

[44 & 45 VICT.] *North British Railway (New Tay Viaduct) Act, 1881.* [Ch. cxxxvii.]



CHAPTER cxxxvii.

An Act to provide for the Restoration of the Railway Communication across the Tay near Dundee; and for other purposes. A.D. 1881.
[18th July 1881.]

WHEREAS by the North British Railway (Tay Bridge and Railways) Act 1870 (in this Act called "the Act of 1870") the North British Railway Company (in this Act called "the Company") were authorised to make the bridge across the Tay near Dundee and the railways therein described and the same were made and opened for public use in or about the month of June 1878: 33 & 34 Vict.
c. cxxxv.

And whereas by the Newport Railway Act 1870 the Newport Railway Company were authorised to make the railway therein described to connect their authorised railway at Ferryport-on-Craig with the Tay Bridge Railway and such railway was completed and opened for public use and by virtue of an agreement between the Company and the Newport Railway Company scheduled to and confirmed by the Newport Railway Act 1873 (section 7) was worked by the Company: 33 & 34 Vict.
c. cliii.

And whereas for restoring the communication by railway across the Tay which has been interrupted by the destruction of the said bridge it is expedient that the Company should be authorised to construct the railways herein-after described: 36 & 37 Vict.
c. civ.

And whereas it is expedient that those portions of the North British and Newport Railways respectively which will be rendered unnecessary by the construction of the intended railways should be abandoned:

And whereas the Company have available towards the purposes of this Act a sum of seventy thousand pounds or thereabouts being the residue of a sum of one hundred and twenty thousand pounds reserved from the profits of the Company for the half year ending the 31st day of January 1880 to meet claims for compensation and other expenses incident to the destruction of the bridge and make provision for its restoration:

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And whereas plans and sections showing the line or situation and levels of the proposed railways and 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 or under the powers of this Act have been deposited with the principal sheriff clerk for the county of Fife at his offices at Kirkcaldy Dunfermline and Cupar respectively and with the principal sheriff clerk for the county of Forfar at his offices at Dundee and Forfar respectively and are herein-after respectively referred to as the deposited plans sections and books of reference :

And whereas the objects aforesaid cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows :—

Short title.

1. This Act may be cited for all purposes as the North British Railway (New Tay Viaduct) Act 1881.

Incorporation of general Acts. 8 & 9 Vict. c. 17.

2. The provisions of the Companies Clauses Consolidation (Scotland) Act, 1845 with respect to the several matters following (that is to say) the distribution of the capital of the Company into shares the transfer or transmission of shares the payment of subscriptions and the means of enforcing payment of calls the forfeiture of shares for the non-payment of calls the remedies of creditors of the Company against the shareholders and the consolidation of shares into stock and Parts I. II. and III. of the Companies Clauses Act 1863 relating respectively to cancellation and surrender of shares to additional capital and to debenture stock the Lands Clauses Consolidation (Scotland) Act 1845 the Lands Clauses Consolidation Acts Amendment Act 1860 the Railways Clauses Consolidation (Scotland) Act 1845 and Part I. of the Railways Clauses Act 1863 relating to construction of a railway are (except where expressly varied by this Act) incorporated with and form part of this Act and such Acts and parts of Acts are herein-after referred to as the incorporated Acts.

26 & 27 Vict. c. 118.

8 & 9 Vict. c. 19.

23 & 24 Vict. c. 106.

8 & 9 Vict. c. 33.

26 & 27 Vict. c. 92.

Power to make railways.

3. Subject to the provisions of this Act the Company may make and maintain in the line or within the limits of lateral deviation and according to the levels shown on the deposited plans and sections the railways herein-after described with all proper stations approaches works and conveniences connected therewith respectively and may enter upon take and use such of the lands delineated on

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the deposited plans and described in the deposited books of reference as may be required for that purpose. The railways herein-before referred to and by this Act authorised are:— A.D. 1881.

1. A railway (in this Act called "Railway No. 1") 3 furlongs and 6·10 chains in length commencing in the parish of Forgan in the county of Fife by a junction with the North British Railway and terminating in the same parish on the bed or soil of the Firth of Tay adjoining thereto at or about low-water mark ;
2. A railway (in this Act called "Railway No. 2") 1 mile 7 furlongs and 9·30 chains in length to be constructed upon viaduct and to commence by a junction with Railway No. 1 at or near the termination thereof and to terminate by a junction with the North British Railway in the united parishes of Liff Logie Benvie and Invergowrie in the county of Forfar ;
3. A railway (in this Act called "Railway No. 3") 5 furlongs and 0·75 chains in length commencing in the said parish of Forgan by a junction with the Newport Railway 820 yards or thereabouts measured along the railway in a north-easterly direction from the bridge carrying the turnpike road from Kilmany by Wormit to Newport over the said Newport Railway and terminating by a junction with Railway No. 1 25 yards or thereabouts southwards from the termination thereof ;
4. A railway (herein-after called "Railway No. 4") 1 furlong and 4·10 chains in length to be wholly situate in the said parish of Forgan and to commence by a junction with Railway No. 3 30 yards or thereabouts measured in a south-easterly direction from the said bridge and to terminate by a junction with Railway No. 1 280 yards or thereabouts south-eastward from the said bridge.

4. The quantity of land which the Company may take by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation (Scotland) Act 1845 shall not exceed two acres. Lands for extraordinary purposes.

5. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act. Period for compulsory purchase of lands.

6. Persons empowered by the Lands Clauses Consolidation (Scotland) Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Power to take easements, &c. by agreement.

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A.D. 1881. Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement right or privilege not being an easement of water required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Railways Nos. 1 and 2 to be double lines.

7. Railways No. 1 and No. 2 shall respectively be constructed as double lines of railway.

Construction of viaduct near Dundee Esplanade.

8. Between the western abutment of the opening provided for the existing esplanade and street at Dundee shown on the deposited section of Railway No. 2 and the eastern abutment of the two skew openings also shown on the said section the viaduct shall be constructed of iron piers and girders unless the magistrates and town council of Dundee agree to a different mode of construction.

Dimensions of four spans and openings for purposes of navigation.

9. And whereas four spans of the viaduct are shown upon the deposited sections as of the height of seventy-seven feet above high-water level at ordinary spring tides and have been approved of by the Board of Trade for the purpose of navigation: Be it enacted that those four spans shall be constructed in the position shown on the said sections and shall respectively be not less than two hundred and forty-five feet from centre to centre of the piers of the same and the openings between the piers shall respectively be not more than two hundred and thirty-two feet and not less than two hundred and fifteen feet in width and each opening shall have a clear height of not less than seventy-seven feet above high-water level at ordinary spring tides.

Navigable channels through the openings &c. to be maintained by the Company.

10. The Company shall at all times keep the river bed between the piers of the said four openings to the extent of not less than two hundred and fifteen feet in each opening and the navigable channel on each side of the viaduct leading from the fairway of the river to the said four openings clear and of a sufficient depth of water and otherwise in a condition to admit of vessels being navigated through the said openings to the satisfaction of the Board of Trade.

Foundation cylinders to be tested.

11. Every cylinder foundation of the piers of the viaduct shall be properly tested to at least thirty-three per centum above the maximum weight to which it will be subjected and to the satisfaction of the Board of Trade.

Penalty imposed unless rail-

12. If the Company fail within the period limited by this Act to complete the railways by this Act authorised they shall be liable

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to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railways are completed and opened for public traffic or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the railways or railway not completed and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act or by the Solicitor of Her Majesty's Treasury and in the same manner as the penalty provided in section 3 of the Railway and Canal Traffic Act 1854 and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in that section to an account opened or to be opened in the name and with the privity of the Queen's remembrancer of the Court of Exchequer in Scotland in the bank 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 was prevented from completing or opening the 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.

A.D. 1881.
—
ways are opened within the time limited.

17 & 18 Vict. c. 31.

13. Every sum of money so recovered by way of penalty for the non-completion of the railways by this Act authorised 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 such railways or any portion thereof or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act and for which injury or loss no compensation or inadequate compensation shall have been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Exchequer in Scotland may seem fit and if no such compensation shall be payable or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation then the said sum or sums of money recovered by way of penalty or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Court of

Application of penalty.

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A.D. 1881. Exchequer in Scotland thinks fit to order on the application of the Solicitor of Her Majesty's Treasury and shall be carried to and form part of the Consolidated Fund of the United Kingdom or in the discretion of the Court if the Company is insolvent and has been ordered to be wound up or a receiver has been appointed shall wholly or in part be paid or transferred to such receiver or to the liquidator or to liquidators of the Company or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

Period for completion of works.

14. If the railways by this Act authorised and described on the deposited plans 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 or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Tolls.

15. Subject to the provisions of this Act the railways and works by this Act authorised (other than Railway No. 3) shall with respect to tolls and charges and in all other respects form part of that portion of the undertaking of the Company with which they unite.

Tolls in respect of the viaduct.

16. And whereas the length of the viaduct will be about two miles and the entire length of the railways by this Act authorised is three miles two furlongs and twenty-five links and the estimated expense of the undertaking is six hundred and seventy-thousand pounds: Be it enacted that in addition to the tolls which the Company may demand and take in respect of the railways by this Act authorised for traffic passing over the railways the Company may demand and take for the conveyance of passengers animals and things passing over the viaduct including the tolls and charges for the user thereof and for carriages and locomotive power and every other expense incidental to the conveyance tolls and charges for ten miles in addition to the tolls and charges they may demand and take in respect of the railways by this Act authorised.

Protection of Caledonian Railway and Joint Line traffic.
42 & 43 Vict.
c. clv.

17. Section 42 of the North British Railway (Tay Bridge and Railways) Act 1870 except so far as it is varied or altered by the North British Railway (Dundee and Arbroath Joint Line) Act 1879 and sub-section 28 of section 8 of the last-mentioned Act shall apply to the Railway No. 2 and the viaduct authorised by this Act as fully as if such railway and viaduct were the railways and bridge authorised to be constructed under the provisions of the North British Railway (Tay Bridge and Railways) Act 1870.

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18. And whereas before the destruction of a portion of the said bridge over the Tay took place there had by virtue of an arrangement between Her Majesty's Postmaster-General and the Company been erected along such bridge a tube containing certain telegraphic wires in connexion with the wires of and for the use of the Postmaster-General and also containing certain other wires belonging to the Company and part of the cost of the erection of such tube and wires and connexions and also certain charges for the maintenance of the same had been paid by Her Majesty's Postmaster-General to the Company and such arrangement and payments were made in lieu and satisfaction of the provisions as to the use by the Company of two wires in the telegraph cables of the Postmaster-General across the Firth of Tay as mentioned in Article 5 of the agreement dated the sixteenth day of July one thousand eight hundred and sixty-eight between Her Majesty's Postmaster-General and the Company which is referred to in the Schedule to the Telegraph Act 1868 And whereas it is fitting that provision should be made for the erection of a tube and telegraph wires therein in substitution for the tube and wires on the said bridge of which a portion has been destroyed with the said bridge and for the maintenance thereof be it enacted that before Railway No. 1 and Railway No. 2 are opened for public traffic the Company shall at their sole cost erect along those railways a suitable iron tube containing (in addition to any wires of their own they may place therein) not less than nine sufficient telegraphic wires appropriated therein for the sole use of Her Majesty's Postmaster-General and shall efficiently connect the same nine wires with the Postmaster-General's telegraphic wires on each side of the Firth of Tay and the Company shall thereafter maintain in an efficient state the said tube and the wires appropriated for the use of the Postmaster-General and the said connexions for which maintenance a reasonable payment shall be made by the Postmaster-General to the Company and if any question at any time arises as to the suitability sufficiency or efficiency of the said tube wires or connexions or as to the use or maintenance thereof or the payments to be made by the Postmaster-General in respect of the maintenance thereof that question shall be determined by arbitration in the manner provided by Article 13 of the said agreement of the sixteenth day of July eighteen hundred and sixty-eight.

A.D. 1881.
Restoration
of telegraph
communi-
cation.

31 & 32 Vict.
c. 110.

19. The agreement between the Company and the Dundee Water Commissioners and the addition thereto respectively set forth in the Second Schedule to the North British (General Powers) Act 1879 and by that Act confirmed shall continue in force and be

Agreement
with Dundee
Water Com-
missioners.
42 & 43 Vict.
c. xlviij.

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A.D. 1881. binding on both the parties thereto but shall be applicable to the new viaduct by this Act authorised instead of the bridge referred to in that Act: And the Company shall pay to the Commissioners the sum of one thousand pounds towards the cost to be incurred by them in providing and laying down their water pipe on the new viaduct and shall also permit and allow the Commissioners free of charge to make and maintain at their own cost all proper connexions between the water pipe so to be laid and the existing lines of pipes of the Commissioners on the north and south sides of the Tay so far as such connexions may require to pass on or through any property of the Company or of the Newport Railway Company: Provided that the Commissioners shall take away and remove their pipes from the portions of the old bridge still standing: Provided further that all the works referred to in this section shall be done at the sight and to the satisfaction of the engineer for the time being of the Company and subject to such regulations as the Company shall fix so as not to interfere with the regular working of traffic over the Company's viaduct and the railways of the Company and the Newport Railway Company.

Freighted sailing ships of 40 tons to be towed under viaduct by the Company.

20. After the construction of the viaduct across the Tay has been commenced all sailing ships of not less than forty tons register bound to or from Perth or Newburgh or any port or landing-place above the viaduct within the jurisdiction of the magistrates and town council of Perth as conservators of the river and freighted or laden with cargo shall be towed by or at the expense of the Company through one of the openings of the viaduct and for a distance of one mile above and one mile below the viaduct. This obligation may be enforced by the magistrates and town council of either Perth or Newburgh or by any persons interested.

Parts of Railway No. 1 to be abandoned and ruins of the bridge to be removed.

21. The Company shall abandon and cause to be disused as a railway so much of the North British Railway as lies between the respective points of junction therewith of Railway No. 1 and Railway No. 2 and shall remove the ruins and débris of the old bridge and all obstructions interfering with the navigation caused by the old bridge to the satisfaction of the Board of Trade and the Company may appropriate and use for the purposes of their undertaking all or so much of the site of the railway so abandoned as lies above low-water mark and shall within ten years from the passing of this Act and subject to the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the sale of lands not required for the purposes of the undertaking sell all such parts of the site of the railway abandoned above low-water mark as shall not be required for those purposes.

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22. Railway No. 3 when completed shall for the purpose of tolls and charges and for all other purposes form part of the Newport Railway and shall be subject to the provisions of the Acts relating to that Company and to the said agreement between the Company and the Newport Railway Company for working the same as if it had originally formed part of the undertaking of the Newport Railway Company instead of the part thereof to be abandoned and disused as a railway under the provisions of this Act.

A.D. 1881.
Railway No. 3 to form part of the Newport Railway.

23. So much of the Newport Railway as lies between the point of junction therewith of Railway No. 3 and the present junction thereof with the North British Railway shall be abandoned and disused as a railway and the Company and the Newport Railway Company may respectively appropriate and use the site of such parts thereof as they may respectively require for the purposes of their undertaking and so much as shall not be required for those purposes shall be subject to the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the sale of lands not required for the purposes of the undertaking be sold within ten years from the passing of this Act.

Parts of Newport Railway to be abandoned.

24. The purchase moneys of all lands which may be sold under the powers of this Act whether forming parts of the site of the North British Railway or of the Newport Railway shall be applicable only to the purposes for which money to be raised under the powers of this Act by the creation of shares or stock may be applied.

Application of purchase moneys.

25. The Company and the Newport Railway Company may respectively from time to time enter into agreements with respect to the appropriation and use for the purposes of their respective undertakings of the site of that part of the Newport Railway which is to be abandoned and disused as a railway under the provisions of this Act and for otherwise carrying into effect the provisions of this Act so far as they relate to the Newport Railway and Railway No. 3.

Company and Newport Railway Company may enter into agreements.

26. The Company may apply to the purposes of this Act any money or funds now under their control or which they are authorised to raise by any other Act and which may not be required for purposes to which by that Act it is authorised to be applied.

Power to apply corporate funds to purposes of Act.

27. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 and of this Act raise by the creation and issue at their option of new ordinary shares or stock or new preference shares or stock or subject to the provisions of Part III. of the Companies Clauses Act 1863 and of this Act by redeemable debenture stock or wholly or partially by one or more of

Power to raise additional capital.

A.D. 1881. — those modes respectively any additional capital not exceeding in the whole the amount of six hundred thousand pounds.

Shares, &c. to form part of Company's general capital.

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

Shares not to be issued until one fifth paid.

29. It shall not be lawful for the Company to issue any share to be created under the powers of this Act nor shall any such share vest in the person accepting the same unless and until a sum not being less than one-fifth part of the amount of such share shall have been paid up in respect thereof.

Calls.

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

Provisions in the event of the Company creating redeemable debenture stock.

31. If the Company raise the capital by this Act authorised or any proportion thereof by redeemable debenture stock the following provisions shall apply:—

- (1) The total amount of such debenture stock to be created shall not exceed six hundred thousand pounds and all such stock shall rank after all other debenture stock and all mortgages and debentures of the Company created or granted or which may be created or granted by or under any Act already passed or hereafter to be passed relating to the Company;
- (2) The stock shall be entitled to interest at a rate not exceeding four pounds per centum per annum and shall be redeemable at the expiration of ten or twenty or thirty years from the passing of this Act as may be agreed upon between the Company and each person taking any portion of the stock;
- (3) The Company shall form a sinking fund for the redemption of the stock and shall in each half year after the issue of any portion of the stock carry to such sinking fund from the profits of the Company which shall remain after payment of all interest on mortgages and debenture stock and of all preferential dividends upon the guaranteed lien and preference stocks of the Company existing at the time of the passing of this Act such an amount as the Company from time to time determine not being less than three thousand pounds in any half year;
- (4) They may from time to time add to the sinking fund any money or funds for the time being belonging to them and which may not have been appropriated to any special purpose by Act of Parliament or having been so appropriated may not be required for such special purpose;

- (5) The annual income of the sinking fund shall be added to the principal;
- (6) All moneys carried to the sinking fund shall be invested by the Company in their name or in the names of trustees in such securities as the Company from time to time think proper (being such as trustees may by law invest trust moneys in) and the Company may from time to time change any such securities as they may think fit;
- (7) The Company may at any time or times buy up any of the redeemable debenture stock and may raise the amount required for the purchase thereof or for the redemption of any debenture stock which has become redeemable by selling out the whole or so much of the sinking fund as may be necessary for the purpose;
- (8) At the expiration of the respective periods of ten twenty and thirty years from the passing of this Act the Company may create and issue such an amount of North British ordinary stock as may then be required for raising a sufficient fund to redeem so much of the debenture stock as may then be redeemable but the total aggregate amount of ordinary stock which the Company may so create shall not exceed one million pounds;
- (9) All redeemable debenture stock which shall be purchased or redeemed by the Company shall as and when the same is so purchased or redeemed be cancelled;
- (10) If at the expiration of thirty years from the passing of this Act all the redeemable debenture stock by this Act authorised has not been bought up or redeemed by the Company the Company shall not pay any dividends upon their ordinary stock until the whole of the said debenture stock shall have been bought up or redeemed;
- (11) The terms and conditions upon which any of the said redeemable debenture stock is issued shall be distinctly stated in or endorsed upon the certificate of such stock.

32. The Company in addition to any sums which they are authorised to borrow under other Acts of Parliament may from time to time borrow on mortgage as herein-after mentioned any sums not exceeding in the whole two hundred thousand pounds (that is to say) when two hundred and ten thousand pounds of the new capital of six hundred thousand pounds by this Act authorised to be raised has been issued and accepted and one half thereof is paid up and certified as herein-after mentioned they may borrow on mortgage any sums not exceeding seventy thousand pounds and when a

Power to borrow.

A.D. 1881.

further sum of two hundred and ten thousand pounds of the said new capital of six hundred thousand pounds has been issued and accepted and one half thereof is paid up and certified as herein-after mentioned they may borrow on mortgage a further sum of seventy thousand pounds making with the first mentioned sum of seventy thousand pounds the sum of one hundred and forty thousand pounds and when the remaining one hundred and eighty thousand pounds of the said new capital of six hundred thousand pounds has been issued and accepted and one half thereof is paid up and certified as herein-after mentioned they may borrow on mortgage the remaining sixty thousand pounds of the said sum of two hundred thousand pounds but no such borrowing powers shall be exercised by the Company until they shall prove to the sheriff who is to certify under the 42nd section of the Companies Clauses Consolidation (Scotland) Act 1845 before he so certifies that all the additional capital in respect whereof the borrowing powers are in each case sought to be exercised has been issued and accepted and that one half thereof has been paid up and that not less than one-fifth part of the amount of each separate share or the whole amount in the case of stock has been paid on account thereof before or at the time of the issue or acceptance thereof and that such capital was issued bonâ fide and is held by the persons or corporations to whom the same was issued or their executors administrators successors or assigns and that such persons or corporations their executors administrators successors or assigns are legally liable for the same and upon production to such sheriff of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proofs aforesaid have been given which certificate shall be sufficient evidence thereof.

Repeal of provisions of 43 & 44 Vict. c. clxvii. for appointment of a judicial factor.

33. The provisions of the North British Railway (Amalgamations &c.) Act 1880 authorising the appointment of a judicial factor for principal or interest moneys due upon any mortgages of the Company are hereby repealed but subject and without prejudice to any appointment of a judicial factor or proceedings taken under or by virtue of such provisions and in force or pending at the time of the passing of this Act.

Appointment of a judicial factor.

34. The mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a judicial factor. In order to authorise the appointment of a judicial factor in respect of arrears of principal the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than ten thousand pounds in the whole.

35. 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 thereof shall during the continuance of such mortgages and as regards the undertaking comprised in and assigned by such mortgages and subject to the provisions of the Acts under which such mortgages were respectively granted have priority over all mortgages to be granted by virtue of this Act but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

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Existing mortgages to have priority.

36. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 but notwithstanding anything therein contained the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank *pari passu* with the interest of all mortgages at any time after the passing of this Act granted by the Company and shall have priority over all principal moneys secured by such mortgages.

Debenture stock.

37. If the Company raise the capital by this Act authorised by redeemable debenture stock the powers by this Act granted for raising money by mortgage or by debenture stock in lieu of borrowing shall not be exercised.

Borrowing powers not to be exercised in certain event.

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

Application of moneys.

39. Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the Queen's Majesty her heirs or successors.

Saving rights of the Crown in the foreshore.

40. The Company shall not out of any money by this or any other Act authorised to be raised pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation (Scotland) Act 1845.

Interest not to be paid on calls paid up.

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

41. The Company shall not out of any money by this or any other Act authorised to be raised pay or deposit any sum which by any standing order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking.

Provision as
to general
Railway Acts.

42. Nothing in this Act contained shall exempt the railways of either of the companies named therein 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 any Act relating to the said companies or either of them.

Expenses of
Act.

43. 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.