

[53 & 54 VICT.]

*Brechin and Edzell District  
Railway Act, 1890.*

[Ch. cxx.]



### CHAPTER cxx.

An Act to authorise the construction of a Railway in the county of Forfar, to be called the Brechin and Edzell District Railway. A.D. 1890.  
[25th July 1890.]

**W**HEREAS the construction of the railway, in the county of Forfar, herein-after described and by this Act authorised, would be of public and local advantage :

And whereas the persons herein-after named with others are willing, at their own expense, to execute the undertaking, and it is expedient that they should be incorporated into a Company, and that the powers herein-after contained should be conferred on them for that purpose :

And whereas it is further expedient that the Company on the one hand, and the Caledonian Railway Company on the other hand, should be empowered to enter into and carry into effect working and other agreements :

And whereas plans and sections showing the lines and levels of the railway by this Act authorised, 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 Forfar, at his office at Forfar, and are herein-after respectively referred to as the deposited plans, sections, and books of reference :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

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

1. This Act may be cited as the Brechin and Edzell District Railway Act, 1890. Short title.

[Price 1s. 6d.]

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A.D. 1890.  
Incorporation of Acts.

2. The Companies Clauses Consolidation (Scotland) Act, 1845, Part I. (relating to cancellation and surrender of shares) and Part III. (relating to debenture stock) of the Companies Clauses Act, 1863, as amended by the Companies Clauses Act, 1869, the Lands Clauses Acts, the Railways Clauses Consolidation (Scotland) Act, 1845, and Part I. (relating to construction of a railway) and Part III. (relating to working agreements) of the Railways Clauses Act, 1863, are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; and in this Act and the Acts wholly or partially incorporated herewith as applied to this Act, the expression "the Company" means the Company incorporated by this Act; the expression "the special Act," means this Act; the expressions "the railway" and "the undertaking," mean respectively the railway and works connected therewith and the undertaking by this Act authorised.

Company incorporated.

4. James Alexander Campbell, John Shiell and John Shepherd, and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking, and their executors, administrators, successors and assigns respectively, shall be and are hereby united into a Company for the purpose of making and maintaining the railway, and for other the purposes of this Act, and for those purposes shall be and are hereby incorporated by the name of "The Brechin and Edzell District Railway Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold and dispose of lands and other property for the purposes of this Act.

Power to make railway and works.

5. 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 herein-after described, with all proper stations, junctions, sidings, approaches, works and conveniences connected therewith, 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 purposes. The railway herein-before referred to and authorised by this Act will be situate in the county of Forfar, and is—

A railway, five miles seven furlongs and three chains, or thereabouts in length, commencing from a point on the Brechin

branch of the Caledonian Railway, one hundred and ninety lineal yards or thereby east of the east side of the bridge carrying the Bog Road over the said branch near the east end of the Brechin Station, and terminating in a field at the south side of the village of Edzell, at a point therein twelve lineal yards or thereby, measuring in a southerly direction, south of the south gable of the house occupied by Henry Johnston, all in the parishes of Brechin, Stracathro, Menmuir and Edzell, or some or other of them, and county of Forfar. A.D. 1890.

**6.** The capital of the Company shall be thirty-seven thousand five hundred pounds in three thousand seven hundred and fifty shares of ten pounds each. Capital.

**7.** The Company shall not issue any share created under the authority of this Act, nor shall any such share vest in the person or corporation accepting the same, unless and until a sum not being less than one fifth of the amount of such share is paid in respect thereof. Shares not to be issued until one fifth paid.

**8.** One fifth of the amount of a share shall be the greatest amount of a call, and two months at least shall be the interval between successive calls, and three fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share. Calls.

**9.** If any money is payable to a shareholder being a minor, idiot or lunatic, the receipt of the guardian or committee of his estate, or of his tutor, or curator, or curator bonis, shall be a sufficient discharge to the Company. Receipt in case of persons not sui juris.

**10.** Subject to the provisions of this Act, the Company, with the authority of three fourths of the votes of the shareholders present in person, or by proxy, at a general meeting of the Company, specially convened for the purpose, may from time to time divide any share in their capital into half shares, of which one shall be called "preferred half share," and the other shall be called "deferred half share"; but the Company shall not so divide any share under the authority of this Act, unless and until not less than sixty per centum upon such share has been paid up, and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share (being the whole amount payable thereon) and the residue to the credit of the preferred half share. Power to divide shares.

**11.** The dividend which would from time to time be payable on any divided share if the same had continued an entire share, shall be applied in payment of dividends on the two half shares in manner Dividends on half shares.

A.D. 1890. following (that is to say) :—First, in payment of dividend after such rate not exceeding six pounds per centum per annum as shall be determined once for all at a general meeting of the Company specially convened for the purpose, on the amount for the time being paid up on the preferred half share, and the remainder, if any, in payment of dividend on the deferred half share; and the Company shall not pay any greater amount of dividend on the two half shares than would have, from time to time, been payable on the entire share if the same had not been divided.

Dividend on preferred shares to be paid out of the profits of the year only.

**12.** Each preferred half share shall be entitled out of the profits of each year to the dividend which may have been attached to it by the Company as aforesaid, in priority to the deferred half share bearing the same number; but if in any year ending the thirty-first day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half share for that year, no part of the deficiency shall be made good out of the profits of any subsequent year or out of any other funds of the Company.

Half shares to be registered and certificates issued.

**13.** Forthwith, after the creation of any half shares, the same shall be registered by the directors, and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued, and the directors shall issue certificates of the half shares accordingly, and shall cause an entry to be made in the register of the entire shares of the conversion thereof; but the directors shall not be bound to issue a certificate of any half share until the certificate of the existing entire share shall be delivered to them to be cancelled, unless it be shown to their satisfaction that such certificate is destroyed or lost, and on any certificate being so delivered up, the directors shall cancel it.

Terms of issue to be stated on certificates.

**14.** The terms and conditions on which any preferred half share, or deferred half share, created under this Act is issued, shall be stated on the certificate of each such half share.

Forfeiture of preferred shares.

**15.** The provisions of the Companies Clauses Consolidation (Scotland) Act, 1845, with respect to the forfeiture of shares for non-payment of calls, shall apply to all preferred half shares created under the authority of this Act, and every such preferred half share shall, for that purpose, be considered an entire share distinct from the corresponding deferred half share, and until any forfeited preferred half share shall be sold by the directors, all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards payment of any expenses attending the

declaration of forfeiture thereof, and of the arrears of calls for the time being due thereon, with interest. A.D. 1890.

**16.** No preferred half share, created under the authority of this Act, shall be cancelled or be surrendered to the Company. Preferred shares not to be cancelled or surrendered.

**17.** The several half shares under this Act shall be half shares in the capital of the Company, and every two half shares (whether preferred or deferred, or one of each) held by the same person, shall confer such right of voting at meetings of the Company, and (subject to the provisions herein-before contained) shall confer and have all such other rights, qualifications, privileges, liabilities and incidents, as attach and are incident to an entire share. Half shares to be half shares in capital.

**18.** The Company may, from time to time, borrow on mortgage of the undertaking any sum not exceeding in the whole twelve thousand five hundred pounds, but no part thereof shall be borrowed until the whole capital of thirty-seven thousand five hundred pounds is issued and accepted, and one half thereof is paid up, and the Company have proved to the sheriff, who is to certify under the forty-second section of the Companies Clauses Consolidation (Scotland) Act, 1845, before he so certifies, that the whole of such capital has been issued and accepted, and that one half thereof has been paid up, and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof, before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide, and is held by the persons or corporations to whom the same was issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, their executors, administrators, successors or assigns are legally liable for the same; and upon production to such sheriff of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof. Power to borrow.

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

**20.** The Company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863, but notwithstanding anything therein contained, the interest of all Debenture stock.

A.D. 1890. debenture stock, and of all mortgages at any time created and issued or granted by the Company under this or any subsequent Act, shall, subject to the provisions of any subsequent Act, rank *pari passu* (without respect to the dates of the securities, or of the Acts of Parliament, or resolutions by which the stock and mortgages were authorised), and shall have priority over all principal moneys secured by such mortgages. Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Application  
of moneys.

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

First and  
subsequent  
ordinary  
meetings.

22. The first ordinary meeting of the Company shall be held within six months after the passing of this Act, and the subsequent ordinary meetings of the Company shall be held twice in every year, in the months of March or April, and September or October, and all meetings of the Company, whether ordinary or extraordinary, shall be held in Brechin, or in such other place as the directors may from time to time appoint.

Quorum of  
meetings.

23. The quorum of every general meeting of the Company shall be ten shareholders, holding in the aggregate not less than three thousand pounds in the capital of the Company.

Number of  
directors.

24. The number of directors shall be four, but the Company may from time to time reduce the number, provided that the number be not less than three.

Qualifica-  
tion of  
directors.

25. The qualification of a director shall be the possession in his own right of not less than forty shares.

Quorum of  
directors.

26. The quorum of a meeting of directors shall be three.

First  
directors.

27. James Alexander Campbell, John Shiell and John Shepherd, and one other person to be nominated by them, or the majority of them, and consenting to such nomination, shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act.

Election of  
directors.

At that meeting the shareholders present, in person or by proxy, may either continue in office the directors appointed by this Act, or nominated as aforesaid, or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act, or nominated as aforesaid being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting, the shareholders present, in person or by proxy, shall (subject to the power herein-before contained for reducing the

number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions of the Companies Clauses Consolidation (Scotland) Act, 1845, and the several persons elected at any such meeting, being neither removed nor disqualified nor having died or resigned, shall continue to be directors until others are elected in their stead, in manner provided by that Act.

A.D. 1890.

**28.** The domicile of the Company, with reference to all judicial proceedings or actions at law, shall be held to be in Brechin.

Domicile of  
the Com-  
pany.

**29.** 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 three acres; but nothing in this Act shall exonerate 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.

Lands for  
extra-  
ordinary  
purposes.

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

Power to  
take ease-  
ments, &c.,  
by agree-  
ment.

**31.** And whereas in the construction of the railway hereby authorised or otherwise in the exercise by the Company of the powers of this Act, it may happen that portions only of certain properties shown on the deposited plans as subject to be taken for the purposes of this Act, will be sufficient for those purposes, and that such portions may be severed from the remainder of such 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 properties described in the First Schedule to this Act, and whereof portions only are required for the purposes of this Act, may (if such portions can in the judgment of the sheriff, or the jury, arbiters, oversman, or other authority assessing or determining the compensation under that Act, be severed from the remainder of the said properties without material detriment thereto) be required to sell and convey to the Company the portions only of the properties so required without the Company being obliged or compelled to purchase the

Owners may  
be required  
to sell to  
Company  
parts only of  
certain pro-  
perties.

A.D. 1890. whole or any greater portions of the said properties, the Company paying for the portions required by them, and making compensation for any damage sustained by the owners thereof and other persons interested therein by severance or otherwise.

Power to  
limited  
owners to  
take shares  
for land.

**32.** Subject to the provisions herein-after contained it shall be lawful for the limited owners named in the Second Schedule to this Act, of any lands shown on the deposited plans and described in the deposited books of reference, required by the Company for the purposes of any part of their undertaking, to agree with the Company that the consideration to be paid for the same, and the compensation (if any) to be paid for any permanent damage or injury to any such lands, shall be wholly or in part the allotment to such limited owners of such number of shares in the capital of the Company as shall be agreed upon between such owner and the Company:—

- (1) For the purposes of this section, the expression "limited owners" includes any persons named in the said schedule and empowered under the seventh section of the Lands Clauses Consolidation (Scotland) Act 1845 to sell and convey or release lands, or any estate or interest therein, to the promoters of the undertaking;
- (2) All shares issued pursuant to this section to limited owners shall be deemed to be fully paid up shares in the capital of the Company, and the names of the holders thereof shall be inserted as such in the register of shareholders;
- (3) All shares issued pursuant to this section to limited owners shall be held upon the like uses and trusts, and for the same purposes, and in the same manner, as the lands in consideration for which such shares are issued stood settled immediately before the conveyance of such lands to the Company;
- (4) The Company shall make an entry in their register of shareholders of the uses, trusts and purposes aforesaid, and subject to the uses, trusts and purposes affecting such shares, such limited owners in respect thereof shall have all the other rights and powers of a shareholder of the Company;
- (5) The Company shall not be bound to see to the application of any dividend payable to limited owners, or be in any way responsible with respect to the application thereof.

Power to  
limited  
owners to  
convey lands  
free of

**33.** It shall be lawful for the limited owners named in the Second Schedule to this Act, whose land the Company are authorised to take for the purposes of their undertaking, to grant, convey or



dispose of the same, or any portion thereof, to the Company free of cost to the Company. A.D. 1890.

**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—

charge in  
certain cases.  
Restrictions  
on displacing  
persons of  
labouring  
class.

(A) They shall have obtained the approval of the Secretary for Scotland to a scheme for providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of December last, or for such number of persons as the Secretary for Scotland shall, after inquiry, deem necessary, having regard to the number of persons, on or after that date, residing in such houses, and working within one mile therefrom, and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses, or to the place 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 scheme, or of any modifications of any scheme under this section, or subject to which he may have dispensed with the above-mentioned requirement, shall be enforceable by

A.D. 1890. — 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 not exceeding five hundred pounds in respect of every such house, which penalty shall be recoverable by the Secretary for Scotland, by action in the Court of Session, and shall be carried to and form part of the Consolidated Fund of the United Kingdom :

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

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

(7.) The Company may, on any lands belonging to them, or purchased or acquired under 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 or 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 general 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 a period of twenty-five years from the passing of this Act, be appropriated for the purpose of dwellings, and every conveyance, demise or lease of such lands and buildings 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 think 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 exercise for any purpose in connexion with any scheme under this section all or any of the powers vested in them 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.

A.D. 1890.

(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 which he may direct to be made under this section, including the expenses of any witnesses summoned by the person holding the inquiry, and a sum to be fixed by the Secretary for Scotland, not exceeding three guineas a day for the services of such person so appointed.

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

Period for compulsory purchase of lands.

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

Inclination of certain roads.

No. on deposited Plans.	Parish.	Description of Road.	Intended Inclination.
12	Brechin - - -	Public - - -	1 in 15
51	Brechin - - -	Public - - -	1 in 25

**37.** The Company may make the arches of the bridges for carrying the railway over the roads next herein-after mentioned of

Height and span of bridges.

A.D. 1890. any heights and spans not less than the heights and spans herein-after mentioned in connexion therewith respectively (that is to say):—

No. on deposited Plans.	Parish.	Description of Road.	Height.	Span.
8	Stracathro - -	Public - -	15 feet	20 feet
11	Edzell - -	Public - -	15 feet	20 feet

Width of roads.

**38.** The Company may make the roadway over the bridges by which the following roads will be carried over the railway of such width between the fences thereof as the Company think fit, not being less than the respective widths herein-after mentioned in connexion therewith respectively (that is to say):—

No. on deposited Plans.	Parish.	Description of Road.	Width of Road.
12	Brechin - - -	Public - - -	25 feet
37 and 38	Brechin - - -	Public - - -	25 feet
51	Brechin - - -	Public - - -	30 feet
77	Brechin - - -	Public - - -	20 feet
29	Stracathro - -	Public - - -	25 feet

Power to divert road, as shown on deposited plans.

**39.** The Company may divert the public highway referred to in the next following table in the manner shown upon the deposited plans and sections, and when the new portion of such road is made to the satisfaction of the sheriff and is open for public use, may stop up and cause to be discontinued as a road so much of the existing road as will be rendered unnecessary by the new portion of road (that is to say):—

Railway.	Parish.	No. of Road on Plan.
Over railway -	Brechin - - -	13

And when and so soon as the said road is so stopped up all rights of way over the same shall cease, and the Company may, subject to the provisions of the Railways Clauses Consolidation (Scotland) Act, 1845, with respect to mines lying under or near to the railway,

appropriate and use for the purposes of their undertaking the site of the road stopped up as far as the same is bounded on both sides by lands of the Company. A.D. 1890.

40. All new portions of road authorised by the provisions of the Railways Clauses Consolidation (Scotland) Act, 1845, as incorporated with this Act, to be formed in lieu of roads altered or diverted, shall, as respects management, maintenance and tolls (where tolls are leviable), and in all other respects, but subject to the provisions of section thirty-nine of the said Act, be held as parts of and be subject to the same provisions as the existing roads altered or diverted as aforesaid respectively. New portions of road to be subject to same provisions as existing roads.

41. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth year of the reign of Her present Majesty, chapter twenty, a sum of one thousand eight hundred and seventy-five pounds, equal to five per centum upon the amount of the estimate in respect of the railway proposed to be authorised by this Act, was deposited with the Queen's and Lord Treasurer's Remembrancer, on behalf of the Court of Exchequer in Scotland, in respect of the application to Parliament for this Act, which sum is referred to in this Act as "the deposit fund": Be it enacted that, notwithstanding anything contained in the said Act, the said deposit fund shall not be paid or transferred to, or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them (which persons, survivors or survivor are or is in this Act referred to as "the depositors"), unless the Company shall, previously to the expiration of the period limited by this Act for the completion of the railway, open the same for the public conveyance of passengers: Provided that if within such period as aforesaid the Company open any portion of the railway for the public conveyance of passengers, then on production of a certificate of the Board of Trade, specifying the length of the portion of the railway opened as aforesaid, and the portion of the deposit fund, which bears to the whole of the deposit fund the same proportion as the length of the railway so opened bears to the entire length of the railway, the Court shall, on the application of the depositors, or the majority of them, order the portion of the deposit fund specified in the certificate to be paid or transferred to them, or as they shall direct, and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the above-mentioned Act to the contrary notwithstanding. Deposit money not to be repaid, except so far as railway is opened.

A.D. 1890.  
Application  
of deposit.

42. If the Company do not, previously to the expiration of the period limited for the completion of the railway, complete and open the same for the public conveyance of passengers, then and in every such case the deposit fund, or so much thereof as shall not have been paid to the depositors, shall be applicable, and after due notice in the "Edinburgh 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 deposit fund has been found sufficient to satisfy all just claims in respect of such compensation, then the deposit fund or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty, and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Court thinks fit to order on the application of the Solicitor to the Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the Court, if the Company is insolvent and has been ordered to be wound up, or a judicial factor has been appointed, shall wholly or in part be paid or transferred to such judicial factor or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof: Provided that until the deposit fund has been repaid to the depositors, or has become otherwise applicable as herein-before mentioned, any interest or dividends accruing thereon shall, from time to time, and as often as the same shall become payable, be paid to or on the application of the depositors.

Period for  
completion  
of railway.

43. If the railway is not completed within five years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Company for making and completing the same, or otherwise in relation thereto, shall cease except as to so much thereof as is then completed.

Tolls.

44. The Company may demand and take, in respect of the use of the railway, any tolls not exceeding the following (that is to say) :—

In respect of passengers and animals conveyed on the railway :— A.D. 1890.

For every person twopence halfpenny per mile, and if conveyed upon a carriage belonging to or provided by the Company, an additional sum of one penny per mile ;

Tolls for  
passengers.

Class 1. For every horse, mule, ass, or other beast of draught or burden threepence per mile, and if conveyed in or upon a carriage belonging to or provided by the Company, an additional sum of twopence per mile ;

For animals.

Class 2. For one ox, cow, bull, or head of neat cattle threepence per mile ; for two oxen, cows, bulls or neat cattle the property of the same person twopence per head per mile ; and for more than two oxen, cows, bulls or neat cattle the property of the same person onepenny halfpenny per head per mile ; and if conveyed in or upon a carriage belonging to or provided by the Company, an additional sum of one penny halfpenny per mile ;

Class 3. For every calf, pig, sheep, lamb, or other small animal one penny per mile, and if conveyed in or upon a carriage belonging to or provided by the Company, an additional sum of one halfpenny per mile.

In respect of goods, minerals and carriages conveyed on the railway :— Tolls for goods.

Class 4. For all coal, dung, compost, manure (except guano and artificial manures), lime, limestone, and undressed materials for the repair of public roads or highways per ton per mile twopence, and if conveyed in or upon a carriage belonging to or provided by the Company, an additional sum per ton per mile of one penny ;

Class 5. For all guano and artificial manures, coke, culm, charcoal, cinders, stones for building, pitching and paving, bricks, tiles, slates, clay, sand, ironstone, iron ore, pig iron, bar iron, rod iron, hoop iron, and all other similar descriptions of wrought iron and iron castings not manufactured into utensils or other articles of merchandise per ton per mile twopence halfpenny, and if conveyed in or upon a carriage belonging to or provided by the Company, an additional sum per ton per mile of one penny ;

Class 6. For all sugar, grain, corn, flour, hides, dyewood, earthenware, timber, staves, deals, and metals (except iron), nails, anvils, vices and chains per ton per mile threepence, and if conveyed in or upon a carriage belonging to or provided by the Company, an additional sum per ton per mile of one penny ;

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Class 7. For all cotton and other wools, drugs, manufactured goods, fish, and all other wares, merchandise, articles, matters and things (except small parcels and single articles of great weight as herein-after defined) per ton per mile fourpence, and if conveyed in or upon a carriage belonging to or provided by the Company, an additional sum per ton per mile of twopence;

For every carriage of whatever description (not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton), conveyed on a truck or platform belonging to or provided by the Company, sixpence per mile, and one penny halfpenny per mile for every additional quarter of a ton or fractional part of a quarter of a ton which any such carriage may weigh.

Tolls for  
propelling  
power.

45. The toll which the Company may demand and take for the use of engines for propelling carriages on the railway shall not exceed one penny per mile for each passenger or animal, or for each ton of goods, in addition to the several other tolls or sums by this Act authorised to be taken.

Regulations  
as to tolls  
and charges.

46. The following provisions and regulations shall apply to the fixing of all tolls and charges payable under this Act (that is to say) :—

Short  
distances.

For all passengers, animals or goods conveyed on the railway for a less distance than three miles the Company may demand tolls and charges as for three miles;

Fractional  
parts of a  
mile.

For a fraction of a mile beyond three miles or beyond any greater number of miles the Company may demand tolls and charges as for one mile;

Fractional  
parts of a  
ton.

For a fraction of a ton the Company may demand tolls and charges according to the number of quarters of a ton in such fraction, and if there be a fraction of a quarter of a ton, such fraction shall be deemed a quarter of a ton;

General  
weight.

With respect to all articles, except stone and timber, the weight shall be determined according to the imperial avoirdupois weight;

Weight of  
stone and  
timber.

With respect to stone and timber, fourteen cubic feet of stone, forty cubic feet of oak, mahogany, teak, beech or ash, and fifty cubic feet of any other timber, shall be deemed one ton weight, and so in proportion for any smaller quantity.

Tolls for  
small  
parcels and  
articles of  
great weight  
or length,

47. With respect to small parcels not exceeding five hundred pounds in weight, and single articles of great weight or length, notwithstanding anything in this Act, the Company may demand and take any tolls not exceeding the following (that is to say) :—



For the carriage of small parcels on the railway :—

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For any parcel not exceeding seven pounds in weight three-pence ;

For any parcel exceeding seven pounds, but not exceeding fourteen pounds in weight, fivepence ;

For any parcel exceeding fourteen pounds, but not exceeding twenty-eight pounds in weight, sevenpence ;

For any parcel exceeding twenty-eight pounds, but not exceeding fifty-six pounds in weight, ninepence ;

And for any parcel exceeding fifty-six pounds such sum as the Company think fit :

Provided that articles sent in large aggregate quantities, although made up in separate parcels, such as bags of sugar, coffee, meal and the like, shall not be deemed small parcels, but that term shall apply only to single parcels in separate packages.

For the carriage of single articles of great weight on the railway :—

For any boiler, cylinder or single piece of machinery, or single piece of timber or stone, or other single article, the weight of which, including the carriage, shall exceed one ton, but shall not exceed four tons, the Company may demand such sum as they think fit, not exceeding fourpence per ton per mile ; and if such weight shall exceed four tons, but shall not exceed eight tons, the Company may demand such sum as they think fit, not exceeding eightpence per ton per mile ; and if such weight shall exceed eight tons the Company may demand such sum as they think fit ;

For any single consignment of timber, stone, machinery or other single article which, on account of the length thereof, may require more than one carriage, the Company may demand such sum as they think fit.

48. The maximum rate of charge to be made by the Company for the conveyance of passengers on the railway, including the tolls for the use of the railway, and for carriages and locomotive power, and every other expense incidental to such conveyance, shall not exceed the following (that is to say) :—

Maximum rates for passengers.

For every passenger conveyed in a first-class carriage the sum of threepence per mile ;

For every passenger conveyed in a second-class carriage the sum of twopence per mile ;

For every passenger conveyed in a third-class carriage the sum of one penny per mile.

49. The maximum rate of charge to be made by the Company for the conveyance of animals and goods (except such small parcels

Maximum rates for animals and goods.

A.D. 1890. and single articles of great weight as aforesaid) on the railway, including the tolls for the use of the railway, and for waggons or trucks and locomotive power, and for every other expense incidental to the conveyance (except a reasonable charge for loading and unloading goods at any terminal station in respect of such goods, and for delivery and collection, and any other service incidental to the business or duty of a carrier where any such service is performed by the Company) shall not exceed the following sums (that is to say) :—

For every animal in class 1, fourpence per mile ;

For every animal in class 2, threepence per mile ;

For every animal in class 3 (except lambs and other small animals), one penny halfpenny per mile, and for every lamb or other small animal, three farthings per mile ;

For everything in class 4, twopence per ton per mile ;

For everything in class 5, twopence halfpenny per ton per mile ;

For everything in class 6, threepence per ton per mile ;

For everything in class 7, fourpence per ton per mile ;

And for every carriage of whatever description (not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton), carried or conveyed on a truck or platform belonging to or provided by the Company, sixpence per mile, and if weighing more than one ton one penny halfpenny per mile for every quarter of a ton, or fractional part of a quarter of a ton.

Passengers  
luggage.

**50.** Every person travelling upon the railway may take with him his ordinary luggage, not exceeding one hundred and twenty pounds in weight for first-class passengers, one hundred pounds in weight for second-class passengers, and sixty pounds in weight for third-class passengers, without any charge being made for the carriage thereof.

Terminal  
station.

**51.** No station shall be considered a terminal station in regard to any goods conveyed on the railway, unless such goods have been received thereat direct from the consignor, or are directed to be delivered thereat or therefrom to the consignee.

Foregoing  
charges not  
to apply to  
special trains.

**52.** The restrictions as to the charges to be made for passengers shall not extend to any special train run upon the railway, in respect of which the Company may make such charges as they think fit, but shall apply only to the ordinary and express trains appointed from time to time by the Company for the conveyance of passengers and goods on the railway.

Company  
may take  
increased

**53.** Nothing in this Act shall prevent the Company from taking any increased charges, over and above the charges by this Act limited,

for the conveyance of animals or goods of any description, by agreement with the owners or persons in charge thereof, either by reason of any special service performed by the Company in relation thereto, or in respect of the conveyance of animals or goods (other than small parcels) by passenger trains. A.D. 1890.  
charges by agreement.

**54.** The Company may demand and take, for the use of any weighing machines erected by them, of and from the owner or person having charge of any goods, articles or things weighed by means of the same, at the request of such owner or person, such reasonable charges as may from time to time be fixed by the Company. Charges for weighing machines.

**55.** Nothing contained in this Act shall make it compulsory on the Company to carry on the railway any night-soil, dung, manure, compost, or other offensive matter. Company not bound to carry manure.

**56.** Section twenty-four of the Railway and Canal Traffic Act, 1888, and any enactment which may be passed in the present or any future session of Parliament, extending or modifying that enactment, shall, with any necessary modifications, apply to the Company in all respects as if it were one of the companies to which the provisions of the said enactment in terms applied: Provided that the time within which the revised schedule of maximum rates and charges prescribed by the said section shall be submitted to the Board of Trade, shall be three years from the date of the passing of this Act, or such further time as the Board of Trade may permit. Application of provisions of Railway and Canal Traffic Act, 1888, as to revision of rates.

**57.** The Company on the one hand, and the Caledonian Railway Company on the other hand, may, subject to the provisions of Part III. of the Railways Clauses Act, 1863, as amended or varied by the Railway and Canal Traffic Acts, 1873 and 1888, from time to time enter into agreements with respect to the following purposes, or any of them (that is to say):— Working and traffic arrangements with Caledonian Railway Company.

For the maintenance and management by the Caledonian Railway Company of the railway or any part thereof, and the works connected therewith, or any of them;

The use or working of the railway, or any part thereof, and the conveyance of traffic thereon, and the employment of officers and servants;

The supply, during the continuance of any agreement for the use and working of the railway, or any part thereof, by the Caledonian Railway Company, of stock, plant and machinery necessary for the purposes thereof;

The fixing, collection, and apportionment of the tolls, rates, charges, receipts and revenues levied, taken or arising in respect of traffic;

A.D. 1890.

The payments and allowances to be made and the conditions to be performed with respect to the matters aforesaid ;  
The appointment of joint committees for the purpose of any such agreements.

Tolls on traffic conveyed partly on the railway and partly on the railways of the Caledonian Railway Company.

**58.** During the continuance of any agreement to be entered into under the provisions of this Act, for the working and use of the railway or any part thereof by the Caledonian Railway Company, the railways of the Company and of the Caledonian Railway Company, shall, for the purposes of short distance tolls and charges, be considered as one railway ; and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railway of the Company and partly on the railways of the Caledonian Railway Company, for a less distance than three miles, tolls and charges may only be charged as for three miles, and in respect of passengers, for every mile or fraction of a mile beyond three miles, tolls and charges as for one mile only, and in respect of animals and goods, for every quarter of a mile or a fraction of a quarter of a mile beyond three miles, tolls and charges as for a quarter of a mile only ; and no other short distance charge shall be made for the conveyance of passengers, animals, or goods partly on the railway of the Company and partly on the railways of the Caledonian Railway Company.

Confirmation of scheduled agreement with the Caledonian Railway Company.

**59.** The agreement between the Caledonian Railway Company of the first part, and the promoters of the Company of the second part, set forth in the Third Schedule to this Act, is hereby confirmed and made binding on the Caledonian Railway Company and the Company respectively : Provided always that the said agreement shall, notwithstanding anything therein contained, be subject to revision in the manner provided by section 27 of the Railways Clauses Act, 1863, as amended by the Railway and Canal Traffic Acts, 1873 and 1888.

Interest not to be paid on calls paid up.

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

Deposits for future Bills not to be paid out of

**61.** 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. A.D. 1890.  
Company's capital.

**62.** The several facilities, powers, privileges and provisions by the Caledonian and Scottish North-eastern Railways Amalgamation Act, 1866, granted, secured and provided as regards east coast traffic, as defined by that Act, shall, if and so long and so often as the railway is worked by the Caledonian Railway Company, extend and apply to the railway in all respects as if it had been a railway in extension of or connected with the Scottish North-eastern Railway, belonging to or leased by the Caledonian Railway Company, either solely or jointly with any other company; but the running powers by that Act granted shall not extend to the railway. Facilities as regards east coast traffic.

**63.** Nothing in the agreement set forth in the Third Schedule to this Act, or in any agreement made under the authority of this Act, shall affect the rights of Her Majesty's Postmaster-General under the Telegraph Act, 1878, to place and maintain telegraphic lines in, under, upon, along, over or across the railway and works comprised in the undertaking of the Company, and from time to time to alter such telegraphic lines, and to enter upon the land and works comprised in such undertaking for the purposes of the Telegraph Act, 1878 specified, and the Postmaster-General shall, after the making of any such agreement, be at liberty to exercise all the rights aforesaid, notwithstanding that the undertaking of the Company is worked by the Caledonian Railway Company, as freely and fully in all respects as he was entitled to do before the making of any such agreement. Saving rights of Postmaster-General under Telegraph Act, 1878.

**64.** 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.

**65.** 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.

A.D. 1890.

**SCHEDULES** referred to in the foregoing Act.**THE FIRST SCHEDULE.**DESCRIBING PROPERTIES OF WHICH PORTIONS ONLY ARE REQUIRED BY THE  
COMPANY.

Parish.	Numbers on deposited Plans.
Brechin - -	2, 4, 7, 65, 78.
Stracathro - -	25, 26, 28.

**THE SECOND SCHEDULE.**

## NAMES OF LIMITED OWNERS.

The Right Honourable the Earl of Dalhousie and his tutors and curators,  
namely:—

The Honourable Charles Maule Ramsay,  
Alfred Robinson,  
Robert William Raper.

**THE THIRD SCHEDULE.**

AGREEMENT between the Caledonian Railway Company (herein-after called "the Caledonian Company") of the first part, and the Promoters of the Brechin and Edzell District Railway (herein-after called "the Brechin Company") of the second part.

WHEREAS the Brechin Company are at present promoting a Bill for powers to construct a railway from Brechin to Edzell, commencing by a junction with the Caledonian Company's line eastward of the present station at Brechin, it is agreed between the parties as follows, videlicet:—

*First.*—Except as otherwise herein provided, the Brechin Company shall complete the said railway, with all necessary stations, sidings, signals,

water supply for station and locomotive purposes, and all other works and conveniences, as a single line of railway.

*Second.*—On completion of said railway and other works and conveniences to the satisfaction of the chief engineer of the Caledonian Company, the Caledonian Company shall enter upon, work and maintain the same, and provide all necessary locomotive power, rolling stock, and plant of every description for working the traffic on the said railway, and shall appoint and pay all officers and servants required for such purposes.

*Third.*—A joint committee of the Caledonian Company and the Brechin Company, consisting of two directors appointed by each Company, shall fix the rates and fares for all local traffic of the Brechin Company, and the Caledonian Company shall collect all the revenues of the Brechin Company, and in respect of such collection and of the working of the station at Brechin and the working and maintenance of the said railway and relative works and conveniences, the Caledonian Company shall be entitled to retain fifty per centum of the gross revenue derived from the traffic on the Brechin Railway, the balance of said revenue with an account of the same to be handed over to the secretary or treasurer of the Brechin Company monthly. The Caledonian Company shall have the exclusive power of fixing all rates and fares for through traffic.

*Fourth.*—Notwithstanding the provisions in Article First, or of the Act of Parliament authorising the railway, the Brechin Company shall not enter upon or take possession of any ground belonging to the Caledonian Company at Brechin.

*Fifth.*—The Brechin Company shall not construct any station for passenger or goods traffic at Brechin without the written consent under common seal of the Caledonian Company, and the Caledonian Company shall accommodate and work the whole traffic of the Brechin Company in the Caledonian Company's passenger and goods station at Brechin, and in respect of the use of the Caledonian Company's passenger and goods station at Brechin, the Brechin Company shall pay to the Caledonian Company in perpetuity the annual rent or sum of twenty-five pounds sterling, to be paid half-yearly at the terms of Whitsunday and Martinmas, beginning the first termly payment at the first term of Whitsunday or Martinmas after the opening for traffic of the Brechin Railway, for the period from the said opening to the said term, and so forth half-yearly in all time coming.

*Sixth.*—The Caledonian Company shall put in operation through booking through rates and fares between stations on the Brechin Railway, the same as if they were situated upon their own railway.

*Seventh.*—The Brechin Company shall appoint and pay the secretary, treasurer or other officials necessary for the transaction of their business, and shall pay all feu duties or other such annual burdens in respect of the said railway.

*Eighth.*—This agreement shall be in perpetuity, subject, in so far as applicable to working and maintenance, to unconditional termination at the end of ten years from its commencement, on either party giving one year's previous notice in writing to that effect.

A.D. 1890.

*Ninth.*—This agreement is made subject to the sanction of Parliament being obtained to the construction of the said railway, and to such alterations as Parliament may think fit to make thereon; but if any alteration is made by Parliament which, in the opinion of Herbert Clifford Saunders, Esquire, Queen's Counsel, materially affects its provisions, it shall be in the power of either party to withdraw therefrom.

*Tenth.*—All questions which may arise between the parties hereto in relation to this agreement, or to the import or meaning thereof, or to the carrying out of the same, shall be referred to arbitration under and in terms of the Railway Companies Arbitration Act, 1859. In witness whereof these presents, written on this and the two preceding pages of stamped paper by William Findlay, clerk to Shiell and Don, solicitors, Brechin, are, along with a duplicate hereof, subscribed by James Alexander Campbell, Esquire, member of Parliament, residing at Stracathro House, Forfarshire, John Shiell, Esquire, solicitor, Brechin, and John Shepherd, Esquire, of Lundie, Brechin, for and on behalf of the Brechin Company as follows, namely: By the said John Shiell, at Brechin, on the fifth day of June, eighteen hundred and ninety, before these witnesses James Don, writer, Brechin, and Samuel Edwards, clerk to the said Shiell and Don; by the said John Shepherd, at Lundie, on the sixth day of said month of June and year last mentioned, before these witnesses the said William Findlay and Frank Robertson, ostler, Crown Inn stables, Brechin; and by the said James Alexander Campbell, at Westminster, on the ninth day of said month of June and year last mentioned, before these witnesses Andrew Beveridge, Parliamentary agent, eighteen Abingdon Street, Westminster, and Thomas Benbow, library clerk, House of Commons, London; and are also executed by the Caledonian Company as follows: They are subscribed by James Badenach Nicolson and John Sharp, two of the directors, and by Archibald Gibson, secretary, all of the said Caledonian Railway Company, for and on behalf of that Company, all at Westminster, the eleventh day of said month of June and year last mentioned, before these witnesses James Thompson, general manager, and George Jackson, solicitor, both of said Caledonian Railway Company.

JAMES THOMPSON, witness.

J. BADENACH NICOLSON, Director.

GEORGE JACKSON, witness.

JOHN SHARP, Director.

AND. BEVERIDGE, witness.

ARCH. GIBSON, Secretary.

THOMAS BENBOW, witness.

JAS. ALEX. CAMPBELL.

JAMES DON, witness.

JOHN SHIELL.

SAM. EDWARDS, witness.

JOHN SHEPHERD.

WM. FINDLAY, witness.

FRANK ROBERTSON, witness.

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