

CHAPTER cxcii.

An Act to authorise the North British Railway Company to construct and widen certain railways divert streets and construct a new street and acquire lands for the purpose of enlarging and improving their Waverley Passenger and Goods Station at Edinburgh and for other purposes. A.D. 1891.

[5th August 1891.]

WHEREAS it is expedient that the North British Railway Company (in this Act called "the Company") should be authorised to construct the railway widen the railways divert the streets construct the new street and execute the other works and exercise the other powers in this Act respectively mentioned and to acquire for the purposes of the works by this Act authorised and for the purpose of enlarging and improving their Waverley passenger and goods station at Edinburgh and for other purposes the lands houses streets and other property in this Act also mentioned :

And whereas it is expedient that the Company should be authorised to stop up and discontinue as public thoroughfares the roads and streets or parts of roads and streets in this Act mentioned :

And whereas plans and sections showing the respective lines and levels of the railway widenings of railways diversions of streets new street and other works by this Act authorised to be constructed and plans of the lands by this Act authorised to be acquired and appropriated and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the principal sheriff clerk of the county of Edinburgh and with the town clerk of the county of the city of Edinburgh which plans sections and books of reference are in this Act respectively referred to as the deposited plans sections and books of reference :

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A.D. 1891. — And whereas it is expedient that the Company should be authorised to raise further capital for the purposes of this Act :

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 for all purposes be cited as the North British Railway (Waverley Station &c.) Act 1891.

Incorporation of general Acts. 2. The Lands Clauses Acts the Railways Clauses Consolidation (Scotland) Act 1845 Part I of the Railways Clauses Act 1863 (relating to construction of a railway) and 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 the payment of calls the forfeiture of shares for the nonpayment of calls the remedies of creditors of the Company against the shareholders the borrowing of money by the Company on mortgage or bond the conversion of the borrowed money into capital the consolidation of the shares into stock the giving of notices and the provision to be made for affording access to the special Act 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 are (except where expressly varied by or inconsistent with this Act) incorporated with and form part of this Act.

Interpretation.

3. In this Act—

The expression "the incorporated Acts" shall mean the Acts and parts of Acts incorporated with this Act :

The several words and expressions to which meanings are assigned by the incorporated Acts shall have the same respective meanings :

In the incorporated Acts—

The expression "the special Act" shall mean this Act :

The expression "the Company" or "the promoters of the undertaking" shall mean the North British Railway Company :

unless in any of the cases aforesaid there is something in the subject or context repugnant to such construction.

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Power to
make railway
widening of
railways and
other works.

4. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the railway and widenings of railways herein-after described with all proper stations sidings roads 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 relating thereto as may be required for the purposes thereof The railway and widenings of railways herein-before referred to and authorised by this Act are—

A railway 1 mile 3·20 chains or thereabouts in length commencing by a junction with the Company's connecting line between their Edinburgh Leith and Granton Branch Railway and their line from Easter Road Junction to Piershill Junction and terminating at or near the northern end of Leith Walk :

A widening (No. 1) 2 miles 1 furlong 8 chains or thereabouts in length of the Company's Dalmeny and Corstorphine Junction Railway and Edinburgh and Glasgow Railway on the northern side of the same commencing at or near the Corstorphine Station of the Company by a junction with the said Dalmeny and Costorphine Junction Railway and terminating by a junction with the said Edinburgh and Glasgow Railway at a point on that railway sixty yards or thereabouts measured in a westerly direction along the said railway from the western end of the Haymarket Tunnel :

A widening (No. 2) 6 furlongs 8·32 chains or thereabouts in length of the Company's Edinburgh and Glasgow Railway on the southern side of the same commencing by a junction with the said Edinburgh and Glasgow Railway at a point on that railway two hundred and eighty yards or thereabouts measured in a westerly direction along that railway from the western end of the Haymarket Tunnel and terminating by a junction with the said Edinburgh and Glasgow Railway at a point on that railway two hundred and thirty yards or thereabouts measured in an easterly direction along the said railway from the eastern end of the aforesaid Haymarket Tunnel :

A widening (No. 3) 5 furlongs 2·90 chains or thereabouts in length of the said Edinburgh and Glasgow Railway on the northern side of the same commencing by a junction with the said Edinburgh and Glasgow Railway at the eastern end of the aforesaid Haymarket Tunnel and terminating in the Company's Waverley Station at a point ten yards or thereabouts measured in an easterly direction from the eastern face of the

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North Bridge and ninety yards or thereabouts southward of the southern side of Princes Street :

A widening (No. 4) 4 furlongs 2·20 chains or thereabouts in length of the said Edinburgh and Glasgow Railway on the southern side of the same commencing at the termination herein-before described of Widening No. 2 and terminating in the Waverley Station at a point ten yards or thereabouts measured in an easterly direction from the eastern face of the North Bridge and thirty yards or thereabouts northward of the north side of East Market Street :

A widening (No. 5) 5 furlongs 2 chains or thereabouts in length of the Company's railway on the northern side of the same commencing by a junction with the said railway at a point on that railway one hundred and sixty yards or thereabouts measured in a westerly direction from the centre of the bridge carrying the said railway over the street called North Back of Canongate and terminating by a junction with the Company's Edinburgh Leith and Granton Branch Railway at a point on that railway twenty yards or thereabouts measured in a westerly direction along the said railway from the centre of the bridge carrying the said branch railway over the street called Abbey-hill.

Heights and spans of bridges.

5. The Company may make the arches of the bridges for carrying the widenings over the roads or streets next herein-after mentioned of any heights and spans not less than the heights and spans herein-after mentioned in connexion therewith respectively (that is to say) :—

No. of Widening.	No. on deposited Plan.	Parish.	Description of Road	Height.	Span.
				ft. in.	ft. in.
Widening No. 1 -	10	St. Cuthberts -	Public - -	14 8	15 0
Ditto -	25	St. Cuthberts -	Public - -	14 6	16 0
Ditto -	11	St. Cuthberts -	Public - -	8 10	14 9
Widening No. 5 -	{ 15 } { 27 }	Canongate (Trinity College). South Leith -	{ Street called North Back of Canongate. }	15 0	40 0
Ditto -	45	South Leith -	{ Street called Abbey Mount. }	14 0	32 0
Ditto -	{ 46 } { 44 }	South Leith - Canongate -	{ Street called Abbeyhill. }	14 0	25 0
Ditto -	{ 45 } { 20 }	Canongate - St. Cuthberts -	{ Lane or Street called Croft- an-righ. }	15 0	20 0

6. With respect to tolls rates and charges and for all other purposes whatever the railway and widenings shall form part of the Company's undertaking.

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Railway and widenings to form part of undertaking of Company.

For the protection of the burgh of Leith.

7. If the Caledonian Railway Company shall in the next session of Parliament apply for an Act to authorise a deviation of Railway No. 2 authorised by the Caledonian Railway (Edinburgh Leith and Newhaven Extension Lines) Act 1890 so as to pass through the southern portion of the land scheduled by the Company for the purposes of Railway No. 1 by this Act authorised between Leith Walk and Easter Road and so as to take not more than one third of the said land and of the frontage thereof to Leith Walk the Company shall not oppose such application and if such application shall be sanctioned by Parliament and the Caledonian Railway Company shall erect a passenger station upon the land so authorised to be taken by them fronting Leith Walk the Company shall construct and maintain to the reasonable satisfaction of the corporation of Leith a covered footway not less than ten feet in width between their passenger station and the passenger station of the Caledonian Railway Company and the lands lying between Leith Walk and Easter Road and between Duke Street Gordon Street and Manderston Street shall be appropriated and divided between the Company and the Caledonian Railway Company for station purposes in the manner following (that is to say) Two thirds of such lands next adjacent to Duke Street on the north and Leith Walk on the west shall be appropriated to the Company for their goods and passenger stations and the other one third shall be appropriated to the Caledonian Railway Company for their passenger station.

8. The Company shall place their goods station at a distance of one hundred and ten feet from the present building line of Leith Walk and shall widen Whitfield Lane so as to provide reasonable and sufficient means of ingress and egress for two lines of traffic The passenger station of the Company shall be erected at the corner of and fronting Leith Walk and Duke Street as and when widened in accordance with the provisions of the agreement between the Company and the provost magistrates and council of the burgh of Leith contained in the Second Schedule to this Act.

As to position of goods and passenger station &c. at Leith Walk.

9. The Great Northern Railway Company and the North-eastern Railway Company and either of them shall have and be entitled to the same powers rights and privileges in respect of the railway and widenings authorised by this Act as they respectively now have or are entitled to in respect of the said portions of the said railways so authorised to be widened.

Powers to the Great Northern and North-eastern Railway Companies in respect of the railway and widenings.

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Great Northern and North-eastern Railway Companies to be entitled to use of enlarged station.

10. Notwithstanding any of the provisions of this Act the Great Northern Railway Company and the North-eastern Railway Company and either of them shall have and may exercise the same rights powers and privileges in and be subject to the like obligations in respect of the Waverley Station as improved enlarged and extended under the provisions of this Act as they were respectively entitled and subject to immediately before the passing of this Act in and over the existing Waverley passenger and goods station of the Company.

Facilities to Caledonian Company for "central traffic" over widenings.

11. The Caledonian Railway Company shall for and in respect of central traffic as defined in the North British and Edinburgh and Glasgow Railway Companies Amalgamation Act 1865 have and be entitled to the same rights and powers over the Widenings Nos. 1 2 3 and 4 as they now have or are entitled to over that portion of the Edinburgh and Glasgow Railway which extends between Corstorphine and the Waverley Station both inclusive.

Caledonian Company to have same rights, &c. over Widening No. 1 as they now have over line between Corstorphine and Haymarket West and Company to give necessary connexion.

12. The Caledonian Railway Company shall for and in respect of the traffic defined in sections 24 25 26 and 27 of the Caledonian and North British Railway Companies Act 1874 have and be entitled to the same rights and powers over the Widening No. 1 as they now have or are entitled to over the line between Corstorphine and Haymarket West both inclusive and the Company shall when required by the Caledonian Company form any necessary connexion at or near Corstorphine Station between the line as now existing and Widening No. 1.

Caledonian Railway Company to have same rights over Waverley Station as enlarged as they possess over present station.

13. Notwithstanding any of the provisions of this Act the Caledonian Railway Company shall for the purposes set forth in the North British and Edinburgh and Glasgow Railway Companies Amalgamation Act 1865 have and may exercise the same rights powers and privileges in and be subject to the like obligations in respect of the Waverley Station as improved enlarged and extended under the provisions of this Act as they were entitled and subject to immediately before the passing of this Act in and over the existing Waverley passenger and goods station of the Company.

Lands for extraordinary purposes.

14. The Company may take by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation (Scotland) Act 1845 any quantity of land not exceeding six acres but nothing in that Act or in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them upon any land taken under the powers of this section.

15. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

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Period for compulsory purchase of lands.

16. For the protection of the Caledonian Company the following provisions shall unless otherwise agreed between the Company and the Caledonian Company apply and have effect (that is to say) :—

For the protection of the Caledonian Railway Company.

(1) The bridge for carrying the line of railway of the Caledonian Company over Widening No. 1 where that widening is to be carried under that line shall be of a width not less than twenty-eight feet measured on the square between the parapets and if that company shall at any time resolve to lay down two additional lines of rails along the said line of railway where the same is carried by a bridge over Widening No. 1 as aforesaid and shall require the Company to enlarge such bridge so that the same shall be of a width not less than fifty feet measured on the square between the parapets the Company shall within twelve months after such requisition enlarge such bridge accordingly Provided always that if within twelve months after the Company shall have enlarged the said bridge under any such requisition by the Caledonian Company that company shall not have widened their bridge immediately adjacent over the Company's railway to which widening that company shall be bound to consent that company shall on demand pay to the Company the expense incurred by them in such enlargement and the amount of such expense shall in case of difference be determined by arbitration in manner herein-after provided :

(2) The said bridge so far as in any manner interfering with any lines works or lands belonging to the Caledonian Company shall be of such design and materials as shall be approved of by the engineer for the time being of that company and shall be constructed and completed under the superintendence and to the reasonable satisfaction in all respects of such engineer and according to working plans sections and specifications to be submitted to and approved of by him previously to the commencement of the works affecting the property of the said company and all costs charges and expenses incurred to such engineer in relation to the matters aforesaid shall be paid by the Company :

(3) The Company for the purpose of constructing Widening No. 2 so far as the same may affect the property of the Caledonian Company shall acquire from the Caledonian Company an easement or servitude only under the same and shall construct the said widening entirely in tunnel and shall not for

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the purposes of such construction open up or otherwise interfere with the surface of the ground of any stations depôts railways sidings or other property belonging to and occupied for traffic purposes by the Caledonian Company except that in the construction of their Lothian Road Station they may temporarily open the surface of the ground above belonging to the Caledonian Company unless in the opinion of the engineer of that company such opening cannot be made without serious inconvenience to that company and in the event of the said engineer being of opinion that such opening may be made the work shall be carried out under the direction of the engineer of the Caledonian Company and according to a plan to be approved of by him whom failing by an engineer to be appointed by the Board of Trade :

- (4) The said bridge and widening shall be constructed maintained and used and all other operations connected therewith respectively shall be conducted in such manner as not to injure or endanger the stability of any of the lines or works of the Caledonian Company and so as not to cause any unnecessary interruption impediment or inconvenience to the traffic of the Caledonian Company and if in the construction maintenance or use of the said bridge or widening or other works of the Company any injury be caused to any of the Caledonian Company's lines or works or interruption impediment or inconvenience be occasioned to their traffic the Company shall pay all damages arising from or consequent on such injury interruption impediment or inconvenience :
- (5) If any difference shall at any time arise between the Company and the Caledonian Company or their respective engineers with respect to any of the matters referred to in this section such difference shall (except as in this section otherwise provided) be determined by an engineer to be appointed by the Board of Trade on the application of either of the said companies at the cost of the Company and the decision of such engineer shall be final and conclusive Provided always that if in any case such engineer shall decide that the contention of the Caledonian Company has been unreasonable that company shall pay their own costs.

Solum only below the floor of the Waverley Market to be taken and plans

17. The Company shall not under the powers of this Act be entitled to take and use any portion of the surface of Waverley Market but may take and excavate to the extent of twenty-five feet or thereby in depth and use the solum only below the floor of the market for the purposes of their undertaking Provided always that

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before commencing any work affecting or interfering with the Waverley Market the Company shall submit plans and specifications of such work to the Lord Provost magistrates and council of the city of Edinburgh (herein-after called "the corporation") and in the event of any difference between the Company and the corporation as to the manner in and hours during which such works shall be constructed such difference shall be determined by an arbitrator to be appointed by the Board of Trade. In carrying out any such work due provision shall be made by the Company for upholding the floor of the said market and for the proper deadening of sound:

Provided always that the Company shall only be entitled to use such portion as a shed for railway stock and empty carriages and for no other purpose except with the consent of the corporation. Save as herein expressly provided nothing herein contained shall prejudice or affect the terms of the agreement between the corporation and the Company scheduled to and confirmed by the North British Railway (New Works) Act 1866.

18. If the Company fail within the period limited by this Act to complete the railway by this Act authorised to be made the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railway is completed and opened for the public conveyance of passengers or until the sum received in respect of such penalty amounts to five per cent. on the estimated cost of the works and the said penalty may be applied for by any landowner or other person claiming to be compensated or interested in accordance with the provisions of the next following section of this Act and in the same manner as the penalty provided in section three of the Railway and Canal Traffic Act 1854 and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in that section to an account opened or to be opened in the name of the Queen's and Lord Treasurer's Remembrancer on behalf of the Court of Exchequer in Scotland in the bank and to the credit specified in such warrant or order and shall not be paid thereout except as herein-after provided. But no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company was prevented from completing or opening such line 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.

19. Every sum of money so recovered by way of penalty as aforesaid shall be applicable and after due notice in the "Edinburgh

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to be submitted to corporation.

Penalty imposed unless the railway opened within the time limited.

Application of penalties.

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Gazette" shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or any portion thereof or who 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 has 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 is payable or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid has 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 if a receiver has been appointed or the Company is insolvent and has been ordered to be wound up or the railway in respect of which the penalty has been incurred or any part thereof has been abandoned be paid to such receiver or to the liquidator or liquidators of the Company or be applied in the discretion of the court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid to the Company.

Period for completion of railway and widenings.

20. If the railway and widenings are not completed within seven 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 railway and widenings or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

Power to divert and widen streets construct new street &c.

21. Subject to the provisions of this Act the Company may in the lines shown on the deposited plans and according to the levels shown on the deposited sections divert and widen the streets construct the new street or road and the other works herein-after described with all proper works and conveniences connected therewith respectively and may exercise the other powers herein-after mentioned 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 those and other purposes connected with their undertaking (that is to say):—

They may in the royal burgh and county of the city of Edinburgh divert the streets called Low Calton and North Back of Canongate between a point in the centre of the said street of Low Calton forty yards or thereabouts measured in a southerly direction along the said last-mentioned street from the centre

of the Regent Bridge under Waterloo Place and a point in the centre of the street called North Back of Canongate twenty-five yards or thereabouts measured in an easterly direction along the said last-mentioned street from the centre of the bridge carrying the railway of the Company over the said last-mentioned street :

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They may widen and divert the street called Tolbooth Wynd between a point ten yards or thereabouts measured in a westerly direction from the junction of the said Tolbooth Wynd with North Back of Canongate and a point on the northern side of the Canongate ten yards or thereabouts west of the point where Miller's Close joins the Canongate :

They may construct a new street or road commencing at or near the junction of Jeffrey Street and East Market Street and terminating at a point on the foresaid widening and diversion of the Tolbooth Wynd thirty yards or thereabouts measured in a northerly direction from the junction of Miller's Close with the Canongate.

22. Subject to the provisions of this Act and in addition to the other lands which the Company are by this Act authorised to acquire the Company may from time to time enter upon and appropriate for the purpose of enlarging and improving their Waverley passenger and goods station at Edinburgh the lands herein-after described and delineated on the deposited plans and described in the deposited books of reference relating thereto (that is to say) :—

Power to take additional lands for improving and enlarging Waverley Station.

Certain lands houses streets and other property situate in the royal burgh and county of the city of Edinburgh between the Waverley Bridge on the west and Tolbooth Wynd on the east and between Princes Street the General Post Office the Inland Revenue Office Waterloo Place the Calton Burial Ground Edinburgh Prison and Regent Road on the north and Market Street Jeffrey Street and Canongate on the south.

23. The Company may when and so soon as they have under the powers of this Act acquired the property on both sides of the roads and streets herein-after mentioned or such portions thereof as the Company are by this Act authorised to purchase stop up and discontinue as public thoroughfares such roads and streets or such portions thereof as are shown on the deposited plans as intended to be stopped up (that is to say) :—

Power to stop up certain streets and roads.

In the royal burgh and county of the city of Edinburgh :—

Canal Street Macdowall Street Gilmore Street Low Calton Street North Back of Canongate Cranston Street New Street Logan's Close and Raes Close :

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In the burgh of Leith and county of Edinburgh:—

Glover Street Ferrier Street Crown Street and Whitfield Lane :
Provided always that the Company shall not under the powers of this Act stop up Low Calton Street or North Back of Canongate or any portion thereof unless and until the diversion of Low Calton Street and North Back of Canongate has under the powers and provisions of this Act been made by the Company and opened for public use And provided further that the Company shall not under the powers of this Act stop up New Street or any portion thereof unless and until the widening and diversion of Tolbooth Wynd has under the powers and provisions of this Act been made by the Company and opened for public use.

As to vesting of site and soil of portions of roads &c. stopped up.

24. The site and soil of the streets and roads or portions thereof by this Act authorised to be stopped up and discontinued and the fee simple thereof (except where by this Act otherwise provided) if the Company are or if and when under the powers of this Act or of any other Act relating to the Company already passed they become the owners of the lands on both sides thereof shall be from the time of the stopping up thereof respectively wholly and absolutely vested in the Company for the purposes of their undertaking.

Extinguishment of rights of way &c.

25. Subject to the provisions of this Act all rights of way over and along the portions of streets and roads which may under the provisions of this Act be stopped up and discontinued and over and along any of the lands which may under those provisions be acquired by compulsion shall be and the same are as from the stopping up or discontinuance of the said portions of streets or roads or the purchase or acquisition of the said lands hereby extinguished and excepting always all rights of servitude belonging to the proprietors of property in New Buildings Edinburgh.

Owners may grant servitudes.

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

Company may acquire easements only under streets or roads.

27. With respect to any lands which the Company are by this Act authorised to enter upon take and use for the purposes of the railway and widenings and which are in or under the roadway pavement or footway of any public street road or lane shown on

the deposited plans and described in the deposited books of reference the Company shall not be required wholly to take the same or any part of the surface thereof or any cellar vault or other construction therein or thereunder, but the Company may subject to the provisions of this Act enter upon take and use the soil subsoil and under surface of the roadway pavement or footway of any such street road or lane.

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

Owners
may be re-
quired to sell
parts only
of certain
properties.

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Power to deviate from lines and levels delineated on plans and sections.

29. Subject to the provisions of this Act the Company may in the construction of the railway widenings and other works by this Act authorised deviate from the lines thereof delineated upon the deposited plans to any extent within the limits of deviation marked on those plans and may with the consent of the Board of Trade deviate from the levels of the said railways as delineated on the deposited sections to any extent not exceeding eight feet.

Special power to deviate from levels on sections.

30. The Company may with the consent of the Board of Trade in the construction of the railway and widenings deviate from the levels and gradients thereof shown on the deposited sections to such extent as may be found necessary or convenient for accommodating preserving or improving the drainage of or the sewers drains pipes or other works in or under the streets roads lanes footpaths and places through which the railway and widenings will be made or for avoiding such sewers drains pipes or other works anything in the Railways Clauses Consolidation (Scotland) Act 1845 to the contrary notwithstanding Provided always that the Company shall make full satisfaction in manner by this Act provided to all parties interested for any damage sustained by them respectively by reason of any deviation under the powers of this section to a greater extent than might have been executed under the powers of that Act.

Company empowered or may be required to underpin or otherwise strengthen houses near railway.

31. And whereas in order to avoid in the execution and maintenance of any works authorised by this Act injury to the houses and buildings within one hundred feet of Widenings Nos. 2 3 4 and 5 respectively it may be necessary to underpin or otherwise strengthen the same Therefore the Company at their own costs and charges may and if required by the owners and lessees of any such house or building shall subject as herein-after provided underpin or otherwise strengthen the same and the following provisions shall have effect (that is to say) :—

- (1) At least ten days notice shall unless in case of emergency be given to the owners lessees and occupiers or by the owners and lessees of the house or building so intended or so required to be underpinned or otherwise strengthened :
- (2) Each such notice if given by the Company shall be served in manner prescribed by section eighteen of the Lands Clauses Consolidation (Scotland) Act 1845 and if given by the owners and lessees of the premises to be underpinned or strengthened shall be sent to the principal office of the Company :
- (3) If any owner lessee or occupier of any such house or building or the Company as the case may require shall within seven days

after the giving of such notice give a counter notice in writing that he or they as the case may be dispute the necessity of such underpinning or strengthening the question of the necessity shall be referred to an engineer to be agreed upon or in case of difference to an engineer to be appointed at the instance of either party by the Board of Trade :

- (4) Such referee shall forthwith upon the application of either party proceed to inspect such house or building and determine the matter referred to him and in the event of his deciding that such underpinning or strengthening is necessary he may and if so required by such owner lessee or occupier he shall prescribe the mode in which the same shall be executed and the Company may and shall proceed forthwith so to underpin or strengthen the said house or building :
- (5) The cost of the reference shall be in the discretion of the referee :
- (6) The Company shall be liable to compensate the owners lessees and occupiers of every such house or building for any inconvenience loss or damage which may result to them by reason of the exercise of the powers granted by this enactment :
- (7) If in any case in which any house or building shall have been underpinned or strengthened on the requisition of the Company such underpinning or strengthening shall prove inadequate for the support or protection of the house or building against further injury arising from the execution or use of the works of the Company then and in every such case unless such underpinning or strengthening shall have been done in pursuance of and in the mode prescribed by the referee the Company shall make compensation to the owners lessees and occupiers of such house or building for such injury provided the claim for compensation in respect thereof be made within six months from the discovery thereof :
- (8) Nothing in this enactment contained nor any dealing with any property in pursuance of this enactment shall relieve the Company from liability to compensate under the Lands Clauses Consolidation (Scotland) Act 1845 or under any other Act :
- (9) Every case of compensation to be ascertained under this enactment shall be ascertained according to the provisions contained in the Lands Clauses Acts :

[Ch. cxcii.] *North British Railway (Waverley Station, &c.) Act, 1891.* [54 & 55 VICT.]

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(10) Nothing in this section shall repeal or affect the application of the ninetieth section of the Lands Clauses Consolidation (Scotland) Act 1845.

Interference with streets.

32. Subject to the provisions of this Act the Company may for the purpose of constructing the railway and widenings (whether the same be shown on the deposited plans as to be constructed in tunnel or otherwise) and the new street and widening and diversion of streets temporarily cross alter break open stop up or divert any streets roads lanes pavements and footpaths shown on the deposited plans and described in the deposited books of reference and may during such construction use and appropriate any of the streets roads lanes pavements or footpaths so stopped up or diverted and may also during such construction from time to time break open any such streets roads lanes pavements or footpaths when necessary for the protection or repair of any sewers drains or pipes under the same.

For restoration of streets.

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

Restrictions on displacing persons of labouring class.

34.—(1) The Company shall not under the powers of this Act purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1867 ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until—

(A) They shall have obtained the approval of the Secretary for Scotland to a scheme for providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of December last or for such number of persons as the Secretary for Scotland shall after inquiry deem necessary

having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such persons and to all the other circumstances of the case; and

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

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

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

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

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

(5) If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary for Scotland by action in the Court of Session and shall be carried to and form part of the Consolidated Fund of the United Kingdom:

Provided that the court may if it think fit reduce such penalty.

(6) For the purpose of carrying out any scheme under this section the Company may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require and for the purpose of any such purchase section ninety of the Public Health (Scotland) Act 1867 shall be incorporated with this Act and shall

[Ch. cxcii.] *North British Railway (Waverley Station, &c.) Act, 1891.* [54 & 55 VICT.]

A.D. 1891. apply to the purchase of lands by the Company for the purposes of any scheme under this section in the same manner in all respects as if the Company were a local authority within the meaning of that Act and the scheme were one of the purposes of that Act.

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

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

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

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

(9) The Company shall pay to the Secretary for Scotland a sum to be fixed by him in respect of the preparation and issue of any provisional order in pursuance of this section and any expenses incurred by him in relation to any inquiries under this section including the expenses of any witnesses summoned by the person appointed to hold any such inquiry and a sum to be fixed by the

Secretary for Scotland not exceeding three guineas a day for the services of the person so appointed. A.D. 1891.

(10) For the purposes of this section the expression "labouring class" includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

35. For the protection of the Lord Provost magistrates and council of the city and royal burgh of Edinburgh (herein-after called "the corporation") the following provisions shall have effect and be binding on the Company:— For the protection of the corporation of Edinburgh.

(1) In constructing the railways or widenings by this Act authorised the Company shall maintain any bridges carrying any such railways or widenings at the roads and numbered on the plans as herein-after mentioned of at least the clear headway of the existing bridges over such roads respectively (namely):—

No. 25	Parish of St. Cuthbert's			
,, 11	,,	,,		
,, 45	,,	,,	(Abbey Mount)	
,, 46	,,	,,	} (Abbeyhill)	
,, 44	Parish of Canongate		}	
,, 45	,,	,,	} (Croft-an-righ)	
,, 20	Parish of St. Cuthbert's		}	

and shall at the same roads construct the intended bridges over the same of a corresponding width and in alignment with such widened bridges And the widths of the said bridges shall be in accordance with the regulations of the city of Edinburgh as to width of streets or as may be agreed with the corporation:

(2) For the purpose of enabling the corporation to form a road between Coltbridge and Dalry the Company shall construct the bridge marked No. 11 in the parish of St. Cuthbert's on the deposited plans to a width between the piers or abutments of not less than forty feet and place the foundations at such depth as will admit of a clear headway under it of at least fifteen feet over its whole width The Company shall also sell and convey to the corporation such portion of the land of the Company as may be necessary for the continuation of said road and that at a price to be determined failing agreement in terms of the

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Lands Clauses Acts Provided always that the cost of any additional width of the existing bridge so required by the corporation shall be borne by the corporation :

- (3) Any new bridges or reconstructed bridges over the following streets shall be of the heights and widths not less than hereinafter shown (viz.) :—

	Width.	Height.
Cranston Street	40 feet	14 feet
Logan's Close	15 „	15 „
New Street	40 „	15 „

- (4) All new bridges which may be constructed over roads or streets shall be constructed so that the heights shown on the plans or prescribed shall be the minimum clear heights for the whole width of the carriageway and so that the piers or abutments shall be parallel to the road or street at the sites thereof :
- (5) All new bridges over roads or streets within the city shall be constructed so as to prevent the drip of water on to the streets or foot pavements and the walls of their piers or abutments shall be faced with white glazed bricks which shall be kept clean by the corporation at the expense of the Company :
- (6) The diversion of Low Calton and North Back of Canongate shall be constructed according to the lines and levels shown on the deposited plans or as near thereto as possible unless otherwise agreed with the corporation :
- (7) The Company shall not without consent of the corporation widen or extend the railway bridge at present crossing over Cranston Street until the portion of the said street between North Back of Canongate and East Market Street shall be closed and stopped up in accordance with the provisions of this Act Provided always that in case Cranston Street is stopped up the Company shall before stopping up the same construct and they shall also maintain and light a subway for foot passengers lined in the sides and roof with glazed white bricks which subway shall be twelve feet wide and ten feet high :
- (8) The Company shall not except as after mentioned without the consent of the corporation open or in any way interfere with the surface of any street road or public footpath within the city or with the pavements or footpaths of any such road or street for the purpose of the construction of their railways unless and until they shall to the satisfaction of the corporation

provide for the free passage of the traffic thereon by a temporary carriageway and footpath or if there be no carriageway interfered with then by a temporary footpath only of such dimensions as may be agreed between them and the corporation or failing agreement as may be settled by arbitration as herein-after provided :

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

(1) Restore within three months after the completion of their works in any street road lane pavement or footpath the street road lane pavement or footpath so interfered with by the said works or by subsidence occasioned thereby to its intended permanent level ;

(2) Cause the street road lane pavement or footpath to be maintained till properly consolidated ;

(3) Make good the paving and metalling of the street road lane pavement or footpath and wherever necessary cause the same to be repaved or remetalled over their entire width ;

(4) Provide and maintain all requisite communications and accesses for foot passengers to or from the houses and other buildings in the streets roads lanes pavements or footpaths so interfered with ;

(5) In crossing under any street road lane pavement or footpath arch or cover over the railway so that the full width between the parapets shall be the maximum width of the road including footpaths at the point of crossing :

(10) The Company shall not make in any road street or lane or in any garden or public place within the city of Edinburgh or in the pavements or footways of any road street or lane any openings shafts or vents for the purpose of ventilating the said railways or any of them All openings shafts or vents to be constructed for the purpose of ventilating the said railways shall be so constructed as not to discharge between the building lines on the sides of the roads or streets and at such elevation and in such manner as not to occasion a nuisance to the public or to the owners or occupiers of houses or other buildings :

(11) At least one month before the Company commence the works following (viz.) :—

(1) The tunnel faces and retaining walls footbridges fences or fence walls or other works which the Company are

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authorised to construct which may be in East or West Princes Street Gardens or in Regent Road Gardens ;

(2) Waverley Bridge alterations ;

(3) North Bridge alterations ;

the Company shall submit to the corporation plans sections and elevations of such works for reasonable approval and they shall not construct the said works except in accordance with plans so approved or failing approval as shall be settled by arbitration :

(12) In constructing the Railway Widening No. 5 between Calton Tunnel and Abbey Mount the Company shall make the tunnel or covered way of such length that the mouth thereof shall extend fifty yards east from the eastern face of the existing tunnel and they shall not take or use more of the public gardens than may be necessary for laying two additional lines of rails and they shall in lieu of a slope construct a retaining wall on the north side and for the full length of the cutting and shall ornamentally fence the railway and plant where the nature of the slope admits and keep planted such slopes to the satisfaction of the corporation :

(13) The Company shall not construct their railway through West Princes Street Gardens with a greater number than four lines of rails including those now existing Such lines shall be continuous from St. Cuthbert's Burial Ground to the Mound Tunnels :

(14) The Company shall not acquire take or use in West Princes Street Gardens a greater width including that now occupied by their railway than fifty-four feet measured within the walls enclosing the land acquired with such additional width as may be required for the said walls the dimensions of which shall be agreed between the Company and the corporation or failing agreement as may be settled by arbitration and shall not without the consent of the corporation acquire a greater width than fourteen feet at any point on the north side of the existing railway Provided always that for a distance of one hundred yards westward from the west end of the Mound Tunnel the Company may take such greater width as is necessary for the purpose of connecting the railway through West Princes Street Gardens as so widened with the tunnels under the Mound ;

(15) The Company shall not take acquire or use any part of East Princes Street Gardens except the portions hatched in red on the plan signed by Sir Julian Goldsmid Baronet the Chairman of the Committee of the House of Commons to whom

the Bill for this Act was referred and deposited in the Parliament Office of the House of Lords and the Private Bill Office of the House of Commons with such additional width as may be required for the walls enclosing the land acquired the dimensions of which shall be agreed between the Company and the corporation or failing agreement as may be settled by arbitration :

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- (16) The Company shall not in East Princes Street Gardens or in West Princes Street Gardens or in Regent Road Gardens exercise any of the powers conferred upon them by the Railways Clauses Consolidation (Scotland) Act with respect to the temporary use and occupation of lands Provided that for the purpose of building the boundary walls and footbridges as in this section provided they may enter upon and use but only subject to such regulations as the corporation may prescribe the lands immediately adjoining such walls and footbridges :
- (17) Any land in the East Princes Street Gardens or West Princes Street Gardens which the Company may under the powers of this Act acquire from the corporation shall be subject to the existing restrictions applicable to the ground in the said gardens formerly acquired from the corporation whether imposed by Act of Parliament or by agreement and shall subject to these restrictions be used in the same manner as the ground between the Waverley Bridge and the Mound now held by the Company may be used :
- (18) The Company shall not construct a turntable upon any of the land acquired or to be acquired by them to the west of Waverley Bridge in the Princes Street Gardens :
- (19) The Company shall construct and maintain in or near their present position in West Princes Street Gardens three footbridges over their railway with approaches and one of such bridges at the selection of the corporation shall be constructed of sufficient width and strength to carry a horse and garden cart And the Company shall also build and maintain boundary walls of stone with ornamental railings on each side of the railway where the same passes through the property of the corporation in East or West Princes Street Gardens according to a design to be previously approved by the corporation and that to the reasonable satisfaction of the corporation :
- (20) The corporation may embank and plant the said East and West Princes Street Gardens in such manner as to effectively screen the railways of the Company from observation and the Company shall pay to the corporation all reasonable expenses

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which the corporation may from time to time incur for the purpose of restoring the disturbed ground in East and West Princes Street Gardens and for embanking and planting the railway as aforesaid :

- (21) Except as herein-after provided the powers of compulsory acquisition of land and of extinction of rights of way or passage conferred by this Act shall not extend or apply to the North Bridge or to the ground beneath or adjacent thereto belonging to the corporation but the Company may for the purpose of enlarging and improving their station make such alterations on at or near the northern and southern ends of the said bridge as may be previously approved in writing by the corporation and the Company shall restore the said bridge as so interfered with to the reasonable satisfaction of the corporation :

The Company shall not during the alterations aforesaid stop the traffic on more than half the roadway of the said bridge :

The Company shall make good all injury and damage which may be done to the structure of the said bridge or any part of it by any of the operations of the Company and that to the reasonable satisfaction and at the sight of the corporation :

- (22) Nothing contained in this Act shall prejudice or affect the rights of servitude or other rights of the corporation or of the vassals of the corporation in virtue of their title deeds :

- (23) In the event of the Company owning or acquiring under this Act any property fronting or abutting upon Princes Street or the North Bridge or the approach to North Bridge or New Street they shall if required by the corporation within three months after intimation given by the Company to the corporation of their acquisition of or taking possession thereof surrender to them so much of any such property as may be required for setting back the building line of the said streets and approach or any of them to the extent the corporation may think fit Provided always that the price or consideration for such lands so surrendered shall failing agreement between the corporation and the Company be settled under the Lands Clauses Acts and such consideration shall include such proportion of the price and expenses incurred by the Company in the acquisition thereof as the arbiter may determine Provided further that in the event of the Company acquiring and taking down the buildings or any part of them numbered on the deposited plans 12 13 and 24 to 31 both inclusive in the city parish of Edinburgh the Company shall rebuild the same according to designs to be reasonably approved by the corporation

and in the event of any part of said buildings so taken down not being rebuilt the Company shall leave the vacant site and adjoining buildings in a style and condition satisfactory to the corporation :

- (24) The Company shall use or permit to be used coke only for fuel of any steam or other engine used in the construction of the works within the city of Edinburgh :
- (25) All the prohibitions limitations and restrictions applicable to the lands to be acquired within the city of Edinburgh shall apply to any company using or entitled to use the railway constructed on such lands :
- (26) Where the Company interfere with any of the sewers or drains of the corporation they shall reconstruct the same to the reasonable satisfaction of the corporation. At least fourteen days before the Company commence any works the execution of which would in any way interfere with or affect any of the roads streets lanes footpaths bridges gardens or public places in the city or in which the corporation have interest or which would interfere with or affect the sewers or drains gas or water pipes or electric wires belonging to the corporation or which they have the right of using the Company shall give to the corporation notice thereof in writing accompanied by such plans sections working drawings and specifications as are necessary to show the manner in which the proposed railways and works are to be executed and also the means to be employed for protecting the said roads streets lanes footpaths bridges gardens public places sewers drains and other works during the operations of the Company and also the means to be employed for making good any injury or damage to or interference with the said roads streets lanes footpaths bridges gardens public places sewers drains and other works which plans sections working drawings and specifications shall be subject to the reasonable approval of the corporation previously to the works of the Company affecting the said roads streets lanes footpaths bridges gardens public places sewers drains and other works being commenced and such works of the Company shall be carried out under the supervision and to the reasonable satisfaction of the corporation. Provided always that if the corporation do not within fourteen days after service of such notice on them intimate to the Company their approval or disapproval of the said plans sections working drawings and specifications the Company may thereupon proceed to execute their said

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works but this proviso shall not apply to works for which a longer notice than fourteen days is herein prescribed :

(27) Where any of the works to be done under or by virtue of this Act shall or may pass over under or by the side of or so as to interfere with any sewer drain watercourse defence or work under the jurisdiction or control of the corporation or shall or may in any way affect the sewerage or drainage of the district under their control the Company shall make good any damage which may be done by their operations to any of the sewers and shall clean out the same should they get silted up in consequence of any of the operations of the Company during or for twelve months after the construction of the Company's works and shall provide by new altered or substituted works in such manner as the corporation may deem necessary (and for the construction of which they shall be bound to afford all reasonable facilities and communicate their powers so far as necessary) for the proper protection of and for preventing injury or impediment to the sewers and works herein-before referred to by or by reason of the said intended works or any part thereof and shall save harmless the corporation against all and every the expense to be occasioned thereby and all such works may be done under the supervision of the corporation and to their reasonable satisfaction at the costs charges and expenses in all respects of the Company and all reasonable costs charges and expenses thereby occasioned shall be paid by the Company on demand and when any new altered or substituted works as aforesaid or any works or defence connected therewith shall be completed by or at the costs charges and expenses of the Company under the provisions of this Act the same shall thereafter be as fully and completely under the direction jurisdiction and control of the corporation as any sewers or works now or hereafter may be and nothing in this Act shall unless expressly so provided extend to prejudice diminish alter or take away any of the rights powers or authorities vested or to be vested in the corporation but all such rights powers and authorities shall be as valid and effectual as if this Act had not passed :

(28) The amount of the purchase money or compensation to be paid to the corporation as Governors of Trinity Hospital for and in respect of the taking for the purposes of the Act of such parts of the Trinity Hospital lands as may be entered upon taken or used by the Company shall be fixed and ascer-

tained on the footing of the said lands being feuing lands and shall failing agreement between the corporation and the Company be determined by arbitration in manner provided by the Lands Clauses Consolidation (Scotland) Act 1845 for the settlement of disputed compensation and the Company shall free and relieve the corporation of and from all claims competent to the feuars and tenants or occupiers of such lands :

(29) For the purposes of proper access to and from and between the said hospital lands severed by the railway the Company shall provide and for ever maintain either bridges or archways over or under the said railway as in the opinion of the corporation shall be reasonably suitable and to be constructed at such places as the corporation may require to their reasonable satisfaction :

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

(31) Where the railway is carried over any part of the hospital lands the Company shall plant the slopes with suitable trees or shrubs to the satisfaction of the corporation and shall maintain the same so planted in all time coming :

(32) The Company shall enclose with substantial stone walls to the reasonable satisfaction of the corporation the whole ground part of the said hospital lands which may be acquired by the Company in connexion with their undertaking in order that the same may be properly fenced off from the remainder of the said hospital lands :

(33) The Company shall not execute or commence the erection or construction of any of the bridges archways culverts embankments viaducts walls or other works in connexion with the carrying out of their undertaking on any part of the said hospital lands until they shall have submitted to the corporation plans elevations sections and other necessary particulars of the erection or construction of such works and until the corporation shall have approved of the same unless the corporation shall fail to signify such approval or their disapproval or other directions within one month after so submitting the said plans elevations sections and other particulars as aforesaid and the Company shall comply with and conform to all reasonable directions and alterations made by the corporation in the

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execution and subsequent maintenance of every such bridge archway culvert embankment viaduct wall or other work and all such work shall be done to the reasonable satisfaction of the corporation or their architect or engineer or other person appointed by them for that purpose and at the costs charges and expenses in all respects of the Company :

- (34) The Company shall not affix or exhibit or permit to be affixed or exhibited upon any part of their undertaking situated on the Trinity Hospital lands within view of any road or street any placards bills or advertisements but the names of stations or timetables of the Company tastefully designed shall not fall within this restriction :
- (35) The Company shall not without the written consent of the corporation deposit or load manure or town refuse or suffer the same to be deposited or loaded at any station or siding to be formed on the lands to be acquired by them from Trinity Hospital or within fifty yards of any part of the Trinity Hospital lands :
- (36) The Company shall pay to the corporation the costs and expenses they may reasonably incur or be put to in superintending the works authorised by this Act or with reference to any of the matters aforesaid :
- (37) The special provisions herein contained for the protection of the corporation shall not be deemed to supersede or dispense with the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 or of any other statutes but all such provisions except in so far as they may be inconsistent with any of the special provisions herein contained shall be and remain in full force and effect :
- (38) Nothing in this Act contained shall prejudice or affect the provisions prohibitions limitations and restrictions contained in any prior Act or in any agreements entered into by and with the Company affecting the lands or property acquired or to be acquired by the Company from the corporation or the use of such lands or property :
- (39) If the corporation and the Company shall differ with regard to any of the matters herein-before mentioned other than Trinity Hospital lands every such difference shall on the application of the Company or of the corporation be referred to the determination of an arbitrator to be mutually agreed upon by the corporation and the Company and failing such agreement as may be appointed on the requisition of either of them by the sheriff of the Lothians and Peebles and such arbitrator shall have power to determine the matter in difference and the

costs of and incidental to the reference shall be in the discretion of the arbitrator. In the event of the death incapacity or failure to act of the arbitrator so appointed and the corporation and the Company failing to agree as to another arbitrator the said sheriff shall as often as occasion requires appoint another arbitrator in room and place of the arbitrator previously appointed as aforesaid.

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36. Any land in the East Princes Street Gardens which the Company may under the powers of this Act acquire from the Governor and Company of the Bank of Scotland shall be subject to the existing restrictions applicable to the ground formerly acquired from the said governor and company whether imposed by Act of Parliament or by agreement and shall subject to these restrictions be used in the same manner as the ground between the Waverley Bridge and the Mound now held by the Company may be used.

For protection of the Bank of Scotland.

37. Notwithstanding anything in this Act contained the Company shall on or before the fifteenth December one thousand eight hundred and ninety-one serve upon Daniel Bernard of Edinburgh brewer a minute under seal intimating whether or not they intend to acquire the lands in his occupation herein-after mentioned and if they serve such minute intimating their intention to do so then they shall on or before the fifteenth December one thousand eight hundred and ninety-three serve statutory notice to acquire all the lands occupied by him which are shown on the deposited plans and books of reference with the exception of the dwelling-houses standing on the lands numbered 71 72 73 and 74 in the parish of Canongate (Trinity College) and if the Company shall not serve such minute on or before the said fifteenth December one thousand eight hundred and ninety-one or if such minute shall intimate their intention not to acquire the said lands then the power to acquire the same compulsorily shall cease. Provided always that nothing in this clause shall affect the power to acquire the properties numbered 71 72 73 and 74 aforesaid in the said parish and the Company shall not interfere with the pipes running under New Street and North Back of Canongate belonging to the said Daniel Bernard and connecting portions of his brewery premises until they shall have provided other pipes equally convenient in position and suitable in character for the purposes served by the existing pipes.

For the protection of Daniel Bernard.

38. In carrying the railway and widenings by this Act authorised in over or under any streets or lanes in which any gas mains or pipes are laid the Company shall before proceeding to interfere with appropriate or stop up any of such streets or lanes give at least ten

For protection of gas mains and pipes.

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days previous notice of their intention so to do to the clerk to the Edinburgh and Leith Corporations Gas Commissioners (herein-after referred to as "the gas commissioners") and shall submit a plan and section showing the intended operations and the alterations proposed by which any gas mains and pipes in any such street or lane shall or may be affected or interfered with and the same shall be subject to the reasonable approval of an engineer to be appointed by the gas commissioners and any alteration or removal or diversion of any such gas mains or pipes shall be done and executed by the gas commissioners or by persons to be employed by them and the expense thereof and all expenses and charges incident thereto and consequent on any of the said works or operations shall be repaid by the Company to the gas commissioners and in the event of any leakage from any such gas mains or pipes occurring at any time the Company shall not be entitled to make any claim for damage in respect thereof but only to require the gas commissioners to repair the same in a sufficient manner and within a reasonable time and nothing in this Act contained shall prevent the gas commissioners or other persons having right to any gas mains or pipes which may be interfered with or affected as aforesaid from having access to the same at all reasonable times for repairing and inspecting the same and for any other necessary purpose In all cases where streets are to be carried over the widenings of railways or new railways by bridges or covered ways provision shall be made for supporting a gas main pipe twelve inches diameter inside measurement across the opening of such bridges or covered ways in such manner as shall be agreed upon by the engineer of the Company and the engineer of the gas commissioners Provided always that the provision herein contained in favour of the gas commissioners shall be in addition to and not in substitution for the provisions with respect to the said matters contained in the Railways Clauses Consolidation (Scotland) Act 1845.

Differences to be settled by arbitration.

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

For protection of National Gallery.

40. The Company in constructing Railway No. 3 or any of the works connected therewith shall not do nor cause any injury whatever to the National Gallery or to any part of the same either before

[54 & 55 VICT.] *North British Railway (Waverley Station, &c.) Act, 1891.* [Ch. cxcii.]

A.D. 1891.

during or after the construction of the said railway and if any complaint shall be made by the Secretary for Scotland that due precautions are not taken or that damage has occurred or is likely to occur to the said National Gallery the matter of such complaint shall stand referred to the decision of the President of the Institution of Civil Engineers or to some other civil engineer to be appointed for that purpose in writing by the said President and such President or other engineer shall have power to estimate and assess the damages (if any) which have been sustained and to give such directions as he may think fit as to the manner in which the construction of the said line shall be proceeded with if it shall be in course of construction at the time or any injury or damage shall be repaired or remedied and the Company shall forthwith obey all such instructions and perform or abstain from performing all such works matters and things in all respects as such President or other civil engineer shall or may from time to time direct make or award and shall also pay all assessed damages costs charges and expenses whatsoever occasioned by reason of any of the matters aforesaid and for the purpose of preventing injury to the National Gallery it shall be lawful for the Company to enter and do such works inside as well as outside the same premises as may be deemed necessary by their engineer and if such works are not immediately commenced and continuously proceeded with by the Company the same may be executed by or by the order of the Secretary for Scotland and all the costs charges and expenses of such works and in any manner incidental thereto shall be paid by the Company to the Secretary for Scotland within thirty days after demand of the payment thereof.

41. If in carrying the railways and other works by this Act authorised over or under any of the mains aqueducts conduits culverts lines of pipes or apparatus and appliances thereof or connected therewith or any of them of the Edinburgh and District Water Trustees (hereafter referred to as "the water trustees") it shall be found necessary to alter the existing lines or levels of such mains aqueducts conduits culverts lines of pipes or apparatus and appliances thereof or connected therewith or any of them or otherwise interfere with the same it shall be done so as not to injuriously affect or interrupt the supply of water conveyed by the same and the Company shall give at least fourteen days previous notice to the clerk to the water trustees before commencing any such works and such crossings and all works necessary therefor and connected therewith including the works required under subsections A and B hereof shall be executed at the expense of the

For protection of Edinburgh and District Water Trustees.

A.D. 1891. Company and at the sight and to the reasonable satisfaction of the engineers of the water trustees and according to plans to be submitted to and approved by such engineers before such works shall be begun and during the progress of those works the engineers of the water trustees may if they think fit execute at the expense of the Company any works which they deem requisite for the protection of the mains aqueducts conduits culverts lines of pipes or apparatus and appliances thereof or connected therewith or any of them of the water trustees in the event of the Company failing to do so when called upon by the water trustees and if the water trustees shall incur any expense for and in connexion with any works which they may consider necessary in reference to the crossing of such mains aqueducts conduits culverts lines of pipes or apparatus and appliances thereof or connected therewith or otherwise or any other interference therewith or in reference to access thereto they shall be entitled to full compensation from the Company for such expense and all such works to be executed by or at the expense of the Company shall be maintained in good and sufficient repair in all time coming by the Company and the water trustees shall have at all times the right of access to such mains aqueducts conduits culverts lines of pipes or apparatus and appliances thereof or connected therewith for the repair removal renewal enlargement alteration and maintenance of the same and the right of laying additional pipes when they shall see fit and which access the Company shall be bound to make provide and maintain in all time coming to the reasonable satisfaction of the engineers of the water trustees Provided that the water trustees shall as far as possible avoid the causing of any interruption or obstruction to the traffic of the railway :

(A) Where the proposed railways and other works by this Act authorised whether in tunnel or covered way cross at any point under the said mains aqueducts conduits culverts lines of pipes or apparatus and appliances thereof or connected therewith or any of them of the water trustees the said mains aqueducts conduits culverts lines of pipes or apparatus and appliances thereof or connected therewith or any of them shall be sufficiently supported and protected against subsidence and injury during the construction of said railways and shall also be permanently supported to the satisfaction of the engineers of the water trustees :

(B) Where the proposed railways and other works by this Act authorised whether in tunnel or covered way pass at any point in such close proximity to the said mains aqueducts conduits

culverts lines of pipes or apparatus and appliances thereof or connected therewith or any of them of the water trustees as in the opinion of the engineers of the water trustees may cause injury thereto the said mains aqueducts conduits culverts lines of pipes or apparatus and appliances thereof or connected therewith or any of them shall be diverted as may be directed by such engineers before the proposed railways and other works by this Act authorised are commenced or as may be directed by such engineers Said mains aqueducts conduits culverts lines of pipes or apparatus and appliances thereof or connected therewith or any of them shall be sufficiently supported and protected in the manner described in the next preceding subsection :

(c) The water trustees shall not be liable for any loss or damage which may happen to the railway or works connected therewith or to the rolling stock used or to the passengers or goods conveyed upon the railways by reason of any accident which may at any time happen to the said mains aqueducts conduits culverts lines of pipes or apparatus and appliances thereof or connected therewith or any of them nor for any loss or damage to the Company arising from the stoppage or loss of traffic on the railway during the repair of the said mains aqueducts conduits culverts lines of pipes or apparatus and appliances thereof or connected therewith or any of them which may be necessary in consequence of such accident excepting where such damage or injury shall have been occasioned by the default or neglect of the agents officers workmen or servants of the water trustees but the Company shall indemnify and save them harmless from and against the consequences of such damage stoppage or loss :

(d) The special provisions herein contained for the protection of the water trustees shall not be deemed to supersede or dispense with the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 sections eighteen to twenty-two both inclusive but those provisions respectively except in so far as they may be inconsistent with any of the special provisions herein contained shall be and remain in full force and effect :

If any difference shall at any time arise between the Company and the water trustees or their respective engineers with respect to any of the matters aforesaid such difference shall be referred to and determined by an arbiter to be appointed by the sheriff of the Lothians and Peebles on the application of either the Company or the water trustees.

A.D. 1891.
For protection of
the Edinburgh Street
Tramways
Company.

42. For the protection of the Edinburgh Street Tramways Company (herein-after called "the tramways company") the following provisions shall wherever Widenings Nos. 2 and 5 or the works connected therewith cross pass under or otherwise interfere with any of the lines of the tramways of the tramways company have effect and be binding on the Company (that is to say):—

- (1) Before commencing any works affecting or which may affect the tramways belonging to the tramways company the Company shall give to the tramways company at least seven days notice in writing in order that the tramways company may to the reasonable satisfaction of the engineer of the Company and at the cost of the Company make the necessary accommodation works for the carrying on of their traffic :
- (2) Where for the purpose of constructing Widenings Nos. 2 and 5 it shall be necessary for the Company to interfere with the tramways of the tramways company or any of them or the working thereof the Company shall make such arrangements (including if and where necessary the temporary shifting of the rails of the tramways) as will ensure that the tramways shall be always available for the traffic of the tramways company being conducted in the ordinary way with safety to the public :
- (3) The construction of the said widenings and works so far as interfering with or affecting any lines of the said tramways shall be conducted under the supervision and to the reasonable satisfaction of the engineer of the tramways company and all costs and charges of the tramways company reasonably and properly incurred in relation to any works to be executed in consequence of the operations of the Company affecting the tramways of the tramways company including the reasonable charges of their engineer shall be paid to the tramways company by the Company :
- (4) Temporary works where necessary shall be made for the safe and convenient passage of horses and carriages along and across the streets and of passengers to and from the foot pavements and carriages of the tramways company and the Company shall from time to time indemnify the tramways company from any loss or damage sustained by them by reason of any interruption to or interference with their traffic in consequence of the construction of the said widenings and works or of the operations of the Company including any compensation to passengers and others and any damages to plant or stock

which the tramways company may sustain or become liable for in connexion with any accident or injury arising from the operations of the Company excepting where such damage shall have been occasioned by the default or neglect of the tramways company or of their officers workmen or servants Provided that the tramways company shall give to the Company notice of any accident or occurrence involving damage injury detention or interference as soon as possible after it occurs and except with consent of the tramways company any operation of the Company which would cause such interruption or interference as aforesaid shall be conducted between the hours of twelve p.m. and five a.m. of the next lawful day: A.D. 1891:

- (5) The Company shall to the satisfaction of the tramways company restore the tramways so interfered with by the said works or by subsidence occasioned thereby to their original levels and the Company shall during the space of one year from the restoration of the roadways maintain and repair the portion of the tramway lines crossed passed under or interfered with and of the roadways between and within and extending eighteen inches outside of the rails so crossed passed under or otherwise interfered with and the Company shall thereafter bear any additional expense in maintaining or renewing the said lines and roadways occasioned by the construction of the said widenings and shall further pay on demand to the tramways company all costs and expenses reasonably and properly incurred to which they may be put in consequence of any damage or injury caused to such tramways or roads by the construction or maintenance of the said widenings and shall indemnify the tramways company from any penalties to which they may become liable by reason of such part of such roads or the tramways thereon being out of repair from any of the causes aforesaid:
- (6) If any difference shall at any time arise between the Company and the tramways company or their respective engineers with respect to any of the matters referred to in this section such difference shall be referred to and determined by an engineer to be agreed on or failing agreement to be appointed by the sheriff of the Lothians and Peebles on the application of either the Company or the tramways company:
- (7) Nothing in this Act contained shall prejudice or affect the provisions of the several Acts and any agreements scheduled thereto for and relating to the construction and maintenance of the tramways company's tramways and the traffic thereon within the burgh of Edinburgh.

[Ch. cxcii.] *North British Railway (Waverley Station, &c.) Act, 1891.* [54 & 55 VICT.]

A.D. 1891.

Power to enter into agreements for widening streets.

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

Company may agree with Edinburgh and Leith Corporations Gas Commissioners for purchase of gasworks.

44. Notwithstanding anything in this Act contained the Company shall not enter upon take use or interfere with otherwise than by agreement the gasworks and the site thereof or any part thereof or the other property as shown on the deposited plans belonging to the Edinburgh and Leith Corporations Gas Commissioners but the Company on the one hand and such commissioners on the other hand may enter into and carry into effect agreements with reference to the purchase and sale of the said gasworks and the site thereof and their other property as aforesaid and the provisions of the Lands Clauses Acts with respect to the purchase of lands by agreement shall apply to any such purchase and sale :

Provided always that unless and until the Company shall acquire the gasworks and other property of the gas commissioners as aforesaid the Company shall not without the consent of the gas commissioners in writing take or interfere with the railway sidings of the gasworks nor with the junction thereof with the railway of the Company nor in any way interrupt the traffic to and from the said works nor stop up any street road or access to and from the said works without first providing an equally convenient access thereto to the satisfaction of the gas commissioners.

Provisions as to burial ground in the parish of St. Cuthbert's.

45. Whereas the lands and buildings numbered on the deposited plans 293 to 381 both inclusive in the parish of Saint Cuthbert's in the royal burgh of Edinburgh and county of the city of Edinburgh consist of a burial ground the property of the heritors and kirk session of the parish of Saint Cuthbert's (herein-after called "the heritors") and it is not expedient that the said burial ground should be taken or interfered with by the Company until suitable arrangements have been made for the removal of the remains of the persons interred in the said burial ground Therefore nothing in this Act contained shall authorise the Company to take compulsorily or in any way enter upon or interfere with the said properties numbered as aforesaid until they shall have first provided for the removal at the sight and to the satisfaction of the medical officer of health of the city of Edinburgh of the remains of all persons interred in the

said burial ground to a suitable place to be approved of by the heritors and have re-interred the said remains in such way and manner as may be arranged between the Company on the one hand and the heritors and the representatives of the persons so interred on the other. Provided that the Company and the heritors and the said representatives may at any time after the passing of this Act arrange and agree for the removal and re-interment of such remains. In the event of any difference arising between the Company and the heritors with reference to carrying into effect the obligations contained in this section or the meaning and effect thereof the same shall be referred to Alexander Asher Esquire Q.C. whom failing to such person as may be mutually agreed on or failing agreement as may be appointed by the sheriff of the Lothians and Peebles on the application of the Company or of the heritors as sole arbiter whose decision shall be final and binding on the parties.

A.D. 1891.

46. The agreement between the Company and the provost magistrates and council of the burgh of Leith contained in the Second Schedule to this Act is hereby confirmed and made binding on the parties thereto.

Confirming agreement between Company and Corporation of Leith.

47. The agreement between the Company and the Right Honourable George Philip Stuart Earl of Moray as set forth in the Third Schedule to this Act is hereby confirmed and made binding on the Company.

Confirming agreement between Company and Earl of Moray.

48. The Company may raise and apply to the purposes of this Act to which capital is properly applicable any money 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 existing authorised capital.

49. The Company may subject to the provisions of Part II of the Companies Clauses Act 1863 raise by the creation and issue at their option of new ordinary shares or stock or new preference shares or stock or new preference shares or stock convertible into ordinary preference stock and ordinary stock or wholly or partially by one or more of those modes respectively any additional capital not exceeding in the whole one million five hundred and fifty thousand pounds but the Company shall not issue any share of less nominal value than ten pounds nor shall any share vest in the person accepting the same unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Power for Company to raise capital by shares or stock.

50. All preference shares or stock convertible into ordinary preference stock and ordinary stock created and issued under the

Extending provisions of Act of 1888

[Ch. cxcii.] *North British Railway (Waverley Station, &c.) Act, 1891.* [54 & 55 VICT.]

A.D. 1891. provisions of this Act or any Act or Acts relating to the Company may by agreement with the holders thereof be converted on the same terms and subject to the like conditions as all preference stock convertible into ordinary stock and ordinary stock authorised to be created and issued under the North British Railway Act 1888.

Except as otherwise provided new shares or stock to be subject to same incidents as present shares or stock.

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

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

Dividends on new shares or stock.

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

Restriction as to votes in respect of preferential shares or stock.

53. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned.

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

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

Calls.

55. Twenty per centum on the amount of any share shall be the greatest 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.

[54 & 55 Vict.] *North British Railway (Waverley Station, &c.) Act, 1891.* [Ch. cxcii.]

56. The Company may in respect of the additional capital of one million five hundred and fifty thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole five hundred and sixteen thousand pounds but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted and one half of such capital is paid up and the Company have proved to the sheriff who is to certify under the forty-second section of the Companies Clauses Consolidation (Scotland) Act 1845 before he so certifies that shares for the whole of such capital have been issued and accepted and that one half of such capital has been paid up and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one half of so much of the said additional capital as is to be raised by means of stock is fully paid up and the Company have proved to such sheriff as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted and to the extent aforesaid paid up bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also so far as the said additional capital is raised by shares that such persons or corporations or 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 proof aforesaid has been given which certificate shall be sufficient evidence thereof.

A.D. 1891.
Power to borrow.

57. The provisions of the North British Railway Act 1890 authorising the appointment of a receiver or 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 receiver or 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.

Provisions of Act of 1890 as to appointment of a receiver or judicial factor repealed.

58. 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 receiver or judicial factor In order to authorise the appointment of a receiver or judicial factor in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver or judicial factor is made shall not be less than ten thousand pounds in the whole.

For appointment of a receiver or judicial factor.

[Ch. cxcii.] *North British Railway (Waverley Station, &c.) Act, 1891.* [54 & 55 VICT.]

A.D. 1891.

Existing mortgages to have priority.

59. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages and 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.

Debenture stock.

60. And whereas the Company have not yet exercised their power of consolidating debenture stocks under the North British Railway Act 1890 as extended by the North British Railway (General Powers) Act 1891 the Company may create and issue debenture stock subject to the provisions of Part III of the Companies Clauses Act 1863 and such debenture stock shall rank *pari passu* with any debenture stock which may be consolidated under the powers of the said Act of 1890 as extended by the said Act of 1891.

Application of money raised under Act.

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

Saving rights of the Crown the Commissioners of Works and the Postmaster-General.

62. Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any land or hereditaments or any rights of whatsoever description belonging to the Queen's most Excellent Majesty in the right of Her Crown and under the management of the Commissioners of Woods without the consent in writing of the Commissioners of Woods on behalf of Her Majesty first had and obtained for that purpose (which consent such Commissioners are hereby authorised to give) or with any land hereditaments or rights vested in the Commissioners of Works without the like consent of the Commissioners of Works or with any land hereditaments or rights vested in the Postmaster-General without the like consent of the Postmaster-General 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 Her Majesty's

63. And whereas it is necessary that the lands hereditaments and works belonging to Her Majesty or vested in Her Majesty's

Principal Secretary of State for the War Department for the public service should be preserved intact and free from all intrusion or obstruction. Be it therefore enacted that nothing in this Act contained shall authorise the Company to enter upon use or interfere with any land soil or water or any right in respect thereof vested in or exercised by the said Principal Secretary for the time being or to take away lessen prejudice or alter any of the rights privileges or powers vested in or exercised by the said Principal Secretary for the time being without his previous consent signified in writing under his hand and which consent the said Principal Secretary for the time being is hereby authorised to give subject to such special or other conditions as he shall see fit to impose on the said Company.

A.D. 1891.
Principal Secretary of State for the War Department.

64. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation (Scotland) Act 1845.

Interest not to be paid on calls paid up.

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

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

66. Nothing in this Act contained shall exempt the Company or the railway from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised by this Act.

Provision as to general Railway Acts.

67. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

Costs of Act.

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A.D. 1891

FIRST SCHEDULE referred to in the foregoing Act.

DESCRIBING PROPERTIES OF WHICH PORTIONS ONLY ARE REQUIRED BY THE COMPANY.

Parish.	Number on deposited Plans.
South Leith - - -	13 14 15 19 20 21 22 23 24 25 26 49 50.
St. Cuthbert's - - -	27 28 34 34A 52 53 56 57 138 205 206 207 208. 209.
City parish of Edinburgh (St. George's).	53 54.
Parish of Canongate Trin ity College).	9 11 12 13.
Canongate - - -	39 40 41.
City parish of Edinburgh (Greenside).	6 7 8.

SECOND SCHEDULE referred to in the foregoing Act.

MINUTE OF AGREEMENT between THE NORTH BRITISH RAILWAY COMPANY (herein-after called "the Company") promoters in the present session of Parliament of "A Bill to authorise the North British Railway Company to construct and widen certain railways divert streets and construct new streets and acquire lands for the purpose of enlarging and improving their Waverley Passenger and Goods Station at Edinburgh and for other purposes" herein-after called "the Bill" (which shall include the Act to follow thereupon) and THE PROVOST MAGISTRATES AND COUNCIL OF THE BURGH OF LEITH (herein-after called "the corporation").

Article First.—The piers or abutments of the bridge for carrying the proposed railway over Easter Road shall not project outward beyond the building-line of

[54 & 55 VICT.] *North British Railway (Waverley Station, &c.) Act, 1891.* [Ch. cxcii.]

A.D. 1891.

Easter Road as fixed or to be fixed by the corporation at least shall be so placed as to give a clear width of sixty-eight feet between the piers or abutments.

Article Second.—The height of the said bridge shall be sufficient to give a clear headway between the piers or abutments or from side to side of Easter Road of not less than sixteen feet above the level of the road when lowered and the present level of that road where crossed by the railway shall not be lowered more than one foot three inches.

Article Third.—Unless the whole of the properties in and entering from Glover Street are acquired by the Company the railway shall be carried across that street by a bridge the clear height of which shall not unless otherwise agreed to between the Company and the corporation be less than fourteen feet above the altered level thereof and where crossed by the railway shall not be lowered more than two feet.

Article Fourth.—The bridges for carrying the proposed railway over streets or roads within the burgh shall be of an ornamental character suitable to the particular locality and the details of the bridges as to design and external girders and parapets and the mode of protecting the public from water dripping from the railway and bridges shall be carried out and maintained by the Company to the satisfaction of the corporation subject to arbitration as herein-after provided.

Article Fifth.—During the construction of all such bridges over streets or roads within the burgh the Company shall to the satisfaction of the corporation make temporary works for the safe and convenient passage of passenger and vehicular traffic along the streets and roads.

Article Sixth.—When the Company's bridges are completed they shall prohibit the disfigurement thereof where fronting or seen from any street or road by hoardings placards or advertisements.

Article Seventh.—The embankments to be formed within the burgh shall be planted and kept planted by the Company with trees or shrubs.

Article Eighth.—The Company shall prohibit the use of any spaces underneath the railway for any purpose detrimental to the amenity of the district and where the railway will be carried on arches pillars or girders facing any street or road such arches pillars or girders shall be of a kind suitable to the locality.

Article Ninth.—In so far as they are authorised to acquire lands embraced within a proposed widening of Leith Walk and Duke Street delineated upon the plan docketed and signed in duplicate by William Beatson burgh surveyor Leith on behalf of the corporation and by James Carswell C.E. on behalf of the Company as relative hereto the Company shall carry out such widening and shall complete the carriageway and footway of the said streets to the reasonable satisfaction of the corporation of Leith.

Article Tenth.—The Company shall construct and maintain a passenger station at the foot of Leith Walk.

Article Eleventh.—The Company shall not in constructing any of their works or buildings diminish the existing width of any street or road within the burgh or construct any work or building within twenty-five feet of the centre of Duke Street and Lochend Road.

Article Twelfth.—Whereas the corporation object to the proposals of the Bill to stop up and discontinue as public thoroughfares Glover Street Ferrier Street Crown Street Whitfield Lane and (it is assumed) also the lane off Duke Street entering to Chalmers' Buildings and to vest the site and soil thereof in

[Ch. cxcii.] *North British Railway (Waverley Station, &c.) Act, 1891.* [54 & 55 VICT.]

A.D. 1891. the Company and extinguish all rights of way over and along the same It is hereby provided that the Company shall not exercise the powers in that behalf conferred on them unless and until the Company shall have acquired all the property in and entering from the said streets and lanes:

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

Article Fourteenth.—In every case in which the Company interfere with any street road lane pavement or footpath the Company shall to the satisfaction of the corporation—

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

Article Fifteenth.—At least two months before the Company commence the construction of any station within the burgh of Leith the Company shall in addition to complying with the requirements of the Dean of Guild Court submit to the corporation plans sections and elevations of the booking offices and other buildings and works above ground of the said stations for approval in so far as seen from any road or street but subject to arbitration as herein-after provided.

Article Sixteenth.—In the event of the corporation finding it necessary at any time hereafter to construct any sewer or sewers into or through the lands acquired by the Company under the powers of the Bill the Company shall permit the construction of such sewer or sewers without any claim by them for wayleave compensation or otherwise in respect thereof but the Corporation

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shall restore the ground to the reasonable satisfaction of the engineer of the Company. A.D. 1891.

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

Article Eighteenth.—The Company shall pay to the corporation the costs and expenses which they may reasonably incur or be put to in superintending the works authorised by the Bill or with reference to any of the matters aforesaid.

Article Nineteenth.—The Company shall so far as practicable and consistent with the proper carrying out of their works use coke only for any steam or other engine used by them in the construction of the railways or other works in or near public streets within or near the burgh of Leith and otherwise the Company shall during such construction be bound to use such engines so as not to be offensive or to cause a nuisance to the neighbourhood.

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

Article Twenty-first.—If the corporation and the Company shall differ upon or with reference to any plans elevations sections or other particulars which

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

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

Article Twenty-third.—The provisions in this agreement shall be given effect to by the Bill and where that is not done by a clause or clauses therein it shall be by agreement to be scheduled to and confirmed by the Bill.

Article Twenty-fourth.—In the event of the Bill passing the first House of Parliament in a manner inconsistent with this agreement the corporation shall be at liberty to take such action in the second House as they may deem necessary in the public interest.

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

Article Twenty-sixth.—The whole costs and expenses incurred by the corporation including the town clerk's and burgh surveyor's accounts in connexion with

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this agreement and the Bill shall be borne and paid by the Company but that to an amount not exceeding one hundred pounds sterling. A.D. 1891.

Article Twenty-seventh.—This agreement is subject to the Bill passing into law and to the approval of Parliament.

In witness whereof these presents written on this and the six preceding pages are subscribed by Thomas Aitken provost and Thomas Bryce Laing town clerk both of the burgh of Leith and the seal of the said burgh affixed hereto as duly authorised on behalf of the corporation of Leith at Westminster the twelfth day of March eighteen hundred and ninety-one years before these witnesses John Kennedy writer to the signet number thirty-eight Parliament Street Westminster and George Lindsay his clerk all thereof having been done in duplicate And also in duplicate subscribed by the Most Noble the Marquis of Tweeddale (chairman) and Robert Young esquire of number four West Nile Street Glasgow two of the directors of the said North British Railway Company for and on behalf of that Company at Westminster the thirteenth day of the month of March aforesaid and year last above mentioned before these witnesses Thomas Balfour and James Allan Whitelaw both clerks to Mr. William White Millar solicitor to the said North British Railway Company Edinburgh and sealed with the common or corporate seal of the Company.

JOHN KENNEDY

Witness.

GEORGE LINDSAY

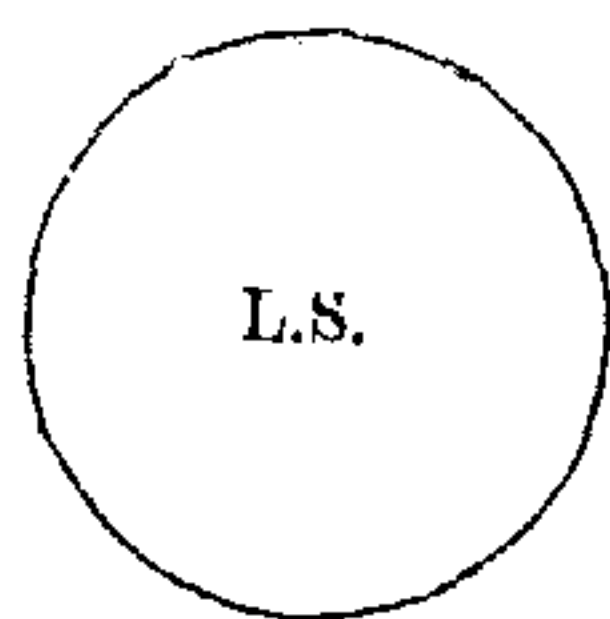
Witness.

THO. BALFOUR

Witness.

JAS. A. WHITE LAW

Witness.



THOMAS AITKEN

Provost of Leith.

T. B. LAING

Town Clerk of Leith.

TWEEDDALE

Director.

ROBERT YOUNG

Director.

THIRD SCHEDULE referred to in the foregoing Act.

It is contracted and agreed between THE NORTH BRITISH RAILWAY COMPANY incorporated by Act of Parliament of the first part and THE RIGHT HONOURABLE GEORGE PHILIP STUART EARL OF MORAY of the second part in manner following (that is to say):—

WHEREAS the first parties are promoting in the present session of Parliament a Bill to authorise them to construct (inter alia) a railway one mile three chains and twenty decimal parts of a chain or thereabouts in length commencing by a junction with the first parties connecting line between their Edinburgh Leith and Granton Branch Railway and their line from Easter Road Junction to Piershill Junction and terminating at or near the northern end of Leith Walk

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A.D. 1891. And whereas the second party has petitioned against said Bill and in order to remove said opposition the parties have agreed as follows (videlicet) :—

First.—When the land to be taken by the first parties for said railway from the second party's lands shall come to be valued in the arbitration proceedings failing a private settlement it is hereby agreed that the arbiters shall be instructed to value it as feuing land and not at mere agricultural value.

Second.—It is hereby agreed that two bridges fifty feet in width shall be constructed by the first parties for the accommodation of the second party's feuing ground one near to the south end of the second party's property at a point marked A on a plan signed as relative hereto and the other near to the north end of the property at a point marked B on said plan but these bridges shall not be built until the feuing roads have been laid out and the feuing has reached a position which in the second party's opinion requires these bridges as a means of through communication and it is a further condition of this agreement that as the second party's property is to be laid out for feuing so as to dovetail into the feuing plan of the Trinity Hospital the bridge at the north end of the second party's property is not to be required if a bridge is erected near thereto on the property of Trinity Hospital available and fairly suitable for the feuing of the second party's land and it is hereby provided that should any difficulty arise on this latter point the matter shall be referred to Andrew William Belfrage civil engineer Edinburgh whom failing the architect of the second party for the time being and in the event of any difference between him and the first parties on the subject the matter shall be referred to the sheriff for the time being of the county of Midlothian.

Third.—It is hereby agreed that the railway shall be fenced with stone and lime walls.

Fourth.—It is further agreed that the land to be acquired shall be used for a railway line only and not for sidings or manure or mineral or other depôts.

Fifth.—It is further agreed that no erections shall be put on the railway nor hoardings for advertisements after the railway has been opened for public traffic.

Sixth.—It is hereby provided that the embankments shall be planted with shrubs.

Seventh.—It is also hereby provided that pipe sewers shall be carried across the railway by the first parties to provide for the drainage of the feuing lands.

Eighth.—Clauses shall be inserted in the first party's Bill giving effect to the above agreement.

Ninth.—In consideration of the above the second party hereby agrees to withdraw his petition against said Bill In witness whereof these presents consisting of this and the preceding page and the marginal addition thereon all written by James Allan Whitelaw clerk to William White Millar solicitor to the said North British Railway Company Edinburgh are executed in duplicate as follows videlicet They are sealed with the common seal of the said North British Railway Company and subscribed for and on behalf of said Railway Company by George Robertson and John Jordan two of the directors of said Company and George Bradley Wieland the secretary thereof all at Edinburgh on the ninth day of March eighteen hundred and ninety-one before these witnesses

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William Irving and Robert Moir both clerks in the head office in Edinburgh of said Railway Company and are subscribed by the said Earl of Moray at London on the tenth day of said month and year last mentioned before these witnesses James Middleton his servant and Martha Parsley housemaid at four York Street Saint James' London. A.D. 1891.

(Signed) W. IRVING Witness.	Seal.	(Signed) GEO. ROBERTSON Director.
„ R. MOIR Witness.		„ JOHN JORDAN Director.
„ JAMES MIDDLETON Witness.		„ G. B. WIELAND Secy. N.B. Ry. Co.
„ MARTHA PARSLEY Witness.		„ MORAY.

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