



CHAP. cxxxv.

An Act to authorise the North British Railway Company to make Railways and a Bridge across the Tay near Dundee to connect their system with the railways of the Caledonian Railway Company east and west of Dundee ; and for other purposes.

[1st August 1870.]

WHEREAS—

- (1.) A railway from the North British Railway in the parish of Leuchars in the county of Fife to the turnpike road leading from Newport to Kilmany in the parish of Forgan in the same county, and
- (2.) A railway thence, with a bridge across the river Tay, to near Craig Pier House, at Ferry Harbour in the parish and royal burgh of Dundee in the county of Forfar, and
- (3.) A railway thence to the railway belonging to the trustees of the harbour of Dundee (in this Act called “the harbour trustees”), near the station on the Caledonian (late Dundee and Arbroath) Railway (in this Act called “the Arbroath Railway”), in the said parish of Dundee, and
- (4.) A railway in the same parish, to connect the railway secondly herein-before described with the Caledonian (late Dundee, Perth, and Aberdeen Junction) Railway,

would be of public advantage ; and the Company are willing, if authorised by Parliament, to make such railways and bridge :

And whereas a plan and section of the intended railways and bridge, showing the line and levels thereof respectively, and a book of reference to the said plan, containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands which may be required for the purposes of the undertaking, have been deposited with the principal sheriff clerks of the counties of Fife and Forfar respectively, which plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books of reference respectively :

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— And whereas it is expedient that the said intended railways and bridge should form a separate undertaking, subject to the provisions in that behalf contained in "The North British Railway (Financial Arrangements) Act, 1867," and "The North British Railway (General Powers) Act, 1868," and that the Company should be empowered to enter into agreements with the subscribers to the capital for the separate undertaking with respect to the security for such capital, and with respect to the application thereof, and with respect to the construction and maintenance of the said separate undertaking, and the application of the revenues to be derived therefrom :

And whereas the harbour trustees are greatly interested in the said separate undertaking being carried into effect, and have entered into the agreement with the Company set forth in the schedule to this Act annexed, and it is expedient that the said agreement should be confirmed :

And whereas the railways thirdly and fourthly herein-before described, and the intervening portions of the railway secondly herein-before described, will, together with a small portion of railway belonging to the harbour trustees, form a line of railway communication connecting the railways of the Caledonian Railway Company east and west of Dundee, and will be constructed for the most part on land belonging to the harbour trustees, and will render in a great measure unnecessary certain railways belonging to the said trustees ; and it is expedient that the Company and the Caledonian Railway Company should be authorised to enter into agreements with respect to the construction, maintenance, working, and use of such of the said railways as are north of the river or firth of Tay, and form together a line of railway communication between the railway of the harbour trustees near the said station of the Caledonian Railway Company on the Arbroath Railway and the Caledonian (late Dundee, Perth, and Aberdeen Junction) Railway (in this Act called the Aberdeen Junction Railway), or some of them, or some part or parts thereof respectively :

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 of the 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 (Tay Bridge and Railways) Act, 1870."

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 nonpayment 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 Parts I. and III. of "The Railways Clauses Act, 1863," relating respectively to construction of a railway and to working agreements, 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.

3. Subject to the provisions of this Act and of the incorporated Acts, the Company may make and maintain, in the line 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 the deposited plans and described in the deposited books of reference as may be required for that purpose. The railways and works herein-before referred to are:

A railway (in this Act called Railway No. 1.) five miles four furlongs and six chains in length, commencing in the parish of Leuchars in the county of Fife by a junction with the North British Railway, and terminating in the parish of Forgan in the same county:

A railway with a bridge for carrying the said railway over the river or firth of Tay (in this Act called Railway No. 2.) two miles seven furlongs four chains and ten links in length, commencing by a junction with Railway No. 1. in the said parish of Forgan, and terminating in the parish and royal burgh of Dundee in the county of Forfar:

A railway (in this Act called Railway No. 3.) five furlongs four chains and eighty links in length, commencing by a junction with Railway No. 2. at or near the termination thereof, and terminating in the said parish of Dundee by a junction with the railway belonging to the harbour trustees near the said

Provisions of general Acts herein named incorporated.

Power to make railways and bridge according to deposited plans.

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station on the Arbroath Railway at a point west of the crossing numbered 82 in the said parish on the deposited plans:

A railway (in this Act called Railway No. 4.) one furlong five chains and seventy links in length, commencing by a junction with Railway No. 2., and terminating in the same parish by a junction with the Aberdeen Junction Railway.

Limits of deviation.

4. In constructing the railways and works by this Act authorised, the Company may deviate from the line and levels defined on the deposited plans and sections to such extent as they think fit, not exceeding laterally the limits of deviation defined on the deposited plans, and not exceeding vertically the limits prescribed by "The Railways Clauses Consolidation (Scotland) Act, 1845," except so far as relates to Railway No. 2., with respect to which the Company may deviate to any extent they think fit from the levels as referred to the common datum described on the deposited sections not exceeding ten feet, or, so far as relates to the bridge across the Tay, such extent as may be prescribed by the Board of Trade.

Lands to be taken from the Dundee Harbour Trustees not to exceed ten yards in width.

Number and position of piers and dimensions of openings of bridge to be prescribed by Board of Trade.

Part of Rail-way No. 2. to be con-structed upon arches, instead of solid em-bankment.

As to height and span of arch or openings of bridge over the espla-nade and street at Dundee.

5. The lands to be compulsorily taken or acquired from the harbour trustees permanently for the purposes of this Act shall not, unless with the consent in writing of the trustees previously had and obtained, at any place exceed ten yards in breadth, provided that the underground retaining walls, works, and abutments of the tunnel may extend to a greater breadth.

6. Notwithstanding anything contained in this Act or the deposited plans, the number and position of the piers of the bridge across the Tay, and the width and the height of the spans or openings between the piers, shall be such as shall be prescribed by the Board of Trade.

7. Railway No. 2. shall be constructed upon arches from the northern termination of the bridge over the Tay to the eastern extremity of the Magdalen Yard, instead of being formed upon an embankment as shown on the deposited plan and section.

8. The height and span of the opening or arch of the bridge to be constructed for carrying Railway No. 2. over the esplanade and street now being constructed, and which has to be constructed in virtue of "The Dundee Sea Wall Esplanade and Street Act, 1868," shall not be of less dimensions than the dimensions following; (that is to say,) of a clear height not less than eighteen feet, and of a clear span not less than one hundred feet: Provided always, that in carrying out the works by this Act authorised it shall not be lawful for the Company to divert the said esplanade and street, or alter the

levels thereof, without the consent of the magistrates and town council of Dundee. A.D. 1870.

9. The position, width, and height of the openings or arches of the bridge to the south and west of the Buckingham Point, Magdalen Yard, shall be such as to admit of the said esplanade and street being carried westward below the bridge in any future continuation of such esplanade and street towards the shore on the west part of the Magdalen Yard.

Bridge to the south and west of Buckingham Point to be so constructed as to admit of future continuation of esplanade and street. Saving rights of magistrates of Dundee as to petty customs, and Company may compound for same.

10. And whereas the magistrates and town council of the burgh of Dundee have been in use to levy dues or petty customs on animals, goods, articles, and things brought into, carried through, or taken out of the said burgh: Be it enacted, that nothing in this Act contained shall prejudice or affect the right of the said magistrates and council to levy the said dues or petty customs on animals, goods, articles, and things brought into, carried through, or taken out of the said burgh by the railways by this Act authorised; or any of them; and the Company may compound and agree with the said magistrates and council for the payment of a fixed annual sum or other composition in lieu of the said dues or petty customs, or the said magistrates and council may from time to time lease the said dues and petty customs to the Company for such period and for payment of such rent or other consideration as may be agreed on, and the Company and the said magistrates and council may enter into and carry into execution such agreements, leases, or other deeds as may be necessary or expedient for these purposes, containing such conditions and provisions as shall be mutually agreed upon between them.

11. Nothing in this Act contained shall prejudice or affect any legal rights of the said magistrates and council of Dundee, under their royal charters and charters of incorporation or otherwise, in and over the river Tay and the foreshore thereof, or any legal rights of salmon fishings and other fishings in the said river, or other rights or privileges belonging to or enjoyed by the said magistrates and town council, and all such legal rights and privileges shall remain entire and unaffected by the provisions of this Act.

Saving rights of magistrates, &c. of Dundee in respect of foreshore fishings.

12. The railways and works by this Act authorised shall form part of the undertaking of the Company, but subject and without prejudice to the provisions of this Act for forming the said railways and works into a separate undertaking.

Railways and works to form part of Company's undertaking.

13. The quantity of land to be taken by the Company for the extraordinary purposes mentioned in "The Railways Clauses Consolidation (Scotland) Act, 1845," in connexion with the railways by this Act authorised, shall not exceed five acres.

Lands for stations and extraordinary purposes.

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Limiting time for compulsory purchase.

Power to cross a certain road on the level.

14. 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.

15. Subject to the provisions in "The Railways Clauses Consolidation (Scotland) Act, 1845," and in Part I. (relating to the construction of a railway) of "The Railways Clauses Act, 1863," contained in reference to the crossing of roads on the level, the Company may in the construction of the railway carry the same with a single line of railway only whilst the railway shall consist of a single line, and afterwards with a double line of railway only, across and on the level of the road next herein-after mentioned; (that is to say,)

| No. on deposited plan. | Parish. | Description of road. |
|------------------------|----------------|----------------------|
| 70 | Leuchars - - - | Turnpike. |

Inclinations of certain roads.

16. In altering for the purposes of this Act the roads next herein-after mentioned, the Company may make the same of any inclinations not steeper than the inclinations herein-after mentioned in connexion therewith respectively; (that is to say,)

| No. on deposited plan. | Parish. | Description of road. | Intended inclination. |
|------------------------|-------------|----------------------|-----------------------|
| 5 | Kilmany - - | Parish road - | 1 in 14 on one side. |
| 6 | Forgan - - | Turnpike - - | 1 in 24. |

Height and span of bridge.

17. The Company may make the arch of the bridge for carrying the railway over the road next herein-after mentioned of any height and span not less than the height and span herein-after mentioned; (that is to say,)

| No. on deposited plan. | Parish. | Description of road. | Height. | Span. |
|------------------------|--------------|----------------------|---------|-------|
| 38 | Leuchars - - | Road - - | 14 | 20 |

Certain road may be shut up.

18. The Company, if they think fit, may shut up and cause to be discontinued as a road so much of the road numbered 77 in the parish of Dundee on the deposited plans as is shown to be occupied by open cutting on the said plans.

Notice to be given of taking

19. The Company shall not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly

or partially by persons belonging to the labouring classes as tenants or lodgers make known their intention to take the same by placards, handbills, or other general notice, placed in public view upon or within a reasonable distance from such houses, and the Company shall not take any such houses until they have obtained the certificate of a sheriff substitute or his deputy that it has been proved to his satisfaction that the Company have made known their intention to take the same in manner herein-before required.

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houses of
labouring
classes.

20. Except so far as necessary for the purpose of making the junctions between Railway No. 3. and that part of the Arbroath Railway now vested in the harbour trustees, and between Railway No. 4. and the Aberdeen Junction Railway, as shown on the deposited plans, and in the manner and subject to the provisions relating to junctions contained in "The Railways Clauses Act, 1863," and, except so far as necessary for and during the construction of Railway No. 3., in the manner and subject to the conditions herein-after provided, nothing in this Act contained shall empower the Company, without the previous consent in writing of the Caledonian Railway Company, to enter upon, take, or use, temporarily or permanently, any lands or works belonging to or used by that company.

For protec-
tion of lands
and works
of Cale-
donian Rail-
way Com-
pany.

21. Before interfering with any part of the existing railways, or of the existing connecting lines between those railways and the docks, the Company shall make and open, for the use of the harbour trustees and of all companies and persons entitled to the use of the existing railways, and to the satisfaction of Thomas Elliot Harrison, C.E., whom failing John Hawkshaw, C.E., whom failing James Leslie, C.E., a temporary line of railway, as convenient in all respects as the said existing railways, or as nearly so as may be, for connecting with each other the portions of the said existing railways so to be interfered with, and also temporary convenient connecting lines between the line of railway so to be made and the Earl Grey and King William the Fourth Docks; and the Company shall thereafter maintain and keep open the said temporary line of railway and connecting lines until the completion of the said Railway No. 3. and the restoration of the said existing railways and connecting lines so interfered with in manner herein-after provided.

Company to
form tem-
porary line
during con-
struction of
tunnel.

22. The said existing railways, and the connecting lines between those railways and the docks, shall, so far as interfered with by the Company, and immediately after the completion of Railway No. 3., be relaid by the Company in as substantial and convenient a manner in all respects as at present, to the satisfaction of the said Thomas Elliot

Company to
restore exist-
ing line after
completion of
tunnel.

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Railways
Nos. 2. and
3. not to be
opened
before Rail-
way No. 4.

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

Harrison, whom failing the said John Hawkshaw, whom failing the said James Leslie; and on the said existing railways and connecting lines being so relaid the temporary line of railway and connecting lines to be made as herein-before provided shall be removed, and the sites thereof restored, by and at the expense of the Company.

23. The Company shall not open Railway No. 2. or Railway No. 3. for the conveyance of traffic of any description until they shall have completed Railway No. 4. and opened the same for the public conveyance of passengers and all other traffic.

24. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth and tenth years of Her present Majesty, chapter twenty, a sum of seventeen thousand five hundred pounds, being five per centum upon three hundred and fifty thousand pounds, the amount of the estimate in respect of the railways authorised by this Act, has been deposited with the Court of Exchequer in Scotland, in respect of the application to Parliament for this Act: Be it enacted, that, notwithstanding anything contained in the said recited Act, the said sum of seventeen thousand five hundred pounds so deposited as aforesaid with the Court of Exchequer in Scotland in respect of the application for this Act shall not be paid or transferred to or on the application of the person or persons, or the majority of the persons, named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the railways hereby authorised to be made, either open the said railways for the public conveyance of passengers, or prove to the satisfaction of the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations that the Company have expended for the purposes of this Act with respect to the said railways a sum equal to half the amount of the estimate with respect to the said railways; and if the said period shall expire before the Company shall either have opened the railways for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Lords of the said Committee, the said sum of seventeen thousand five hundred pounds deposited as aforesaid with the Court of Exchequer in Scotland shall be applied in the manner herein-after specified; and the certificate of the Lords of the said Committee that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the said recited Act to the contrary notwithstanding.

25. The said sum of money deposited as aforesaid shall be applicable, and after due notice in the "Edinburgh Gazette" shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said 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 Session in Scotland shall seem fit; and if no such compensation shall be payable, or if a portion of the said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, or such portion thereof as may not be required as aforesaid, shall be paid to or on the application of the person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivor or survivors of them: Provided that until the said sum shall have been repaid to the depositors, or shall have become otherwise applicable as herein-before mentioned, any interest or dividends accruing thereon respectively shall from time to time, and as often as the same shall become payable, be paid to or on the application of the person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivors or survivor of them.

26. The railways and works by this Act authorised shall be completed within five years from the passing of this Act, and if the said railways and works shall not be completed within that period, then on the expiration thereof the powers by this Act granted to the Company for making and completing the railways and works, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

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Application of deposit.

27. The Company may demand and take in respect of the railways by this Act authorised such tolls and charges as they think fit, not exceeding the rates of tolls and charges authorised to be taken on the Border Union Line of the North British Railway under "The Border Union (North British) Railways Act, 1859," as modified by the second and third sections of the Schedule (B.) to "The North British and Edinburgh and Glasgow Railway Companies Amalgamation Act, 1865;" and in estimating the amount of toll or charge in respect of any traffic conveyed partly on the railways by this Act authorised and partly on any other railways

Period for completion of works.

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of the Company the railways by this Act authorised and such other railways shall be deemed one railway.

Tolls in
respect of
the bridge.

28. And whereas the length of the intended bridge crossing the river or firth of Tay will be about two miles, and the whole railways will be about nine miles three furlongs, and the estimated expense of the undertaking is three hundred and fifty 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 bridge, including the tolls for the user thereof, and for carriages and locomotive power, and every other expense incidental to the conveyance, tolls and charges for six miles, in addition to the tolls they may demand and take in respect of the railways by this Act authorised.

Separate
undertaking.

29. Subject to the provisions in "The North British Railway (Financial Arrangements) Act, 1867," and "The North British Railway (General Powers) Act, 1868," contained with respect to separate undertakings, the railways and works by this Act authorised shall form a separate undertaking of the Company, within the meaning and for the purposes of "The North British Railway (Financial Arrangements) Act, 1867," and "The North British Railway (General Powers) Act, 1868," as if the same had been expressly authorised to be formed into a separate undertaking under the provisions of those Acts, and shall be referred to as "The Tay Bridge undertaking," and the provisions of those Acts with respect to separate undertakings shall be applicable accordingly as if specially re-enacted in this Act, and the said separate undertaking shall not be deemed to be part of the undertaking of the Company so as to be chargeable with or liable for the principal or interest moneys for the time being due on any mortgage of the Company, except mortgages granted under the powers of this Act, or so as to be chargeable with or liable for any other debts, engagements, or liabilities of the Company, except such as the said separate undertaking may be specially liable for under or by virtue of any agreement entered into between the Company and the subscribers for or shareholders in the separate undertaking.

Power for
Company
and sub-
scribers to
make agree-
ments with
respect to
the separate
undertaking.

30. The Company and the subscribers for or shareholders in the capital by this Act authorised to be raised may from time to time enter into agreements with respect to the amount of dividends to be assigned to the capital of the separate undertaking, and the mode of securing the same upon the separate undertaking, and the revenues thereof, and with respect to the calling up and application for the

purposes of this Act of all moneys which may be raised under the powers of this Act, and with respect to the construction and maintenance of the railways and works by this Act authorised, and the application of the revenues to be derived therefrom, and with respect to any other matters necessary to be provided for in order to the carrying out of the provisions relating to separate undertakings contained in the Acts referred to in the last preceding section, and every such agreement shall, so far as relates to the Company, be deemed a working agreement within the meaning of "The Railways Clauses Act, 1863."

31. The Company may subscribe to the separate undertaking by this Act authorised such sums of money as they think fit, not exceeding in the whole one hundred thousand pounds, and may apply for the purposes of such subscription any moneys which they may have in their hands or which they may have authority to raise by means of preference shares or stock not having priority over any existing preference shares or stock of the Company, and which are not required for the purposes to which the same are by any Act declared to be specially applicable.

Power to apply existing funds.

32. The Company, with the consent of three fourths of the votes of the shareholders present in person or by proxy at any general meeting or general meetings convened with special notice of the purpose, may raise, by the creation of new ordinary shares or stock, such additional capital beyond the amount which they may be authorised to raise by other Acts of Parliament as they may think fit, not exceeding in the whole three hundred and fifty thousand pounds.

Power for Company to raise capital by shares or stock.

33. 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, but shall form a separate class of shares or stock, and shall be called the "North British Tay Bridge Shares," or "North British Tay Bridge Stock."

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

34. It shall not be lawful for the Company to issue any share or stock to be created under the powers of this Act, nor shall any such share or stock 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 or stock shall have been paid up in respect thereof.

Shares not to issue until one fifth paid up.

35. 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 any sums not exceeding in the whole one hundred and sixteen thousand six hundred pounds; but no part thereof shall be borrowed until the said capital of three hundred and

Power to borrow on mortgage.

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fifty thousand pounds is subscribed for, issued, and accepted, and one half thereof is paid up, and the Company have proved to the sheriff who is to certify under the forty-second section of "The Companies Clauses Consolidation (Scotland) Act, 1845," (before he so certifies,) that the whole of the said capital has been issued and accepted, and that one half thereof has been paid up, and that not less than one fifth of the amount of each separate share or sum of stock has been paid on account thereof before or at the time of issue or acceptance thereof, and that such capital was issued bona fide, and is held by the subscribers or their assigns, and that such subscribers or their 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 proof aforesaid has been given, which certificate shall be sufficient evidence thereof: Provided always, that the said sum of one hundred and sixteen thousand six hundred pounds shall be borrowed on mortgage of the separate undertaking, and shall form no charge on the general undertaking of the Company.

Debenture stock.

Application of money raised under Act.

Confirming agreement with Dundee Harbour Trustees.

As to termination of Railway No. 3.

Agreements between Company and Caledonian Railway Company.

36. The Company may create and issue debenture stock.

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

38. Subject to the provisions of this Act, the agreement between the Company and the harbour trustees set forth in the schedule to this Act annexed is hereby confirmed.

39. Notwithstanding anything contained in this Act or the deposited plans, the junction of Railway No. 3. with the railway belonging to the harbour trustees shall be at a point not less than ten yards to the westward of the crossing numbered on the deposited plans 82 in the parish of Dundee, and the termination of Railway No. 3. shall be at such point of junction ; and it shall not be lawful for the Company to enter upon, take, or use any land situate on the north side of the said railway belonging to the harbour trustees, or to the eastward of the said point of junction, without the consent in writing of the harbour trustees first had and obtained.

40. The Company and the Caledonian Railway Company may from time to time enter into agreements with respect to all or any of the following matters ; (that is to say,) The maintenance and use of Railway No. 3. and Railway No. 4., and

so much of Railway No. 2. as intervenes between Railway No. 3. and Railway No. 4., and forms with those two railways and a portion of the railway belonging to the harbour trustees a line

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of railway communication between the Arbroath Railway to the east of Dundee and the Aberdeen Junction Railway to the west of Dundee, or any of the said Railways No. 3., No. 4., and No. 2., or any part or parts thereof respectively; and every such agreement shall be deemed a working agreement within the meaning of "The Railways Clauses Act, 1863;" but nothing in this enactment contained shall be held or construed to confer upon the Caledonian Railway Company any power to subscribe towards the undertaking of the Company.

41. For the purposes of traffic of every description passing or destined or directed to pass between the stations of the Caledonian Railway Company at Dundee, or between any place on or beyond the Arbroath Railway and any place on or beyond the Aberdeen Junction Railway, and if and when and so long as the Caledonian Railway Company are not allowed by the Company, under the provisions of section 111 of "The Caledonian and Scottish North-eastern Railways Amalgamation Act, 1866," to exercise the reciprocal facilities, running powers, and other powers and privileges provided to them by that section, the Caledonian Railway Company shall, in lieu of the contingent facilities and running powers provided in their favour by that section, have absolute running powers, of the same nature and extent with such last-mentioned running powers, over Railway No. 3., Railway No. 4., and so much of Railway No. 2. as is situated between its junction with Railway No. 3. and the commencement of Railway No. 4.; and for the exercise of such running powers the Caledonian Railway Company shall pay to the Company seventy-five per centum of the gross charges per mile for such traffic by the Caledonian Railway Company (the distance being reckoned at two miles and a half), as the same may be ascertained through the Railway Clearing House; but this enactment shall not extend to any other part of Railway No. 2. than that above described, nor to any station of the Company on or in connexion with the said railways or part of a railway: Provided always, that the Caledonian Railway Company shall not, by the adoption of any system of re-booking or other like practice at both or either of their said stations at Dundee, acquire right to fix a toll as for local traffic upon any traffic conveyed upon their system for any distance beyond either of the said stations, but all such traffic, notwithstanding any such re-booking or other practice, shall, for the purposes of this enactment, be deemed to be through traffic from the place from which it was originally consigned or sent to the place of its ultimate destination.

42. Notwithstanding anything contained in this Act, or done under the authority thereof, all traffic arising on any railway within

Running powers to Caledonian Railway Company over railways Nos. 3. and 4., and part of Railway No. 2.

For protection of Caledonian Rail-

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way Company's local traffic.

the town of Dundee, to be constructed under the powers of this Act, or on any existing or authorised station or lines of rails in Dundee connected therewith, and terminating on any part of the railways described in "The Caledonian and Scottish Central Railways Amalgamation Act, 1865," as the Scottish Central lines, or vice versa, and not passing over the Tay Bridge, shall for the purposes of section 81 of that Act be held to be traffic arising and terminating on the Scottish Central lines; and all traffic arising on any such railway or station, or lines of rails within the said town, and terminating on any part of the railways of the Caledonian Railway Company referred to in the 108th section of "The Caledonian and Scottish North-eastern Railways Amalgamation Act, 1866," or vice versa, and not passing over the Tay Bridge, shall, for the purposes of the said 108th section, be held to be traffic arising and terminating on the said railways of the Caledonian Railway Company; but nothing in this section contained shall be held or construed to restrict or interfere with the powers conferred upon the Company by the said 108th section for carrying traffic by certain trains between Aberdeen and the other places mentioned in that section and Dundee; and any station which may be constructed by the Company at Dundee on or in connexion with any of the railways by this Act authorised shall be deemed to be a station within the meaning and for the purposes of that section.

Interest not to be paid on calls paid up.

43. The Company shall not, out of any money by this Act or any other Act authorised to be raised by calls or by borrowing, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him; provided always, that this Act shall not prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with "The Companies Clauses Consolidation (Scotland) Act, 1845."

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

44. 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.

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

45. Nothing herein contained shall be deemed or construed to exempt the railways by this Act authorised to be made from the provisions of any general Act relating to railways, or the better or more impartial audit of the accounts of railway companies, now in force or which may hereafter pass during this or any future session.

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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.

46. Provided always, that if or by reason of the execution of the proposed works, either during the progress of the said works or after their completion, any injury shall be done to the premises of or any loss or damage of any sort shall be sustained by the Commissioners of Customs, compensation shall be made by the Company to the Commissioners of Customs for such injury, loss, or damage; and in case any dispute shall arise as to the amount of such compensation, or as to whether such compensation is due or not, such dispute shall be settled by arbitration or otherwise, according to the amount claimed and disputed, in the manner provided for ascertaining and settling the amount of compensation for the purchase and taking of lands under "The Lands Clauses Consolidation (Scotland) Act, 1845."

Providing
for compen-
sation to
Commis-
sioners of
Customs in
the event of
injury to
property.

47. Nothing contained in this Act, or in any of the Acts herein referred to, shall authorise the said 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 the said Act or Acts 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.

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.

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S C H E D U L E.

AGREEMENT between the TRUSTEES of the HARBOUR of DUNDEE and the NORTH BRITISH RAILWAY COMPANY.

The said parties, considering that the said Company have introduced into Parliament a Bill, intituled "A Bill to authorise the North British Railway Company to make railways and a bridge across the Tay near Dundee to connect their system with the railways of the Caledonian Railway Company east and west of Dundee, and for other purposes," and that it has been agreed with reference thereto and to the subject thereof between the parties hereto as follows: Therefore they do hereby agree to and with each other, and become bound to each other, in manner following; that is to say,

First. The tunnel under or alongside of the quayage and other works of the Dundee Harbour and Docks shall be made, executed, and completed at the sight and to the satisfaction in all respects of such one of the following Civil Engineers as may be appointed by the trustees in that behalf; viz., Thomas Elliot Harrison, Esquire, John Hawkshaw, Esquire, or James Leslie, Esquire.

Second. The Company shall make, and the trustees shall accept of, the following compensation in the premises; viz.,

(First.) During the execution and till the completion of the works, the Company shall provide and maintain such ways, accesses, and other conveniences for the accommodation of the trade of the harbour and docks as the engineer appointed by the trustees may judge to be necessary, and order to be done.

(Second.) The Company shall pay to the trustees the value, converted into an annual rentcharge or feu duty, of any ground taken from them for those portions of the railway that may be made on the surface of their land, or occupied by open cutting, as well as for that part of Earl Grey's Dock which may be taken or cut off from the dock, as the said value shall be ascertained by agreement, or, failing agreement, by arbitration under "The Lands Clauses Consolidation (Scotland) Act, 1845." Further, the said value, converted as aforesaid, shall be validly made a real and preferable burden on all the ground taken.

(Third.) For and in respect of the privilege of constructing the tunnel, the Company shall pay to the trustees a ground rent or feu duty of five pounds sterling annually, which shall also be properly and validly secured as a real and preferable burden. A.D. 1870.

(Fourth.) The Company shall make good to the trustees all damage that may be done to their quay walls or other works by or through the construction of the tunnel or otherwise.

(Fifth.) The Company shall, at their own cost, make and maintain such junctions with the trustees' Carolina Port Railway as the engineers to be appointed as aforesaid may judge proper and desirable for the use of the said Carolina Port Railway or of the trustees; and the trustees shall also be entitled to make and maintain, without charge by the Company, such junctions with the railway, so far as east of the tunnel to be made by the Company, as they may consider necessary for the accommodation of the traffic of the harbour and docks; and such junctions shall at all times be under the regulation and control of the trustees, and subject to such alterations from time to time as the trustees may consider necessary, but so as not to interfere with the working of the Company's main line.

(Sixth.) The Company shall be subject to the same rules and regulations as to the rate of speed of their trains when passing over the trustees' lines, and in other respects regarding these lines, as may be from time to time applied to the Caledonian Railway Company.

(Seventh.) The Company shall pay and free and relieve the trustees from the payment of all the costs, fees, and charges of the engineer to be appointed by the trustees as before mentioned.

(Eighth.) This agreement shall be scheduled to and made part of the Bill, at the cost of the Company.

(Ninth.) This agreement, except as regards articles seventh and eighth, is contingent on the passing of the Bill.

In witness whereof these presents, written on this and the preceding page of stamped paper, by James Miller, clerk to Pattullo and Thornton, solicitors in Dundee, are executed as follows; viz., the same are sealed with the common seal of the said the Trustees of the Harbour of Dundee, and subscribed by James Yeaman, one and chairman of, and William Thoms, clerk to, the said trustees, all duly and regularly, and by the direction and on behalf of the said trustees, and as duly authorised by them in meeting assembled at Dundee on the sixteenth day of February eighteen hundred and seventy years, before these witnesses, Alexander Wilson, junior, clerk to the said Pattullo and Thornton, and Alexander Edward Gray, clerk to the said William Thoms, and the same are sealed with the common seal of the said the North British Railway Company, and subscribed by John Stirling, Esquire, of Kippendavie, chairman and a director, and William Muir, merchant, Leith, a director of the said North British Railway Company, all duly and regularly, and on behalf of the said the North British Railway Company, at Dundee, on the said sixteenth day of said

[Ch. cxxxv.] *The North British Railway (Tay [33 & 34 Vict.]
Bridge and Railways) Act, 1870.*

A.D. 1870. month of February and year last mentioned, before these witnesses, the said Alexander Wilson, junior, and the said Alexander Edward Gray.

(Signed) JAS. YEAMAN, Chairman of
Harbour Trustees.

WILLIAM THOMS, Clerk to
Harbour Trustees.

L.S.

(Signed) A. WILSON, jr., witness.
ALEX. E. GRAY, witness.

(Signed) J. STIRLING, Chairman of North
British Railway Company.

WILLIAM MUIR, Director of
North British Railway Company.

L.S.

(Signed) A. WILSON, jr., witness.
ALEX. E. GRAY, witness.

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