurisdiction as the Company are by the said section placed under towards the Corporation of Edinburgh within their jurisdiction as therein mentioned ;

- (B) At least two months before the Company commence the construction of any station within the burgh of Leith the Company shall submit to the Corporation of Leith plans sections and elevations of the booking offices and other buildings and works above ground of the said stations for approval ;
- (c) Nothing in this Act contained shall prevent the Corporation of Leith at any future time from carrying out any public improvement or any alterations developments or extensions of the existing or contemplated works in connexion with any department administered by them either above or below the level of the railway and wherever the same are or but for the construction of the railway might have been carried across the railway the Company shall pay to the corporation any additional expense which the corporation may reasonably incur or be put to in the carrying out of the same by reason of the making or maintaining of the railway and works or by any of the operations of the Company nor shall anything in this Act entitle the Company to any compensation for any damage occasioned by such operations of the corporation unless such damage shall have been occasioned by the default or neglect of the corporation ;
- (D) The Company shall so far as practicable and consistent with the proper carrying out of their undertaking use coke only for any steam or other engine used by them in the construction of the railways or other works under public streets within the burgh of Leith and otherwise the Company shall be bound to use such engines so as not to be offensive or to cause a nuisance to the neighbourhood.

For protec-
tion of gas
mains and
pipes in city
of Edin-
burgh and
burgh of
Leith.

21. In carrying the railways and other works by this Act authorised in over or under any streets or lanes in the city of Edinburgh or burgh of Leith in which any gas mains or pipes are laid the Company shall before proceeding to interfere with appropriate or stop up any of such streets or lanes give at least fourteen days previous notice of their intention so to do to the clerk to the Edinburgh and Leith Corporations Gas Commissioners (herein-after referred to as " the gas commissioners ") and shall submit a plan and section showing the intended operations and the alterations proposed by which any gas mains and pipes in any such street or lane shall or

[53 & 54 VICT.] *Caledonian Railway (Edinburgh, [Ch. clxvii.]
Leith, and Newhaven Extension Lines) Act, 1890.*

may be affected or interfered with and the same shall be subject to the reasonable approval of an engineer to be appointed by the gas commissioners and any alteration or removal or diversion of any such gas mains or pipes shall be done and executed by the gas commissioners or by persons to be employed by them and the expense thereof and all expenses and charges incident thereto and consequent on any of the said works or operations shall be repaid by the Company to the gas commissioners and in the event of any leakage from any such gas mains or pipes occurring at any time the Company shall not be entitled to make any claim for damage in respect thereof but only to require the gas commissioners to repair the same in a sufficient manner and within a reasonable time and nothing in this Act contained shall prevent the gas commissioners or other persons having right to any gas mains or pipes which may be interfered with or affected as aforesaid from having access to the same at all reasonable times for repairing and inspecting the same and for any other necessary purpose Provided always that the provision herein contained in favour of the gas commissioners shall be in addition to and not in substitution for the provisions with respect to the said matters contained in the Railways Clauses Consolidation (Scotland) Act 1845.

A.D. 1890.

22. If any difference shall at any time arise between the Company and the gas commissioners or their respective engineers with respect to any of the matters referred to in the next preceding section or with reference to the time taken or required for executing any of the works or operations therein mentioned such difference shall be referred to and determined by an engineer to be appointed by the sheriff of the Lothians and Peebles on the application of either the Company or the gas commissioners.

Differences to be settled by arbitration.

23. If in carrying the railways and other works by this Act authorised over or under any of the aqueducts conduits or lines of pipe of the Edinburgh and District Water Trustees (herein-after referred to as "the water trustees") it shall be found necessary to alter the existing lines or levels of such aqueducts conduits or lines of pipe or any of them or otherwise interfere with the same it shall be done so as not to injuriously affect or interrupt the supply of water conveyed by the same and the Company shall give at least fourteen days previous notice to the clerk to the water trustees before commencing any such works and such crossings and all works necessary therefor and connected therewith shall be executed at the expense of the Company and at the sight and to the reasonable satisfaction of the engineer of the water trustees and according to plans to be submitted to and approved by such engineer before

For protection of Edinburgh and district water trustees.

[Ch. clxvii.] *Caledonian Railway (Edinburgh, [53 & 54 Vict.]
Leith, and Newhaven Extension Lines) Act, 1890.*

A.D. 1890. such works shall be begun and if the water trustees shall incur any expense for works necessary in reference to the crossing of such aqueducts conduits or lines of pipe or any other interference therewith or in reference to access thereto they shall be entitled to full compensation from the Company for such expense and such works to be executed by the Company shall be maintained in good and sufficient repair in all time coming by the Company and the water trustees shall have at all times the right of access to such aqueducts conduits or lines of pipe for the repair enlargement alteration and maintenance of the same and the right of laying additional pipes when they shall see fit and which access the Company shall be bound to provide Provided that the water trustees shall as far as possible avoid the causing of any interruption or obstruction to the traffic of the railway.

Differences
to be settled
by arbitra-
tion.

24. If any difference shall at any time arise between the Company and the water trustees or their respective engineers with respect to the plans or works or any of the other matters referred to in the next preceding section such difference shall be referred to and determined by an engineer to be appointed by the sheriff of the Lothians and Peebles on the application of either the Company or the water trustees.

For the pro-
tection of
the Water of
Leith Purifi-
cation and
Sewerage
Commis-
sioners.

25. For the protection of the Water of Leith Purification and Sewerage Commissioners (referred to in this section as "the commissioners") the following provisions shall have effect and be binding on the Company (that is to say) :—

(A) Notwithstanding anything contained in this Act or anything that has followed or may follow thereon the Company shall not have power to construct any of their said railways or works or interfere with or acquire any land property works rights servitudes or easements vested in or acquired by or belonging to the commissioners or which may hereafter be vested in or acquired by or belong to them under the Water of Leith Purification and Sewerage Act 1889 so as to defeat alter change or vary their purpose or utility as contemplated or provided for in that Act or prevent or interfere with the commissioners executing or constructing any subsidiary or accommodation works or tanks which under the said last-mentioned Act they may require or deem it necessary to construct in the execution of the powers and purposes thereof;

(B) In the event of any of the railways or works authorised by this Act crossing or passing over under or along or otherwise affecting any land property works or sewers belonging to or

[53 & 54 VICT.] *Caledonian Railway (Edinburgh, [Ch. clxvii.]
Leith, and Newhaven Extension Lines) Act, 1890.*

vested in the commissioners or which may be constructed by or belong to or be vested in them before the commencement or completion of said railways or works or otherwise interfering with the same or with any rights servitudes or easements exercised and enjoyed or to be exercised and enjoyed by the Commissioners as aforesaid or with any subsidiary or accommodation works or tanks constructed or which may be constructed as aforesaid the Company shall at least twenty-one days before commencing to execute any such railways or works give to the commissioners notice in writing accompanied by all necessary plans sections working drawings and specifications showing the manner in which the railways and works are intended to be executed and also the means proposed to be employed for protecting the said land property works sewers rights servitudes or easements and others as aforesaid which plans sections working drawings and specifications shall be subject to the approval of the Commissioners previous to the works of the Company affecting the said land property works sewers rights servitudes or easements and others as aforesaid being commenced Provided always that if the commissioners do not within twenty-one days after service of such notice on them intimate to the Company their approval or disapproval of the said plans sections working drawings and specifications the Company may thereupon proceed to execute their said works And in the event of any works in the opinion of the commissioners or of their engineer being required for the temporary as well as permanent protection of or easy access to any part of the commissioners land property works sewers or subsidiary or accommodation works or tanks the same as the commissioners may so require shall be executed and constructed by the Company under the superintendence and to the satisfaction of the engineer of the commissioners and that at the expense of the Company and such works shall be maintained in good repair by the Company in all time coming Provided always that if any difference shall at any time arise between the commissioners or their engineer and the Company with respect to the plans or works or any of the other matters referred to in this subsection (B) such difference shall be referred to and determined by an engineer to be appointed by the sheriff of the Lothians and Peebles on the application of either the Company or the commissioners ;

(c) Where any of the works of the Company shall or may pass over under or by the side of or so as to interfere with any

[Ch. clxvii.] *Caledonian Railway (Edinburgh, [53 & 54 Vict.]
Leith, and Newhaven Extension Lines) Act, 1890.*

A.D. 1890.

land property works or sewers under the jurisdiction or control of the commissioners or any subsidiary or accommodation works or tanks executed or which may be executed by the commissioners or shall or may in any way affect the sewerage or drainage of the district under their control the Company shall make good any damage and relieve the commissioners from all claims for damage which may be caused thereto by their operations and shall clean out the sewers should they get silted up in consequence of any of the operations of the Company during or after the construction of the Company's works and shall provide by new altered or substituted works including outfall sewers in such manner as the commissioners may direct for the proper protection of and for preventing injury or impediment to the sewers and works herein-before referred to by or by reason of the said intended works or any part thereof and shall save harmless the commissioners against all and every expense and damage to be occasioned thereby and all such works may be done by or under the direction superintendence and control of the commissioners at the costs charges and expenses in all respects of the Company and all reasonable costs charges and expenses thereby occasioned shall be paid by the Company on demand and if any dispute shall arise as to the amount of such costs charges and expenses the same shall be settled by arbitration as herein-after provided and when any new altered or substituted works as aforesaid or any works or defence connected therewith shall be completed by or at the costs charges and expenses of the Company under the provisions of this Act the same shall thereafter be as fully and completely under the direction jurisdiction and control of the commissioners as any sewers or works now or hereafter may be and nothing in this Act shall extend to prejudice diminish alter or take away any of the rights powers or authorities vested or to be vested in the commissioners but all such rights powers and authorities shall be as valid and effectual as if this Act had not been passed ;

- (D) The Company shall pay to the commissioners the costs and expenses which they may reasonably incur or be put to in superintending the works authorised by this Act or with reference to any of the matters aforesaid and shall also pay to the Commissioners any extra expense they may at any time be put to in carrying into effect any of the powers vested in or conferred on the commissioners by any Act of Parliament

existing at the date of the passing of this Act in consequence of any works constructed or to be constructed by the Company; A.D. 1890.

(E) In respect that it is proposed that the railways or other works of the Company shall cross the water of Leith it is hereby specially provided that nothing in this Act contained shall prejudice or affect any of the powers rights or authorities of the Commissioners for preserving and protecting the said water of Leith or the flow or purity of the water or streams therein;

(F) The special provisions herein contained for the protection of the commissioners shall not be deemed to supersede or dispense with the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 but these except in so far as they may be inconsistent with any of the special provisions herein contained shall be and remain in full force and effect;

(G) Any difference between the commissioners and the Company as to the reading construction or effect of this section or any part thereof shall on the application of the commissioners or of the Company be referred to the determination of an arbiter to be mutually agreed upon by the commissioners and the Company before the construction of any disputed portion of the said railways and works is commenced and failing such agreement as may be appointed by the sheriff of the Lothians and Peebles on the requisition of either of them and such arbiter shall have power to determine the matter in difference and the costs of and incidental to the reference shall be paid by the Company In the event of the death incapacity or failure to act of the arbiter so appointed and of the commissioners and the Company failing to agree as to another arbiter the sheriff shall as often as occasion requires appoint another arbiter in room and place of the arbiter previously appointed as aforesaid.

26. Where any lands which the Company may require to purchase for the purposes of the undertaking but which will not remain necessary parts thereof can be advantageously used for widening improving or extending any streets the Company and the local authorities or other persons having the charge or management of such streets may enter into agreements for such widening improvement or extension and the Company and the persons from whom such lands may be acquired may enter into agreements for affording to such persons access to and the right to use such streets. Power to enter into agreements for widening streets.

[Ch. clxvii.] *Caledonian Railway (Edinburgh, [53 & 54 Vict.]
Leith, and Newhaven Extension Lines) Act, 1890.*

A.D. 1890.

Lands for
extraordi-
nary pur-
poses.

27. The quantity of land to be acquired by agreement by the Company for the extraordinary purposes mentioned in the Railways Clauses Consolidation (Scotland) Act 1845 in connexion with the railways authorised by this Act shall not exceed five acres in addition to the lands which they are authorised by this Act to take compulsorily and by any other Acts to take compulsorily or acquire by agreement but nothing in that Act or in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them upon any land taken by them under the powers of this section.

Period for
compulsory
purchase of
lands.

28. 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.

Power to
raise addi-
tional capital.

29. The Company may from time to time subject to the provisions of Part II. of the Companies Clauses Act 1863 as amended by the Railway Companies (Scotland) Act 1867 raise any additional capital not exceeding in nominal amount four hundred and twenty-five thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by any one or more of those modes 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 of the amount of such share shall have been paid in respect thereof Provided that if in any year ending on the thirty-first day of January there are not profits available for the payment of the full amount of preferential dividend or interest for that year on any such new preference shares or stock 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.

Except as
otherwise
provided
new shares
or stock to
be subject to
the same in-
cidents as
other shares
or stock :

30. Except as by this Act otherwise provided the capital in new shares or stock created by the Company under this Act and the new shares or stock therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares or stock were shares or stock in that capital.

And to form
part of
capital of
Company.

31. The capital in new shares or stock so created shall form part of the capital of the Company.

[53 & 54 VICT.] *Caledonian Railway (Edinburgh, Leith, and Newhaven Extension Lines) Act, 1890.* [Ch. clxvii.]

32. Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares or to the whole amount of such stock as the case may be.

A.D. 1890.

Dividends on new shares or stock.

33. Each holder of new shares or stock in the capital by this Act authorised to be raised shall be entitled to the same number of votes in respect thereof which the possession of an equal nominal amount of the existing capital stock of the Company would have conferred upon him. Provided always that except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned.

Votes in respect of new shares or stock.

34. Subject to the provisions of any Act already passed by which the Company are authorised to raise capital by new shares or stock and to the provisions of this Act and of any other Act passed in the present session of Parliament whether before or after the passing of this Act by which the Company may be authorised to raise capital by new shares or stock the Company may if they think fit raise by the creation and issue of new shares or stock of one and the same class all or any part of the aggregate capital which they are by such other Acts and this Act respectively authorised to raise by the creation and issue of new shares or stock.

New shares or stock raised under this Act and any other Act of past or present sessions may be of same class.

35. The Company may in respect of the additional capital of four hundred and twenty-five thousand pounds which they are herein-before authorised to raise from time to time borrow on mortgage of their undertaking any sums not exceeding in the whole one hundred and forty-two thousand pounds but no part thereof shall be borrowed until shares or stock or shares and stock for the whole of the said additional capital are issued and accepted and one half of such capital 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 or stock or shares and stock 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 and the whole amount of the stock in the said capital has been paid on account thereof before or at the time of the issue or acceptance thereof and that such shares or stock or shares and stock as the case may be were issued and accepted and such one half of the said capital was paid up bonâ fide

Power to borrow for purposes of this Act.

[Ch. clxvii.] *Caledonian Railway (Edinburgh, [53 & 54 Vict.]
Leith, and Newhaven Extension Lines) Act, 1890.*

A.D. 1890. — and that such shares or stock or shares and stock as the case may be are held by the persons or corporations to whom the same were issued or their executors administrators successors or assignees and also in so far as the said additional capital is raised by shares that such persons or corporations or their executors administrators successors or assignees 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 certificate shall be sufficient evidence thereof.

Arrears may be enforced by the appointment of a judicial factor.

36. The mortgagees of the Company under this or any previous Act may enforce payment of 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 be not less than ten thousand pounds in the whole.

Power to create debenture stock.

37. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 as amended by the Railway Companies (Scotland) Act 1867 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.

Existing mortgages to have priority.

38. 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 subject to the provisions of the Acts under which such mortgages were respectively granted have priority over any mortgages 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.

Application of moneys.

39. All moneys raised under this Act whether by shares or stock or debenture stock or borrowing shall be applied only to those purposes of this Act to which capital is properly applicable.

Company may apply to purposes of this Act funds not required for other purposes.

40. The Company may apply towards the purposes authorised by this Act or any of them to which capital is properly applicable any capital or funds belonging to or authorised to be raised by them and which may not be required for the purposes for which the same were authorised to be raised or directed to be applied.

[53 & 54 Vict.] *Caledonian Railway (Edinburgh, Leith, and Newhaven Extension Lines) Act, 1890.* [Ch. clxvii.]

41. If the railways and street-widening 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 said railways and street-widening or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

A.D. 1890.

Period for completion of railways and street-widening.

42. If the Company fail within the period limited by this Act to complete any of the railways by this Act authorised to be made 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 such railway is completed and opened for the public conveyance of passengers or until the sum received in respect of such penalty amounts to five per cent. on the estimated cost of such railway not so 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 to the 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 of the Queen's and Lord Treasurer's Remembrancer on behalf of the Court of Exchequer in Scotland in the bank and to the credit specified 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 such 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.

Penalty imposed unless the railways are opened within the time limited.

43. Every sum of money so recovered by way of penalty as aforesaid shall be applicable and after due notice in the Edinburgh 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 said railways respectively 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

Application of penalties.

[Ch. clxvii.] *Caledonian Railway (Edinburgh, [53 & 54 Vict.]
Leith, and Newhaven Extension Lines) Act, 1890.*

A.D. 1890. — 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 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 be paid or transferred accordingly 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 the Treasury and be carried to and form part of the Consolidated Fund of the United Kingdom or in the discretion of the said 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.

Tolls.

44. Subject to the provisions of this Act and of the minute of agreement set forth in the Third Schedule to this Act the Company may demand and take in respect of the use of the railways by this Act authorised to be made or any of them or any part thereof and of carriages and engines thereon and of accommodation and services provided by the Company in connexion therewith any tolls rates and charges not exceeding the tolls rates and charges as the same may be modified under the provisions of the Railway and Canal Traffic Act 1888 which the Company are by the Caledonian Railway (Lanarkshire and Midlothian Branches) Act 1866 authorised to demand and take in respect of the use of the railways by that Act authorised to be made and of carriages and engines thereon and of accommodation and services provided by the Company in connection therewith Provided that the said railways by this Act authorised to be made shall as respect tolls rates and charges be considered part of the undertaking of the Company and that only one short distance charge shall be made for the conveyance of any traffic partly thereon or on any part thereof and partly on any other railways of the Company.

Interest not
to be paid on
calls paid up.

45. No interest or dividend shall be paid out of any share or loan capital which the Company are by this Act 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

[53 & 54 VICT.] *Caledonian Railway (Edinburgh, [Ch. clxvii.]
Leith, and Newhaven Extension Lines) Act, 1890.*

actually made as is in conformity with the Companies Clauses A.D. 1890.
Consolidation (Scotland) Act 1845. —

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

47. Nothing in this Act contained shall exempt the Company or 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 this Act. Provision as to general railway Acts.

48. 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. Costs of Act.

[Ch. clxvii.] *Caledonian Railway (Edinburgh, [53 & 54 Vict.]
Leith, and Newhaven Extension Lines) Act, 1890.*

[A.D. 1890.]

The FIRST SCHEDULE referred to in the preceding Act.

Lands Buildings and Manufactories of which portions may be taken without taking the whole.

Parishes.	Nos. on deposited Plans.
RAILWAY No. 2.	
St. Cuthbert.	100 101 102 103 137 162.
South Leith.	106 109 110.
RAILWAY No. 3.	
South Leith.	165 166 167 168 169 170 171.
RAILWAY No. 6.	
South Leith.	198 199 200 203 206 207 208.

The SECOND SCHEDULE referred to in the preceding Act.

MINUTE OF AGREEMENT between the RIGHT HONOURABLE THE LORD PROVOST MAGISTRATES AND COUNCIL OF THE CITY OF EDINBURGH (herein-after called "the Corporation") and the Corporation as Governors and Administrators of the Trinity Hospital of the said City (herein-after in that capacity referred to as "the Governors") for the respective rights and interests of the Corporation and the Governors as herein-after mentioned on the one part and the CALEDONIAN RAILWAY COMPANY (herein-after called "the Company") on the other part.

WHEREAS the Company are promoters in the present session of Parliament of a Bill intituled "An Act for enabling the Caledonian Railway Company " to make and maintain certain railways connecting portions of their " undertaking in Edinburgh Leith and Newhaven and other works in the " county of Midlothian and to raise additional money and for other " purposes ":

And whereas by the said Bill the Company seek to obtain power to stop up and discontinue as a public street so much of Saint Cuthbert's Lane as

[53 & 54 VICT.] *Caledonian Railway (Edinburgh, [Ch. clxvii.]
Leith, and Newhaven Extension Lines) Act, 1890.*

lies between Rutland Street and the junction with Saint Cuthbert's Lane of the street or lane (hereafter in this Agreement called "Canning Street Lane") leading from Saint Cuthbert's Lane to Maitland Street and to appropriate the site of the portion of Saint Cuthbert's Lane so stopped up and discontinued. And whereas the corporation are willing to consent to the Company obtaining the said power upon the conditions herein-after set forth. And whereas there are delineated on the deposited plans and described in the deposited book of reference certain lands belonging to the governors which by the said Bill the Company seek power to enter upon take and use for the purposes of Railway No. 2 proposed to be authorised by the said Bill. And whereas for the protection of the governors as owners of the said lands the Company have agreed to the conditions herein-after mentioned with respect to the same:

A.D. 1890.

It is therefore hereby agreed as follows:—

1.—The corporation hereby subject to the conditions herein-after mentioned consent to the Company obtaining the authority of Parliament to stop up and discontinue and appropriate the said portion of Saint Cuthbert's Lane situate between the points herein-before mentioned. Provided always that either the Company shall first obtain the consent of any adjoining owner abutting on the portion of the lane so to be shut up or that they shall themselves be owners of the property on both sides of the portion so to be shut up.

2.—The Company shall widen the western portion of Saint Cuthbert's Lane extending from Morrison Street on the west to the east side of Canning Street Lane on the east to a uniform width throughout of not less than thirty feet and shall provide the ground necessary for that purpose from the ground lying to the south of the present south side of Saint Cuthbert's Lane.

3.—The Company shall erect on the south side of the said lane as so widened a neat parapet or retaining wall of square dressed masonry surmounted by an iron railing the height of said masonry not to exceed six feet.

4.—The Company shall widen the entrance to Canning Street Lane from Maitland Street to a clear uniform width throughout of not less than thirty feet commencing said widening at the carriageway at the junction of Athole Crescent and Maitland Street and terminating at the point where Athole Crescent Meuse Lane joins Canning Street Lane and the Company shall for that purpose acquire and remove so far as necessary the dwelling-house presently standing at the corner of Athole Crescent (and being No. 1 thereof) and Canning Street Lane with the outhouses and buildings behind the same and the parts and pertinents of the said dwelling-house. The Company shall immediately after the removal of the said dwelling-house (so far as necessary as aforesaid) either repair and finish off in the best manner the gable of the adjoining house in Athole Crescent thereby left exposed or erect a new gable to the portion of the said house No. 1 Athole Crescent so far as not taken down and shall also if and when called on by the corporation erect along the west side of so much of said entrance as widened as the corporation shall think necessary a neat boundary wall of square dressed masonry of the height of six feet.

[Ch. clxvii.] *Caledonian Railway (Edinburgh, [53 & 54 Vict.]
Leith, and Newhaven Extension Lines) Act, 1890.*

A.D. 1890.

5.—The Company shall if and when the corporation shall call upon the Company form a convenient staircase for the use and convenience of the public at the south-western corner of Rutland Square said staircase to be placed at least ten feet clear of the south end of the west side of said square and they shall also form a paved footpath leading therefrom to Canning Street Lane at as near a point as conveniently may be to Saint Cuthbert's Lane the said staircase and footpath to be used as an access for foot passengers and to be of a width not less than ten feet and the Company shall provide the ground necessary for these purposes The corporation shall give to the Company any rights which they have to enable the Company to form the said staircase and the corporation shall maintain the said staircase in all time coming.

6.—In the event of the corporation acquiring the properties Nos. 23 24 and 25 of the deposited plan (sheet No. 1) in the parish of Saint Cuthbert's and the triangular piece of ground immediately adjoining on the north-west of No. 23 measuring said triangular piece of ground forty yards or thereby in length or any part of the same the Company shall repay to the corporation the price of the said lands and property And the corporation shall but subject to the provisions and obligations of Article 5 hereof convey to the Company the said properties as may be so acquired by them except the said triangular piece of ground measuring forty yards or thereby which the corporation shall retain as their own property.

7.—The Company shall grant to the corporation for the nominal payment of 2s. 6d. per annum an area of not less than seventy superficial yards in extent situated under the Company's presently embanked ground adjoining Lothian Road and as near to Princes Street as possible and with a direct access from the foot pavement in Lothian Road for the purpose of the erection on the said area by the corporation of a public convenience similar in design and arrangement to that at Haymarket in the said city Provided always that the said grant shall be terminable by the Company at any time on giving the corporation six months notice in writing.

8.—The Company shall so far as necessary lift and relay the whole of the present causeway in Saint Cuthbert's Lane and Canning Street Lane except where the foot pavements after provided for are to be formed and shall lay down new causeway at those portions of these lanes as widened where there is no causeway at present and they shall form along the north side of Saint Cuthbert's Lane and along the west side of Canning Street Lane as widened a continuous foot pavement of the width of six feet with proper water channels.

9.—In executing the works mentioned in the preceding article the Company shall raise the level of Saint Cuthbert's Lane towards its junction with Canning Street Lane to the extent of two feet and shall adjust the levels of the new surface of both these lanes in conformity with that increased level.

10. The Company shall make over without charge to the corporation a strip of ground lying to the north-west of Broughton Road and between

[53 & 54 VICT.] *Caledonian Railway (Edinburgh, [Ch. cixvii.]
Leith, and Newhaven Extension Lines) Act, 1890.*

Gibson Street and Newhaven Road of sufficient width to enable Broughton Road to be widened between those points to a uniform breadth of fifty feet. A.D. 1890.

11.—The Company shall perform the whole of the foregoing obligations and execute such other works as may be relative thereto or connected therewith all at their own expense and to the reasonable satisfaction of the corporation or its engineer or other person appointed by the corporation for the purpose. Provided always that the obligations on the Company contained in Articles 2 to 10 hereof are conditional on the Company exercising the powers referred to in Article 1 hereof.

12.—If in executing any of the works specified in this Agreement or any works to be executed on or connected with that portion of Saint Cuthbert's Lane to be stopped up and appropriated as aforesaid the Company shall interfere with build or embank over any of the sewers or drains belonging to the corporation they shall either repair or reconstruct the same as may be required by the corporation and all such alterations on or reconstruction of the said sewers or drains and all works connected therewith shall be executed at the expense of the Company and at the sight and to the reasonable satisfaction of the burgh engineer of the city of Edinburgh and according to plans to be submitted to him and approved of before any such alterations reconstruction or other works shall be begun and if the corporation shall incur any expense for or in connexion with any works necessary in reference to such alterations or reconstruction the Company shall make full compensation therefor and such works to be executed by the Company shall be maintained in good and sufficient repair in all time coming by the Company and the corporation shall have at all times the right of access which the Company shall provide to the satisfaction of the corporation or their burgh engineer and at all times maintain free and uninterrupted access to the said sewers and drains for all necessary purposes and for the purpose of laying additional sewers and drains when they shall see fit.

13.—The Company shall execute and complete to the reasonable satisfaction of the corporation or their burgh engineer the whole works herein-before provided for previous to shutting up or appropriating any portion of Saint Cuthbert's Lane.

14.—The amount of the purchase money or compensation to be paid to the governors for and in respect of the taking for the purposes of the Act of such parts of the Trinity Hospital lands as may be entered upon taken or used by the Company shall be fixed and ascertained on the footing of the said lands being feuing lands and shall failing agreement between the governors and the Company be determined by arbitration in manner provided by the Lands Clauses Consolidation (Scotland) Act 1845 for the settlement of disputed compensation and the Company shall free and relieve the governors of and from all claims competent to the feuars and tenants or occupiers of such lands.

15.—For the purposes of proper access to and from and between the said hospital lands severed by the railway the Company shall provide and for ever maintain either bridges or archways over or under the said railway as in the

[Ch. clxvii.] *Caledonian Railway (Edinburgh, [53 & 54 VICT.]
Leith, and Newhaven Extension Lines) Act, 1890.*

A.D. 1890. — opinion of the governors shall be most suitable such accesses to be not fewer than three in number and to be of such dimensions span and headway and to be constructed at such places as the governors may require and to their satisfaction.

16.—The bridges or archways to be so provided shall be of a reasonably ornamental character and design and shall be made and maintained so as to prevent as far as possible the dripping of water therefrom and so as to deaden as far as reasonably practicable the sound of engines carriages and traffic passing over them.

17.—The Company shall construct and for ever maintain culverts for the passage of sewage or other pipes under their railway or works such culverts to be not less than three in number and to be formed at such places and of such dimensions and construction as the governors may prior to the construction of the railway require.

18.—Where the railway is carried over any part of the hospital lands the Company shall plant the slopes with suitable trees or shrubs to the satisfaction of the governors and shall maintain the same so planted in all time coming.

19.—The Company shall enclose with substantial stone walls to the satisfaction of the governors the whole ground part of the said hospital lands which may be acquired by the Company in connexion with their undertaking in order that the same may be properly fenced off from the remainder of the said hospital lands.

20.—The Company shall not execute or commence the erection or construction of any of the bridges archways culverts embankments viaducts walls or other works in connexion with the carrying out of their undertaking on any part of the said hospital lands until they shall have submitted to the governors plans elevations sections and other necessary particulars of the erection or construction of such works and until the governors shall have approved of the same unless the governors shall fail to signify such approval or their disapproval or other directions within one month after so submitting the said plans elevations sections and other particulars as aforesaid and the Company shall comply with and conform to all reasonable directions and alterations made by the governors in the execution and subsequent maintenance of every such bridge archway culvert embankment viaduct wall or other work and all such work shall be done to the reasonable satisfaction of the governors or their architect or engineer or other person appointed by them for that purpose and at the cost charges and expenses in all respects of the Company Provided always that nothing in this Agreement contained shall be held as restricting the powers of the Company with regard to the construction of their said railway.

21.—If any difference shall at any time arise between the Company and the corporation or between the Company and the governors or their respective engineers or other persons acting on their behalf with regard to the works or any of the other relative matters referred to in this Agreement affecting the corporation or governors as the case may be such difference shall be referred

[53 & 54 VICT.] *Caledonian Railway (Edinburgh, [Ch. clxvii.]
Leith, and Newhaven Extension Lines) Act, 1890.*

to and determined by an arbiter to be appointed by the sheriff of the Lothians and Peebles on the application of either the Company or the corporation. A.D. 1890.

22.—The Company shall not affix or exhibit or permit to be affixed or exhibited upon any part of their undertaking situated on the Trinity Hospital lands within view of any road or street any placards bills or advertisements but the names of stations or time tables of the Company tastefully designed shall not fall within this restriction.

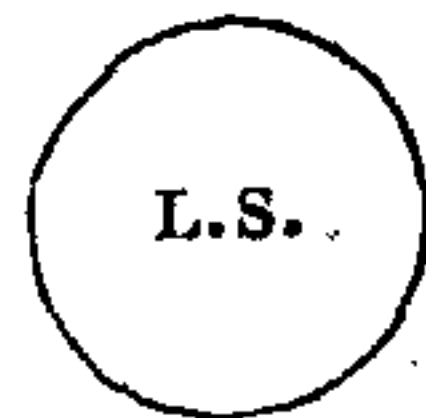
23.—The Company shall not without the written consent of the governors deposit or load manure or town refuse or suffer the same to be deposited or loaded at any station or siding to be formed on the lands to be acquired by them from Trinity Hospital or within fifty yards of any part of the Trinity Hospital lands.

24.—This Agreement is made subject to the approval of Parliament and the same shall be scheduled to and confirmed by the Act.

In witness whereof these presents are executed in duplicate as follows videlicet they are sealed with the common seal of the corporation of Edinburgh and are subscribed by the Right Honourable John Boyd lord provost of the city of Edinburgh and by William Skinner writer to the signet town clerk of the said city in name and by authority of the magistrates and remanent members of council present in council as magistrates and councillors and also as governors and administrators foresaid all at Edinburgh on the fifteenth day of July one thousand eight hundred and ninety before these witnesses:—~~Andrew Grierson clerk in the said town clerk's~~ office and James Russell principal city officer to the corporation of Edinburgh and they are subscribed by Lieutenant-Colonel Sir William Wallace Hozier Baronet and James Badenach Nicolson Esquire two of the directors of the said Caledonian Railway Company for and on behalf of that Company as follows namely by the said Lieutenant-Colonel Sir William Wallace Hozier at Westminster the seventeenth day of the month and year both last-mentioned before these witnesses John Blair writer to the signet Edinburgh and John Stirling Nisbet clerk to the said Caledonian Railway Company at Glasgow and by the said James Badenach Nicolson Esquire also at Westminster on the said last-mentioned date before these witnesses William More clerk to the said Caledonian Railway Company at Glasgow and the said John Stirling Nisbet.

ANDREW GRIERSON Witness.
JAS. RUSSELL Witness.

JOHN BOYD Lord Provost.
WM. SKINNER Town Clerk.



W. MORE Witness.
JNO. S. NISBET Witness.

J. BADENACH NICOLSON Director.

JOHN BLAIR Witness.
JNO. S. NISBET Witness.

WILLIAM W. HOZIER Director.

[Ch. clxvii.] *Caledonian Railway (Edinburgh, [53 & 54 Vict.]
Leith, and Newhaven Extension Lines) Act, 1890.*

A.D. 1890.

The THIRD SCHEDULE referred to in the preceding Act.

MINUTE OF AGREEMENT between the CALEDONIAN RAILWAY COMPANY (herein-after called "the Company") promoters in the present session of Parliament of "A Bill for enabling the " Caledonian Railway Company to make and maintain certain " Railways connecting portions of their Undertaking in Edinburgh Leith and Newhaven and other works in the County " of Midlothian and to raise additional money and for other " purposes" (herein-after called "the Bill" which shall include the Act to follow thereupon) and the PROVOST MAGISTRATES AND COUNCIL of the Burgh of Leith (herein-after called "the Corporation").

First.—Where a bridge is constructed over any road or street the piers shall not project outward beyond the building line of such road or street as such building line shall within twenty-one days after notice by the Company to the corporation be fixed by the corporation the height of such bridges shall be such as to afford a clear headway from side to side of the road or street of not less than sixteen feet above the level of the road or street except in the case of the bridges across Leith Walk and Easter Road the height of which two bridges shall be not less than eighteen feet in place of said sixteen feet All such bridges shall be of an ornamental character suitable to the particular locality and all details as to design and external girders and parapets of such bridges and the mode of protecting the public from water dropping from the railway and bridges shall be carried out and maintained by the Company to the reasonable satisfaction of the corporation and during the construction of such bridges the Company shall to the satisfaction of the corporation make temporary works for the safe and convenient passage of passenger and vehicular traffic.

Second.—Where a bridge is constructed under the roadway of any road or street the Company shall to the satisfaction of the corporation provide during the construction of the permanent bridge a temporary service bridge or road to accommodate the traffic and the design and structure of the permanent bridge and parapets thereof shall be subject to the approval of the corporation and the width of such permanent bridge shall in no case be less than the full width of the road or street but in the case of Lochend Road and Restalrig Road shall not be less than forty feet.

Third.—The Company shall not disfigure their bridges buildings and premises where fronting or seen from any street or road by hoardings for advertisements or by placards or advertisements but the names of stations or time tables of the Company tastefully designed shall not fall within this restriction.

[53 & 54 VICT.] *Caledonian Railway (Edinburgh, [Ch. clxvii.]
Leith, and Newhaven Extension Lines) Act, 1890.*

Fourth.—The Company shall suppress as far as practicable steam whistling and all unnecessary noise in the conduct of their traffic within and near the burgh. A.D. 1890.

Fifth.—Where the gradient is to be altered in any road or street the same shall be made not steeper than 1 in 30 except in the case of Restalrig Road where the gradient shall be not steeper than 1 in 40 on the one side and 1 in 25 on the other side.

Sixth.—The Company shall in constructing the railways authorised by the Bill construct on land or property to be acquired by them under the powers of the Bill passenger stations on the said railways within the burgh of Leith in such positions as conveniently to accommodate and develop the passenger traffic to from and within the said burgh.

Seventh.—The Company shall from time to time when required by notice in writing by the corporation or their inspector or other officer provide within twenty-four hours after service of such notice at the dung or manure siding and loading bank which the Company hereby bind themselves to construct and shall construct with proper accesses at their reclaimed land in South Leith and also provide at the present loading bank and siding at Lixmount North Leith which shall be maintained a sufficient number of trucks to receive any quantity of dung or manure and street refuse belonging to the corporation not being less than twenty-five tons which shall be specified in the said notice and shall convey such dung or manure and street refuse to any other station on the railways belonging to the Company not being less than three miles distant or to any station beyond the said distance on any other railway directly communicating with those railways which may be leased or worked by the Company upon payment of not exceeding three halfpence per ton per mile for distances under six miles and of not exceeding one penny per ton per mile for distances of six miles or upwards. Provided that the corporation shall provide persons to perform the duty of loading and unloading the said trucks and shall in case the said trucks are detained at either station for a longer period than twenty-four hours pay demurrage at the rate of sixpence per truck for each day or part of a day thereafter. Provided further that the above rates shall be without prejudice to any lesser rates that may be fixed under the provisions of the Railway and Canal Traffic Act 1888 or any future Act of Parliament.

Eighth.—For the purposes of the protection of the pipe and conduit known as the "Lochend Water Pipe" that pipe and conduit shall be deemed to be a drain within the meaning of the Bill.

Ninth.—On the completion of the proposed lines the Company shall work the railways authorised so as to accommodate and develop the local and through passenger and other traffic over the lines of the Caledonian Railway Company to from and within the burgh of Leith and trains between Leith and Edinburgh and vice versa shall be run in connexion with through trains of the Company from and to West Princes Street Station. Provided always that this provision as regards through passenger traffic shall only apply while

[Ch. clxvii.] *Caledonian Railway (Edinburgh, [53 & 54 VICT.]
Leith, and Newhaven Extension Lines) Act, 1890.*

A.D. 1890. — the Company have not a more direct railway than their existing one between Edinburgh and Leith.

Tenth.—Notwithstanding that under the provisions of the Bill the maximum passenger fares are first class twopence per mile second class three halfpence per mile and third class one penny per mile the Company shall not charge higher fares between the said West Princes Street Station and any station within the burgh of Leith than fourpence for each first class single journey passenger and threepence for each third class single journey passenger Provided always that this provision also shall only apply while the Company have not a more direct railway than their existing one between Edinburgh and Leith.

Eleventh.—The embankments to be formed within the burgh of Leith shall be planted and kept planted by the Company with trees or shrubs or otherwise so as to preserve the amenity of the district to the reasonable satisfaction of the corporation and where any of the railways is carried on arches pillars or girders facing any road or street the arches pillars or girders shall be of a kind suitable to the locality and the spaces underneath any of the railways shall not be used for any purpose detrimental to the amenity of the district Provided always that the provisions of this article shall not apply to the planting of the slopes or to any of the other provisions with respect to accommodation works or otherwise within the boundaries of the lands presently belonging to the governors of Trinity Hospital.

Twelfth.—In the event of any difference arising between the Company and the corporation under this Agreement or in the matters thereof after the Bill has passed Parliament such difference shall be determined in the same manner as differences with regard to plans under the provisions of the Bill.

Thirteenth.—The whole costs and expenses incurred by the corporation including the town clerk's and burgh surveyor's accounts in connexion with this Agreement and the Bill shall be borne and paid by the Company.

Fourteenth.—This Agreement is subject to the approval of Parliament.—IN WITNESS WHEREOF

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