



CHAPTER xxviii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Ayr Harbour. A.D. 1901.
[2nd July 1901.]

WHEREAS His Majesty's Secretary for Scotland has after inquiry held before Commissioners made the Provisional Order set forth in the schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act 1899 and it is requisite that the said Order should be confirmed by Parliament: 62 & 63 Vict.
c. 47.

Be it therefore enacted by the King'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. The Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed. Confirmation
of Order in
schedule.

2. This Act may be cited as the Ayr Harbour Order Confirmation Act 1901. Short title.

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SCHEDULE.

AYR HARBOUR.

Provisional Order for enabling the Glasgow and South Western Railway Company to guarantee the interest on the Debenture Stock affecting the Undertaking of the Ayr Harbour Trustees for giving effect to an Agreement between the Trustees and that Company with respect to such guarantee and other matters for altering the constitution of the Ayr Harbour Trust and for other purposes.

WHEREAS the Harbour of Ayr is at present subject to the provisions of the Ayr Harbour Acts 1855 to 1893 :

56 & 57 Vict.
c. li.

And whereas by the Ayr Harbour Act 1893 (herein-after called "the Act of 1893") the Ayr Harbour Trustees were authorised to create and issue debenture stock to be classed and ranked as provided by that Act in lieu of the mortgages or assignments granted by the Trustees and subsisting at the passing of that Act and for the general purposes of their undertaking to an amount not exceeding the sum of five hundred thousand pounds viz. two hundred and thirty-six thousand seven hundred pounds two shillings and sevenpence A debenture stock bearing interest at the rate of three and a quarter per centum per annum one hundred and sixty-three thousand two hundred and ninety-nine pounds seventeen shillings and fivepence B debenture stock bearing interest at the rate of four per centum per annum and one hundred thousand pounds C debenture stock bearing interest at a rate not exceeding five per centum per annum :

And whereas the Harbour Trustees have created and issued the whole of the A and B debenture stocks authorised by that Act and also C debenture stock to the extent of twenty-three thousand pounds :

And whereas the revenues of the harbour are insufficient for payment of the expenses of the management maintenance and repair of the harbour and the interest on the debenture stocks created and issued under the provisions of the Act of 1893 irrespective of the sums required by that Act to be annually paid into the sinking fund :

And whereas arrears of interest are at present outstanding on the said debenture stocks amounting to twelve thousand two hundred and fifty-six pounds five shillings and fourpence of which nine thousand eight hundred pounds five shillings and fivepence is in respect of B debenture stock and two thousand four hundred and fifty-five pounds nineteen shillings and elevenpence is in respect of C debenture stock :

And whereas if the interest on the debenture stocks authorised by the Act of 1893 were guaranteed as herein-after provided it would materially improve the financial position of the trust and tend to the prosperity of the harbour :

And whereas the railways of the Glasgow and South Western Railway Company convey nearly the whole of the traffic to and from the harbour and that Company are largely interested in the management maintenance and improvement of the harbour and have already under the authority of Parliament contributed moneys including in particular a donation of ten thousand pounds under the Ayr Harbour Amendment Act 1873 towards those purposes :

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And whereas the said Company are willing and have agreed to guarantee payment of the interest on the said debenture stocks including the portion of C debenture stock not yet created and issued at a uniform rate not exceeding three and a quarter per centum per annum subject to the terms and conditions contained in the agreement set forth in the schedule to this Order and it is expedient that the said agreement should be confirmed and that provisions should be made for carrying the same into effect :

And whereas the holders of the said B and C debenture stocks have in consideration of the said guarantee intimated in writing their willingness to accept during the continuance of the said agreement interest on their debenture stocks at the modified rate of three and a quarter per centum per annum and their consent to the cancellation of the arrears of interest to the extent herein-after provided :

And whereas it is expedient that the constitution of the trust should be altered and that provisions should be made for increasing the representation of the said Company thereon :

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899 :

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary for Scotland orders as follows :—

1. This Order may be cited for all purposes as the Ayr Harbour Order 1901 and the Ayr Harbour Acts 1855 to 1893 and this Order may be cited together for all purposes as the Ayr Harbour Acts and Order 1855 to 1901.

Short title.

2. In this Order—

The expression “ the Harbour Trustees ” means the Ayr Harbour Trustees as reconstituted under the provisions of this Order ;

The expression “ the burgh ” means the burgh of Ayr ;

The expression “ the provost ” means the provost of the burgh ;

The expression “ the town council ” means the provost magistrates and councillors of the burgh ;

The expression “ the Company ” means the Glasgow and South Western Railway Company.

Interpretation.

3. The agreement dated the twenty-sixth day of November and the eleventh day of December one thousand nine hundred between the Harbour Trustees and the Company as set forth in the schedule to this Order is hereby confirmed and the Harbour Trustees and the Company are hereby authorised and required to carry the same into effect so far as not varied or superseded by the provisions of this Order.

Confirming
scheduled
agreement.

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Company may guarantee interest on debenture stock.

4. The Company shall during the continuance of the said agreement and in accordance with and subject to the provisions of this Order guarantee for a period of thirty years from and after the fifteenth day of May 1901 the interest at the rate of three and a quarter per centum per annum on the A B and C debenture stocks created and issued under the provisions of the Act of 1893 as well as on any further C debenture stock which may hereafter be created and issued under the provisions of that Act and shall from time to time out of their income applicable to the payment of dividend on their ordinary shares or stock (but not out of any other fund) discharge any moneys which they may be called upon to pay upon or in respect of such guarantee Provided that nothing contained in this Order shall affect the priority of the several debenture stocks as provided by section 4 of the Act of 1893.

Application of harbour revenues.

5. All moneys coming to the Harbour Trustees by way of revenue shall after the fifteenth day of May 1901 and during the continuance of the said agreement be applied in the manner and order following and not otherwise:—

- (1) In payment of the costs charges and expenses of and incident to the management and maintenance of the undertaking;
- (2) In payment of the interest at three and a quarter per centum per annum on the debenture stock for the time being created and issued under the provisions of the Act of 1893;
- (3) Any surplus shall be divided equally between the Harbour Trustees and the Company and the Harbour Trustees shall apply the share retained by them primo towards payment of any arrears of interest on the said B and C debenture stocks outstanding on the fifteenth day of May 1901 but only to the extent of one half of such arrears and secundo towards the sinking fund provided for by the Act of 1893.

Reduction of interest on B and C debenture stocks and cancellation of arrears of interest.

6. The arrears of interest on the said B and C debenture stocks outstanding as at the fifteenth day of May 1901 are to the extent of one half thereof hereby cancelled and during the continuance of the said agreement the rate of interest payable on the said B and C debenture stocks shall be reduced to three and one quarter per centum per annum.

Existing Trustees to remain in office till new Trustees elected.

7. The present Harbour Trustees shall remain in office and execute and carry into effect the Ayr Harbour Acts 1855 to 1893 and this Order until the completion of the first elections of Trustees under this Order and no longer.

Constitution of new Trustees.

8. On and after the completion of the first elections of Trustees under this Order the Harbour Trustees shall be reconstituted as herein-after provided but shall remain incorporated under their present name and with all their existing powers except as altered by this Order They shall be fifteen in number consisting of the persons herein-after specified (that is to say):—

One shall be the provost for the time being who shall be chairman of the trust;

Three shall be members of the town council to be chosen by the town council in the manner provided by the Act of 1893 and shall along with the provost be called the Town Council Trustees;

[1 EDW. 7.] *Ayr Harbour Order Confirmation* [Ch. xxviii.]
Act, 1901.

Five shall be ratepayers qualified and to be elected in the manner provided by the Act of 1893; and

Six shall be appointed by the Company:

Provided that on the determination of the said agreement the Company shall only be entitled to appoint one trustee as at present to be a trustee of the harbour in place of six trustees and thereupon the Harbour Trustees shall be constituted according to the provisions of section 29 of the Act of 1893.

9. Section 30 of the Act of 1893 with respect to the election of Trustees by the town council and sections 31 32 33 and 34 of the Act of 1893 with respect to the election of Trustees by ratepayers shall mutatis mutandis apply to the election of the Trustees to be elected by the town council and the ratepayers under the provisions of this Order.

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As to appointment of Trustees by the Town Council and by the ratepayers.

10. The provisions of the Ayr Harbour Amendment Act 1866 with respect to the appointment of a Trustee by the Company shall so long as the Company appoint six Trustees as provided by this Order apply mutatis mutandis to the appointment of such six Trustees.

As to appointment of Trustees by the Company.

11. If any question shall arise between the Trustees appointed by the Company and the other Trustees as to capital expenditure or extraordinary expenditure of revenue such question shall be determined by a referee to be appointed by the Board of Trade on the request of the Harbour Trustees or of the Company and such referee may if he think fit attend a meeting of the Harbour Trustees and hear parties and decide or he may take such other steps as he may think proper for informing himself of the matter in difference and his decision shall be final.

Differences between Trustees as to certain expenditure to be determined by a referee to be appointed by the Board of Trade.

12. The facilities and running powers conferred upon the Caledonian Railway Company by section 33 of the Glasgow and South Western Railway Act 1878 and section 16 of the Glasgow and South Western Railway Act 1898 shall extend to the lines to be purchased or to be laid by the Company under the provisions of the said agreement Provided that nothing in this section shall be deemed to impose upon the Postmaster-General the obligation of transmitting under the provisions of the Telegraph Act 1868 or any agreement between the Postmaster-General and the Caledonian Railway Company made in pursuance thereof any larger number of telegraphic messages of that Company free of charge than he would have been bound to transmit had this section not become law.

Extending certain powers of the Caledonian Railway Company.

13. The dues and charges on shipping and upon or with reference to goods and minerals at the harbour of Ayr shall be uniform whether the traffic is carried by the route of the Company or of the Caledonian Railway Company and the Trustees shall not give or confer any advantage drawback or other privilege to the owners of vessels or others trading in shipping resorting to the said harbour or to the traders forwarding traffic over the said railways when the traffic is carried by the Company without giving the like advantages drawbacks or other privileges where the traffic is carried by or over the system of the Caledonian Railway Company.

Equality of treatment at harbour.

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Act, 1901.

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Costs of Order

14. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Order and of the Act confirming the same or otherwise in relation thereto shall be paid by the Harbour Trustees out of the moneys authorised to be raised by the Act of 1893 or out of the rates authorised to be levied by the Ayr Harbour Acts 1855 to 1893.

The SCHEDULE referred to in the foregoing Order.

AGREEMENT between the Ayr Harbour Trustees (herein-after called "the Trustees") incorporated by the Ayr Harbour Amendment Act 1866 (herein-after called "the Act of 1866") and reconstituted by the Ayr Harbour Amendment Act 1873 (herein-after called "the Act of 1873") the Ayr Harbour Amendment Act 1884 (herein-after called "the Act of 1884") and the Ayr Harbour Act 1893 (herein-after called "the Act of 1893") of the first part and the GLASGOW AND SOUTH WESTERN RAILWAY COMPANY (herein-after called "the Company") of the second part.

WHEREAS by the Ayr Harbour Act 1855 (herein-after called "the Act of 1855") provision was made for the appointment of Harbour Trustees who were authorised to maintain improve and manage the harbour of Ayr and the works connected therewith and to levy certain rates and by the Act of 1866 the Trustees were authorised to construct a wet dock and breakwater at the harbour and to levy certain rates and by the Ayr Harbour Amendment Act 1879 (herein-after called "the Act of 1879") the Trustees were authorised to construct a slip dock and other works and the limits of the harbour were defined and in lieu of the rates authorised by the Act of 1855 and the Act of 1866 the Trustees were authorised by the Act of 1879 the Act of 1884 and the Act of 1893 to levy the rates specified in those Acts respectively And whereas by the Act of 1855 the Act of 1866 the Act of 1873 the Act of 1879 the Act of 1884 and the Act of 1893 (which Acts are herein-after called "the Harbour Acts") the Trustees were authorised to borrow upon the security of the rates leviable under the powers of the Harbour Acts sums not exceeding in the whole the sum of five hundred thousand pounds And whereas by the Act of 1893 the Trustees were authorised to create and issue debenture stock to be classed and ranked as provided by the Act of 1893 in lieu of the mortgages or assignments in security then subsisting and for the general purposes of the undertaking to an amount not exceeding the said sum of five hundred thousand pounds And whereas by the Act of 1866 the Company were authorised to make and maintain certain railways which are therein described partly on land belonging to the Trustees the solum of such land on which the rails were to be laid remaining the property of the Trustees and the railways to be under the control of the Trustees and the Company were empowered to lend to the Trustees the sum of ten thousand pounds and also to appoint one person to be a Trustee under the Act of 1855 and the Act of 1866 And whereas in consideration of the advantage to the Company from

[1 EDW. 7.] *Ayr Harbour Order Confirmation* [Ch. xxviii.]
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the improvement of the harbour the Company were by the Act of 1873 authorised to contribute the said sum of ten thousand pounds by way of absolute donation to the Trustees and the Company did contribute and pay the same accordingly And whereas by the Glasgow and South Western Railway Act 1878 (herein-after called "the Railway Act of 1878") the Company were required to abandon the construction of the railways authorised by the Act of 1866 and to make in lieu thereof certain railways described in the Railway Act of 1878 And whereas by the Act of 1879 the Trustees were authorised to make and maintain a road of access and wharf along the North Quay of the harbour and were required to carry the railways belonging to the Company across the said road of access and wharf to the said North Quay by a single line and the Trustees and the Company were authorised to enter into agreements and arrangements with each other with respect to the use of any rails sidings or other works which might be formed by the Trustees in connexion with the lines authorised by the Railway Act of 1878 And whereas the Company have constructed the railways authorised by the Railway Act of 1878 partly on land belonging to the Trustees and the Trustees have laid certain rails on land belonging to them for connecting the said railways with the harbour And whereas by the Glasgow and South Western Railway Act 1898 (herein-after called "the Railway Act of 1898") confirming an agreement between the Company and the Trustees the Company were authorised to construct a bridge across the harbour for the extension of their lines of railway to the south side of the harbour the Trustees being bound to erect and maintain sheds and all other necessary appliances for the development of the Company's and other traffic to and from the harbour on the south side And whereas the railways of the Company connected with the harbour convey nearly the whole of the traffic to and from the harbour and the Company are largely interested in the maintenance improvement and management of the harbour and it is desirable that in the arrangements and working of the harbour the mutual interests of the Trustees and the Company should continue to be promoted and extended And whereas under the Ayr Harbour Act 1893 the Trustees have created and issued the whole of the A debenture stock thereby authorised bearing interest at the rate of three and a quarter per centum per annum and also the whole of the B debenture stock thereby authorised bearing interest at the rate of four per centum per annum and also the C debenture stock thereby authorised to the extent of twenty-three thousand pounds bearing interest at the rate of four per centum per annum And whereas the revenue of the harbour is insufficient for payment of the expenses of the management maintenance and repair of the harbour and the interest at the aforesaid rates on the said several debenture stocks apart from the sums required by the Act of 1893 to be annually paid into the sinking fund but if the interest on the debenture stocks were guaranteed by the Company at a rate not exceeding three and a quarter per centum per annum it would materially improve the financial position of the Trust and tend to the prosperity of the harbour And whereas the several holders of the said several stocks bearing interest at the foresaid respective rates are willing to accept in lieu of the said rates interest at a uniform rate of three and a

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quarter per centum per annum if guaranteed by the Company and the Company are willing subject to the approval of Parliament to guarantee to the holders of the said several stocks and of such debenture stock as the Trustees shall yet issue not exceeding in all the amount of five hundred thousand pounds interest at the rate of three and a quarter per centum per annum. Therefore the parties do hereby agree as follows namely:—

First.—The Company shall for thirty years from Whitsunday one thousand nine hundred and one or for such further period as the Trustees and the Company may from time to time agree upon guarantee the payment of the interest payable by the Trustees at a rate not exceeding three and a quarter per centum per annum on the debenture stocks to an amount not exceeding five hundred thousand pounds.

Second.—If it appear from the accounts of the Trustees as audited in terms of the Act of 1855 for any year that the revenues of the harbour after payment of all expenses of management maintenance repairs and other annual expenses are insufficient for payment of the interest payable by the Trustees at a rate not exceeding three pounds five shillings per centum per annum on the amount of the debenture stock for the time to an extent not exceeding as aforesaid the Company shall pay to the Trustees the difference between the amount available and the amount required for the payment of such interest. If in any half year the Trustees have not sufficient funds in hand to meet the interest falling due at the expiration of such half year the Company shall on the certificate of the treasurer to the Trustees and subject to adjustment when the accounts are audited pay to the Trustees at Whitsunday or Martinmas as the case may be the amount of such deficiency.

Third.—If it appear from the accounts of the Trustees as audited in terms of the Act of 1855 for any year that after payment of all expenses of management maintenance repair and other annual expenses and interest at three pounds five shillings per centum per annum for that year on the debenture stock there is a surplus of the revenues of the harbour such surplus shall be divided equally between the Trustees and the Company and the Trustees shall make payment to the Company of one half of such surplus and shall apply the balance of such surplus towards primo any arrear of interest on the debenture stocks subsisting at the term of Whitsunday one thousand nine hundred and one but only to the extent of one half of such arrear and secundo the sinking fund provided by the Act of 1893.

Fourth.—The Trustees shall until otherwise arranged be eighteen in number but in place of one person as at present the Company may during the subsistence of the guarantee or of any extension thereof appoint nine persons or such number of persons as are one half of the number of Trustees for the time being to be Trustees under the Harbour Acts and if any question shall arise between the Trustees appointed by the Company and the other Trustees as to capital expenditure or extraordinary expenditure of revenue such question shall be determined by a referee to be appointed by the Board of Trade on the request of the Trustees or of the Company and such referee may if he thinks fit

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attend a meeting of the Trustees and hear parties and decide or he may take such other steps as he thinks proper for informing himself of the matter in difference and his decision shall be final.

Fifth.—In addition to the railways which the Company were by the Railway Act of 1878 and the Railway Act of 1898 authorised to make and maintain the Company shall have power to lay rails connecting their railways with any portion of the harbour the lines and levels of such rails being first approved by the Trustees and the whole lines of the Company laid on land belonging to the Trustees shall be under the control of the Trustees who may from time to time make rules and regulations for the working and management of the traffic thereon and the Company in the working and management of such traffic shall be subject to the said rules and regulations and the Trustees shall have power to use free of charge a locomotive engine on the Company's lines on the north-west side of the dock for the purpose of shifting waggons to and from the loading and unloading berths and also to load and unload cargo or ballast at all or any of the berths on the harbour by capstans or horses as at present free of charge.

Sixth.—The Company shall purchase the railways belonging to the Trustees but exclusive of the solum at a price to be fixed failing agreement by arbitration such price shall not include any allowance as for compulsory sale. The said railways when purchased and also any rails which may be laid by the Company under the last preceding article shall for the purposes of tolls rates and charges and for all other purposes whatsoever form part of the undertaking of the Company.

Seventh.—The solum of the land belonging to the Trustees on which rails may be laid by the Company or on which rails belonging to the Trustees and to be purchased by the Company are now laid shall remain the property of the Trustees but the Company shall be entitled to occupy the same free of charge.

Eighth.—The facilities and running powers referred to in section 33 of the Railway Act of 1878 and section 16 of the Railway Act of 1898 shall extend to the lines to be purchased or to be laid by the Company by virtue of this agreement.

Ninth.—This agreement shall come into operation on the passing of the Bill herein-after mentioned and shall continue until and including Whitsunday one thousand nine hundred and thirty-one or such later date or dates as the Trustees and the Company may from time to time agree upon. On the expiration of this agreement the Trustees shall acquire or re-acquire as the case may be the lines of railways to be purchased or laid by the Company in terms of this agreement at a price to be fixed failing agreement by arbitration as aforesaid.

Tenth.—The Trustees shall promote a Bill in the next session of Parliament for confirmation of this agreement or containing clauses for giving effect to this agreement.

Eleventh.—The costs charges and expenses of the Trustees and of the Company of and incident to this agreement and the preparing for

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obtaining and passing of the said Bill or otherwise in relation thereto shall be paid by the Trustees out of the rates authorised to be levied or the moneys authorised to be borrowed by the Harbour Acts provided that in the event of the Bill being withdrawn at the instance of the Company the Company shall pay their own costs charges and expenses.

Lastly.—This agreement is made subject to such alterations as Parliament may think fit to make therein but if the Committee on the Bill to be promoted as aforesaid make any material alteration therein or in the clauses of the Bill relating thereto it shall be competent to either of the parties hereto to withdraw the same provided that in the event of any difference of opinion arising between the contracting parties as to what constitutes a material alteration the same shall be referred to the decision of Charles Alfred Cripps Q.C. whom failing of Alexander Asher Q.C. as sole arbitrator whose decision shall be final.

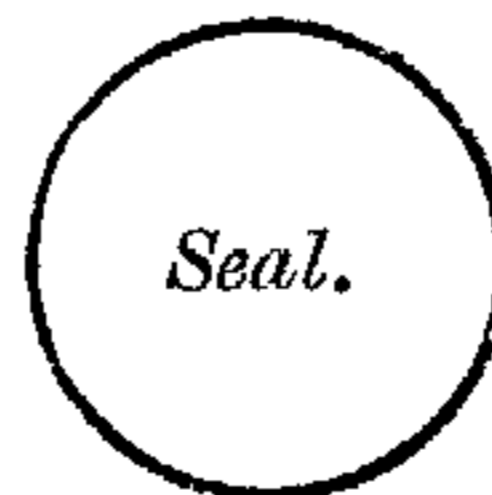
In witness whereof these presents written on this and the seven preceding pages (the first whereof being duly stamped) by John Fergie clerk to W. W. and J. Pollock solicitors Ayr are executed in duplicate by the Trustees and the Company as follows namely they are sealed with the corporate seal of the Trustees and are also subscribed by Thomas Templeton provost of the Royal burgh of Ayr and chairman of the Trustees and by Walter Bain also one of the Trustees both duly authorised to subscribe these presents for and on behalf of the Trustees and by William Johnstone Pollock clerk to the Trustees all at Ayr on the twenty-sixth day of November nineteen hundred before these witnesses the said John Fergie and Thomas Steen also clerk to the said W. W. and J. Pollock and are sealed with the common or corporate seal of the said Company and are also subscribed by Benjamin Nicholson merchant Annan and Henry Tylston Hodgson of Harpenden Herts two of the directors and Frank Heys Gillies secretary of and for and on behalf of the said Company all at Glasgow on the eleventh day of December and year last mentioned before these witnesses David Murray LL.D. and John Anderson Mackenzie both writers in Glasgow declaring that this testing clause from and after the words "In witness whereof" is written by the said Thomas Steen.

JOHN FERGIE Witness
 THOS. STEEN Witness



THOMAS TEMPLETON Trustee
 WALTER BAIN Trustee
 WILLIAM J. POLLOCK Clerk

DAVID MURRAY Witness
 J. A. MACKENZIE Witness



BEN. NICHOLSON Director
 HENRY TYLSTON HODGSON Director
 F. H. GILLIES Secy.

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