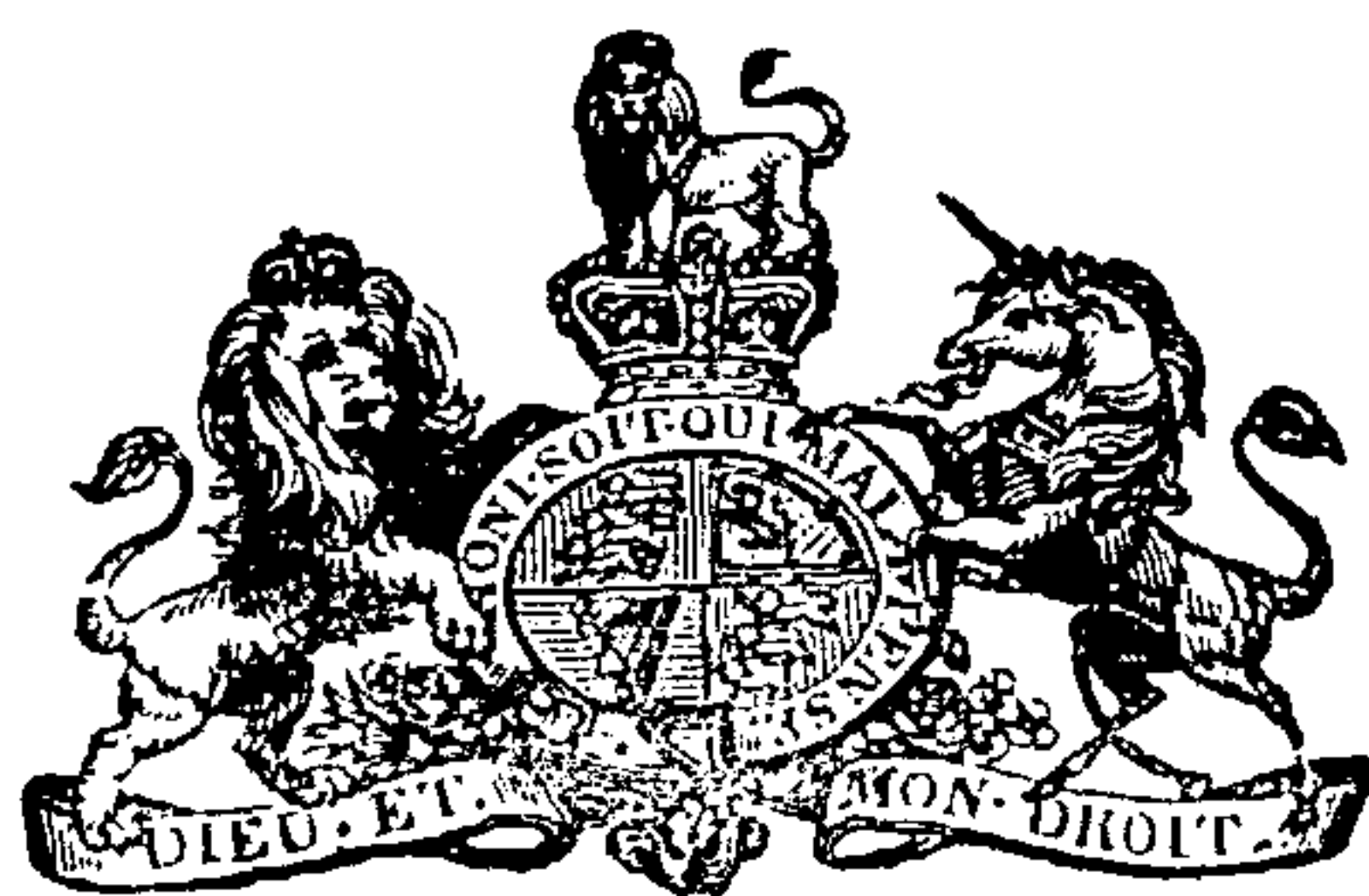


[53 & 54 VICT.] *Kirkcaldy and District Railway* [Ch. clxviii.]
Act, 1890.



CHAPTER clxviii.

An Act to authorise the Kirkcaldy and District Railway Company to extend their railways and for other purposes. A.D. 1890.
[4th August 1890.]

WHEREAS by the Seafield Dock and Railway Act 1883 (in this Act called "the Act of 1883") the Seafield Dock and Railway Company were incorporated with a share capital of three hundred thousand pounds and power to borrow on mortgage not exceeding one hundred thousand pounds and were authorised to construct the railways dock and other works in that Act more particularly described :

And whereas by the Seafield Dock and Railway (Extension of Time and Further Powers) Act 1888 (herein-after called "the Act of 1888") the name of the said company was changed to the Kirkcaldy and District Railway Company and further provision was made respecting the undertaking authorised in 1883 and the powers of the said company :

And whereas the said company have commenced and are proceeding with the construction of the said railways dock and works authorised by the Act of 1883 :

And whereas the extension of the railways authorised by the Act of 1883 as herein-after provided would be of public and local advantage and it is expedient that the Company be authorised to extend their railways accordingly and to raise additional capital and borrow further moneys and that the further powers in this Act contained be conferred upon the Company :

And whereas it is expedient that the agreement made between the Company and the provost magistrates and town council of the extended burgh of Kirkcaldy as police commissioners acting under the General Police and Improvement (Scotland) Act 1862 (herein-after called "the Act of 1862") and the Kirkcaldy Burgh and Harbour Act 1876 (herein-after called "the commissioners") a

[Ch. clxviii.] *Kirkcaldy and District Railway* [53 & 54 VICT.]
Act, 1890.

A.D. 1890. copy of which is set forth in the Second Schedule to this Act annexed should be confirmed and that the powers herein-after contained should be conferred upon the commissioners :

And whereas plans and sections showing the lines and levels of the said railways and works and the lands required or which may be taken for the purposes or under the powers of this Act and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands have been deposited with the principal sheriff clerks of the counties of Fife and Kinross respectively which plans sections and books of reference 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:—

Short title.

1. This Act may be cited for all purposes as the *Kirkcaldy and District Railway Act 1890*.

Incorporation of
general Acts.

2. The Lands Clauses Acts the Railways Clauses Consolidation (Scotland) Act 1845 Part I. (relating to the construction of a railway) of the Railways Clauses Act 1863 the clauses and provisions of the Companies Clauses Consolidation (Scotland) Act 1845 with respect to the following matters (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 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 general meetings of the Company and the exercise of the right of voting by the shareholders ;

The making of dividends ;

The giving of notices ; and

The provision to be made for affording access to the special Act by all parties interested :

[53 & 54 VICT.] *Kirkcaldy and District Railway* [Ch. clxviii.]
Act, 1890.

Part I. (relating to cancellation and surrender of shares) Part II. A.D. 1890.
(relating to additional capital) and Part III. (relating to debenture
stock) of the Companies Clauses Act 1863 as amended by the
Companies Clauses Act 1869 are except where expressly varied by
this Act incorporated with and form part of this Act.

3. In this Act the several words and expressions to which Interpretation.
meanings are assigned by the Acts wholly or partially incorporated
herewith have the same respective meanings unless there be some-
thing in the subject or context repugnant to such construction and
in this Act and for the purposes of this Act in the Acts wholly or
partially incorporated with this Act the expression "the railway"
shall mean the railways by this Act authorised or any part thereof
and the expression "the Company" shall mean the Kirkcaldy and
District Railway Company and the word "schoolmasters" means
sessions clerks.

4. Subject to the provisions of this Act the Company may make Power to
and maintain in the lines and according to the levels shown on make
the deposited plans and sections the railways herein-after described railways.
with all proper stations sidings approaches works and conveniences
connected therewith and may enter upon take and use such of the
lands delineated on the said plans and described in the deposited
books of reference as may be required for that purpose --The railways
herein-before referred to and authorised by this Act are—

- (1) A Railway No. 1 one mile five furlongs 4·80 chains in length
or thereabouts commencing in the parish of Kinghorn by a
junction with the Railway No. 1 authorised by the Act of 1883
and terminating in the parish of Kirkcaldy at or near the
harbour of Kirkcaldy.
- (2) A Railway No. 2 four miles three furlongs 7·20 chains in
length or thereabouts commencing in the parish of Kinghorn
by a junction with the Railway No. 1 authorised by the Act of
1883 and terminating in the parish of Aberdour at a point
five chains or thereabouts measuring in an easterly direction
from the pit mouth of the pit known as the James Pit of the
Donibristle Colliery.
- (3) A Railway No. 3 one mile three furlongs 4·60 chains in length
or thereabouts commencing in the parish of Auchtertool by a
junction with the Railway No. 2 by this Act authorised at a
point twenty-three chains or thereabouts measuring in a south-
westerly direction from the dwelling-house of West Lochhead
Farm and terminating in the parish of Ballingry at a point
five chains or thereabouts measuring in an easterly direction

[Ch. clxviii.] *Kirkcaldy and District Railway* [53 & 54 VICT.]
Act, 1890.

A.D. 1890.

from the centre of the bridge carrying the public road leading from Lumphinnans Ironworks to Lochgelly over the North British Railway in the said parish of Ballingry.

(4) A railway (referred to on the deposited plans as Railway No. 5) two furlongs 1·40 chains in length or thereabouts commencing in the parish of Auchterderran by a junction with the Railway No. 3 by this Act authorised at a point twenty-one chains or thereabouts measuring in a south-westerly direction from the dwelling-house of Newtown Farm and terminating at a point in the parish of Beath five chains or thereabouts measuring in an easterly direction from the pit mouth of the pit known as the Fair Ellen Pit of the Cowdenbeath Colliery.

(5) A railway (referred to on the deposited plans as Railway No. 6) two miles four furlongs five chains in length or thereabouts commencing in the parish of Auchterderran by a junction with the Railway No. 2 authorised by the Act of 1883 and terminating in the parish of Kinglassie at a point twenty-four chains or thereabouts measuring in a north-westerly direction from the dwelling-house of Whinnyhall Farm.

(6) A railway (referred to on the deposited plans as Railway No. 7) three furlongs 8·20 chains in length or thereabouts wholly in the parish of Auchterderran commencing by a junction with the Railway No. 6 by this Act authorised at a point sixteen and a half chains or thereabouts measuring in a north-westerly direction from the dwelling-house of Big Balgonie Farm and terminating at a point ten chains or thereabouts measuring in a north-easterly direction from the north-east corner of the parish church of Auchterderran.

The railways above described will be wholly situate in the county of Fife.

(7) A railway (referred to on the deposited plans as Railway No. 8) two furlongs six chains in length or thereabouts commencing in the parish of Auchterderran and county of Fife by a junction with the Railway No. 6 by this Act authorised at a point thirty-two chains or thereabouts measuring in a north-westerly direction from the dwelling-house of Strathruddie Farm and terminating in the parish of Portmoak in the county of Kinross at a point forty-nine chains or thereabouts measuring in a south-easterly direction from the dwelling-house of North Bogside Farm.

(8) A railway (referred to on the deposited plans as Railway No. 9) six furlongs seven chains in length or thereabouts wholly in the county of Fife commencing in the parish of Auchterderran aforesaid by a junction with the Railway No. 2 authorised by the Act of 1883 at its termination and terminating in the parish of Ballingry at a point sixteen chains or thereabouts measuring in a south-easterly direction from the mansion house in that parish known as Glencraig. A.D. 1890.

5. The Company shall not construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of such approval being signified as last aforesaid and where any such work may have been constructed the Company shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals. If any such work be commenced or completed contrary to the provisions of this Act the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the cost and charge of the Company and the amount of such costs and charges shall be a debt due from the Company to the Crown and shall be recoverable accordingly with costs. Works below high-water mark not to be commenced without the sanction of the Board of Trade.

6. If a work constructed by the Company on in over through or across tidal lands or a tidal water is abandoned or suffered to fall into decay the Board of Trade may abate and remove the work or any part of it and restore the site thereof to its former condition at the expense of the Company and the amount of such expense shall be a debt due from the Company to the Crown and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company. Abatement of work abandoned or decayed.

7. If at any time the Board of Trade deems it expedient for the purposes of this Act to order a survey and examination of a work constructed by the Company on in over through or across tidal lands or tidal water or of the intended site of any such work the Company shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Company to the Crown and be recoverable accordingly with costs or the same Survey of works by Board of Trade.

[Ch. clxviii.] *Kirkcaldy and District Railway* [53 & 54 VICT.]
Act, 1890.

A.D. 1890. may be recovered with costs as a penalty is recoverable from the Company.

Access to
shore at
Kirkcaldy.

8. In constructing Railway No. 1 by this Act authorised the Company shall make and permanently maintain at their own expense for the free use of the public such footways and carriage-ways under the railway as the Board of Trade may require.

Saving rights
of the Crown
in the fore-
shore.

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

For protec-
tion of War
Office.

10.—(1) Before proceeding to the construction of Railway No. 1 the Company shall in lieu of the present battery in the burgh of Kirkcaldy of the First Fife Artillery Volunteers erect on the south or seaward side of and adjoining the said Railway No. 1 at such point within two hundred and twenty yards of the present battery as the Secretary of State for War may approve another battery of equal extent and efficiency with the existing battery and such battery shall be constructed to the satisfaction of the said Secretary of State.

(2) The substituted battery may be used by the Fife Artillery Volunteers in the same way as the existing battery was prior to the passing of this Act used and that free of charge and the Company shall provide a sufficient access across the Railway No. 1 to the said substituted battery at such point within two hundred and twenty yards of the said battery as the said Secretary of State shall approve.

Provisions
with respect
to rights of
salmon fish-
ing belonging
to the Crown.

11. The Company shall purchase and acquire all rights of salmon fishery or salmon fishing in the sea belonging to the Crown in front or ex adverso of the lands of the town and links of Kirkcaldy extending from where the northern boundary of the parish of Kirkcaldy abuts upon the shore to where the southern boundary of the parish of Abbotshall abuts upon the shore and in case the Company and the Commissioners of Woods do not within three months after the passing of this Act agree as to the amount of the consideration to

[53 & 54 VICT.] *Kirkcaldy and District Railway* [Ch. clxviii.]
Act, 1890.

be paid by the Company for such rights which consideration may be at the option of the Company either a sum of money or an annual feu duty then such consideration shall be settled by an arbitrator to be appointed by the Lord President for the time being of the Court of Session by any writing under his hand and any writing under the hand of such arbitrator shall be conclusive evidence of the amount of such sum of money or annual feu duty and the charges and expenses of such arbitration shall be paid by the Company and before commencing any work for the construction of Railway No. 1 the Company shall agree with the Commissioners of Woods as to the amount of the consideration to be paid by the Company for such rights or shall join the Commissioners of Woods in making application to the Lord President of the Court of Session to appoint an arbitrator.

A.D. 1890.

In the event of an annual feu duty becoming payable by the Company to the Crown for such rights the Company may at any time agree with the Commissioners of Woods as to the commutation of and may commute such annual feu duty by payment of such sum of money as may be agreed upon between the Company and the Commissioners of Woods.

12. The Company shall not for the purposes of Railway No. 2 by this Act authorised enter upon take or use any of the lands shown on the deposited plans of that railway and referred to in the deposited books of reference as belonging to Randolph Erskine Wemyss without his consent.

Lands of Mr. Wemyss not to be taken for Railway No. 2.

13. The railways by this Act authorised shall for the purposes of tolls rates and charges and as regards the application of the Railway and Canal Traffic Act 1888 and for all other purposes whatsoever form part of the undertaking of the Company.

As to tolls on railways.

14. Subject to the provisions in the Railways Clauses Consolidation (Scotland) Act 1845 and in Part I. (relating to the construction of a railway) of the Railways Clauses Act 1863 contained in reference to the crossing of roads on the level the Company may in the construction of the Railway No. 7 by this Act authorised carry the same with a single line only whilst the said railway shall consist of a single line and afterwards with a double line only across and on the level of the road numbered on the deposited plans 53 in the parish of Auchterderran and notwithstanding anything in the said Acts contained it shall not be obligatory on the Company to carry the disused road numbered on the plans of Railway No. 2 54 in the parish of Auchtertool over or under the said railway but the Company may stop up so much of the said disused road as lies

As to crossing roads on the level.

[Ch. clxviii.] *Kirkcaldy and District Railway* [53 & 54 VICT.]
Act, 1890.

A.D. 1890. — within the limits of deviation shown upon the deposited plans of that railway.

As to foot-
bridge &c.
at level
crossing.

15. Before the Railway No. 7 by this Act authorised is opened for public traffic the Company shall construct at the level crossing thereof over the road numbered on the deposited plans 53 in the parish of Auchterderran a footbridge with proper stairs leading thereto and the Company shall also construct to the satisfaction of the Board of Trade proper catch sidings on either side of such level crossing with points interlocking with the gates across the road at such level crossing.

Width of
certain
roadways.

16. 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 Plan.	Parish.	Description of Roadway.	Width of Roadway.
Railway No. 2.			
58	Auchtertool	- Public Road -	20 feet.
Railway No. 6.			
17	Auchterderran	- Public Road -	20 feet.
33	Auchterderran	- Public Road -	20 feet.

Height and
span of
bridge.

17. The Company may make the arch of the bridge for carrying the Railway No. 2 over the road numbered on the deposited plans 20 in the parish of Auchtertool of any height not being less than fifteen feet and of any span not being less than twenty feet.

Period for
compulsory
purchase of
lands.

18. 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.

Power to
owners to
grant ease-
ments.

19. 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 or servitude 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 or feu duties so far as the same are applicable in this behalf shall extend and apply to such grants and

[53 & 54 VICT.] *Kirkcaldy and District Railway* [Ch. clxviii.]
Act, 1890.

to such easements or servitudes rights and privileges as aforesaid respectively. A.D. 1890.

20. And whereas in the construction of the Railway No. 1 by this Act authorised it may happen that portions only of the property numbered on the deposited plans 7 in the parish of Kinghorn may be sufficient for the purposes of the same and that such portions may be severed from the remainder of the said property 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 said property may if the portions of such property required for the purpose of this Act 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 property without material detriment thereto be required to sell and convey to the Company the portions only of the said property without the Company being obliged or compellable to purchase the whole or any greater portion thereof the Company paying for the portions required by them and making compensation for any damage sustained by the owners thereof and other parties interested therein by severance or otherwise.

Owners may be required to sell parts only of certain property.

21.—(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 the Company—

Restrictions on displacing persons of labouring class.

(A) 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) 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

[Ch. clxviii.] *Kirkcaldy and District Railway* [53 & 54 Vict.]
Act, 1890.

A.D. 1890. — 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 90 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 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 a period of twenty-five years from the date of such 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 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 :

(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.

[Ch. clxviii.] *Kirkcaldy and District Railway* [53 & 54 VICT.]
Act, 1890.

A.D. 1890.
—
Agreements
with owners
&c. as to
works.

22. The Company may from time to time enter into and carry into effect contracts agreements and arrangements with the owners (which term shall in this section include any person by whom the power of sale conferred by section 7 of the Lands Clauses Consolidation (Scotland) Act 1845 may under the authority of the said section be lawfully exercised herein-after referred to as a limited owner) of land which will adjoin or which would or might be benefited or improved in value by or derive facilities or accommodation from the construction of the railways of the Company or any of them or of any siding or works connected therewith and with the lessees and occupiers of any such lands with reference to all or any of the following matters (that is to say) :—

- (1) The construction and maintenance by the Company or by such owners lessees or occupiers and whether on the lands owned by leased to or occupied by such owners lessees or occupiers or on the lands of the Company of any sidings works or conveniences for the accommodation or benefit of any owners lessees or occupiers of any such lands :
- (2) Any contribution to be made by such owners lessees or occupiers towards the cost of constructing and maintaining such sidings works and conveniences if constructed by the Company :
- (3) The allowances to be made by any such owner lessee or occupier in respect of benefit to arise to the lands owned leased or occupied by him by the construction and maintenance of the said railways or any part thereof or any such sidings works or conveniences as aforesaid and the conveyance to the Company of any lands of or leased to or occupied by any such owner lessee or occupier which may be required for the purposes of or in connexion with the said railways sidings works or conveniences :

And the Company may from time to time apply their corporate funds to the purposes of any such agreement or agreements :

And any such limited owner as aforesaid whose name is set forth in the First Schedule to this Act may in accordance with the terms of any such agreement undertake the construction of any portion of such sidings works and conveniences and contribute towards the cost thereof and may raise the money necessary for that purpose by the mortgage of and charge the same upon such lands and the fee simple and inheritance thereof and may grant and convey to the Company any lands required by them as aforesaid for the construction of any such railways works and conveniences either without payment or other consideration or for such consideration pecuniary or otherwise and upon such terms and conditions as may be agreed

Provided that all moneys so raised by any such limited owner by mortgage or charge of such lands by virtue of the powers of this section shall be repaid by equal annual instalments within a period not exceeding thirty years from the date of borrowing the same but nothing in this proviso shall limit or affect any powers of mortgaging or charging such land vested in such owner otherwise than by virtue of this section.

A.D. 1890.
—

23. The Company may take by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation (Scotland) Act 1845 in connexion with the railways by this Act authorised any quantity of land not exceeding five acres but nothing in this section 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.

Lands for extraordinary purposes.

24. If the railways are not completed within the period of 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 railways or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Period for completion of works.

25. 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 five thousand eight hundred and five pounds eleven shillings being equal to five per centum upon the amount of the estimate in respect of the railways proposed to be authorised by the Bill for this Act as originally introduced into Parliament has been 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 And whereas such railways included a railway which was struck out of the Bill during its progress through Parliament and of the said sum of five thousand eight hundred and five pounds eleven shillings the sum of five thousand five hundred and sixty-five pounds three shillings represents five per centum upon the estimate for the railways authorised by this Act and is herein-after referred to as "the deposit fund" Be it enacted that notwithstanding anything contained in the said Act the said deposit fund shall not be paid 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 completion of the railway open the same for the

Deposit money not to be repaid except so far as railway is opened.

[Ch. clxviii.] *Kirkcaldy and District Railway* [53 & 54 VICT.]
Act, 1890.

A.D. 1890. public conveyance of traffic Provided that if within such period as aforesaid the Company open any portion of the railway for the public conveyance of traffic then on the 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 of Exchequer shall on the application of the depositors order the portion of the deposit fund specified in the certificate to be paid 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.

Application
of deposit.

26. If the Company do not previously to the expiration of the period limited for the completion of the railways by this Act authorised complete the same and open them for the public conveyance of traffic 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 as 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 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 be otherwise applied as part of the assets of the Company for the benefit of the creditors

[53 & 54 VICT.] *Kirkcaldy and District Railway* [Ch. clxviii.]
Act, 1890.

thereof Provided that until the deposit fund has been paid 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. A.D. 1890.

27. On the application of the persons named in the warrant or order issued in pursuance of the said Act of the ninth year of the reign of Her present Majesty chapter twenty or of the survivors or survivor of them or of the majority of such persons or survivors or of the executors or administrators of the last survivor in a summary way at any time after the passing of this Act the court may and shall order that the balance of the said sum of five thousand eight hundred and five pounds and eleven shillings so paid as aforesaid over and above the deposit fund and the interest and dividends thereof shall be paid to the persons or person so applying or to any other person or persons whom they or he may appoint in that behalf. Release of balance of deposit.

28. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise in addition to their authorised capital any additional capital not exceeding in the whole one hundred and fifty thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by any one or more of those modes respectively but the Company shall not issue any share of less nominal value than ten pounds nor shall any 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 shall have been paid in respect thereof. Power to raise additional capital.

29. Sections 19 to 27 both inclusive of the Act of 1883 shall extend and apply to any ordinary share or stock in the said additional capital issued under the powers of this Act in as full and complete a manner as if those clauses were incorporated with and formed part of this Act. Extending certain provisions of Act of 1883.

30. 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 original 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. Except as otherwise provided new shares or stock to be subject to the same incidents as other shares or stocks.

[Ch. clxviii.] *Kirkcaldy and District Railway* [53 & 54 VICT.]
Act, 1890.

A.D. 1890.

Dividends on
new shares
or stock.

31. 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.

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

32. 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.

Power to
borrow.

33. The Company may in respect of the additional capital of one hundred and fifty thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of their undertaking any sum not exceeding in the whole fifty thousand pounds and of that sum they may borrow twenty-five thousand pounds in respect of each sum of seventy-five thousand pounds of such additional capital but no part of any such sum of twenty-five thousand pounds shall be borrowed until shares for so much of the portion of additional capital in respect of which it is to be borrowed 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 so much of such portion of capital as is to be raised by shares have 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 therein 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 such portion of 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 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 respective portion of 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.

34. The provisions of the Act of 1883 as to the appointment of a judicial factor are hereby repealed but without prejudice to any appointment made or proceedings taken before the passing of this Act.

Repealing provisions as to appointment of a judicial factor.

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

For appointment of a judicial factor.

36. The principal moneys secured by all mortgages granted by the Company in pursuance of the powers of the Act of 1883 before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages have priority over any mortgages to be granted by virtue of this Act.

Former mortgages to have priority.

37. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 and of section 30 of the Act of 1883.

Power to Company to create debenture stock.

38. All moneys raised by the Company under the provisions of this Act whether by shares stock debenture stock or borrowing shall be applied only to the purposes of this Act and to the general purposes of the undertaking of the Company being in each case purposes to which capital is properly applicable.

Application of moneys.

39. The Company may apply to or towards the purposes of this Act to which capital is properly applicable any sums of money which they have already raised or are authorised to raise by any of their Acts.

Power to Company to apply authorised capital to purposes of this Act.

40. Notwithstanding anything in section 33 of the Act of 1883 the Company may from time to time increase and again reduce the number of directors provided that the number shall never be less than three nor more than seven.

Increase of number of directors.

41. The agreement set forth in the Second Schedule to this Act and made between the Company on the one hand and the commissioners on the other hand shall be and the same is hereby confirmed :

Confirmation of agreement with and powers to police commissioners.

And for the purpose of giving full effect to such agreement—

- (1) The Company may form and make up in accordance with the terms of such agreement the roadways and footways as therein provided and when and so soon as the same shall in accordance

[Ch. clxviii.] *Kirkcaldy and District Railway* [53 & 54 VICT.]
Act, 1890.

A.D. 1890.

with the terms of the said agreement be respectively completed the commissioners shall declare the same to be a street as defined by the Act of 1862 and the same shall be vested in the commissioners and shall be repaired and repairable by the commissioners as a public street under the authority and powers of the said Act.

- (2) The commissioners may in accordance with the terms of the aforesaid agreement contribute the sums thereby agreed to be contributed towards the cost of the said roadways and foot-paths and may for the purposes of any such contribution apply any funds in their hands not specifically applicable to any other purpose and may for such purposes from time to time borrow in addition to any money which they have borrowed or are otherwise authorised to borrow any sums of money not exceeding in the whole three thousand five hundred pounds and may make and grant mortgages of the general improvement rate, police assessments or other rates which the commissioners are entitled to levy in security of the moneys so borrowed and interest thereon and of such contribution.

As to deposit
of rubbish on
foreshore.

42. Whereas it is expedient that provision should be made with a view to the prevention of nuisance to persons using the Railway No. 1 by this Act authorised and the embankment upon which the same is constructed Be it therefore enacted as follows :—

From and after the completion of the said railway it shall not be lawful for any person to deposit or place any refuse rubbish matter or thing on the portion of the foreshore of the Firth of Forth lying seawards of the said railway and between the embankment on which it will be constructed and the low-water line of ordinary spring tides except under such regulations and restrictions approved by the Board of Trade and the Company as the commissioners may prescribe.

Power to
pay interest
out of capital
during con-
struction.

43. Notwithstanding anything contained in this Act or the Act of 1888 or any Act or Acts incorporated therewith respectively it shall be lawful for the Company out of any money by this Act or the Act of 1883 as amended by the Act of 1888 authorised to be raised to pay interest at such rate not exceeding the rates by this section prescribed as the directors may determine to any holder of any shares or stock created and issued under the powers of this Act on the amount from time to time paid up on the shares or on the nominal value of the stock held by him from the respective times of such payments of the calls on such shares or of the amount paid in respect of such stock as the case may be until the expiration of the time

limited for the completion of the works authorised by this Act or such less period as the directors may determine but subject always to the conditions hereinafter stated (that is to say) :—

A.D. 1890.

- (A) The rate of interest to be paid as aforesaid may until the expiration of the period limited by the Act of 1888 for the completion of the railways and works authorised by the Act of 1883 be four per centum per annum and thereafter until the expiration of the period limited for the completion of the works by this Act authorised may be three per centum per annum :

Provided that the directors shall not pay such interest out of capital as aforesaid after the expiration of the period limited for the completion of the railways and works authorised by the Act of 1883 unless they shall on the creation of the capital on which the interest is so to be paid have distinguished the same from the capital authorised by the Act of 1883 to be raised :

- (B) No such interest shall begin to accrue until the Company shall have obtained a certificate from the Board of Trade that two thirds at least of the capital in shares or stock authorised by this Act in respect of which such interest may be paid has been actually issued and accepted and is held by shareholders or stockholders who or whose executors administrators or assigns are legally liable for the same :

- (C) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear :

- (D) The aggregate amount to be so paid for interest shall not exceed twelve thousand pounds and the amount so paid shall not be deemed share capital in respect of which the borrowing powers of the Company may be exercised but such borrowing powers shall be reduced to the extent of one third of the amount paid for interest as aforesaid :

- (E) Notice that the Company have power so to pay interest out of the capital shall be given in every prospectus advertisement or other document of the Company inviting subscriptions for shares or stock and in every certificate of shares :

- (F) The half-yearly accounts of the Company shall show the amount of capital on which and the rate at which interest has been paid in pursuance of this section :

Save as herein-before set forth 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

[Ch. clxviii.] *Kirkcaldy and District Railway* [53 & 54 VICT.]
Act, 1890.

A.D. 1890. — 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.

Savingrights
of Crown
under Crown
Lands Act. 44. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved by sections 21 and 22 of the Crown Lands Act 1866 and belonging to or exerciseable on behalf of Her Majesty Her heirs or successors.

Deposits for
future Bills
not to be
paid out of
capital. 45. 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 to any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking.

Provision as
to general
Railway
Acts. 46. Nothing in this Act contained shall exempt the Company or the railways of the Company 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 the Acts of the Company.

Costs of
Act. 47. 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.

[53 & 54 VICT.] *Kirkcaldy and District Railway* [Ch. clxviii.]
Act, 1890.

The SCHEDULES referred to in the foregoing Act.

A.D. 1890.

THE FIRST SCHEDULE.

NAMES OF LIMITED OWNERS.

The Most Noble the Marquis of Northampton.

The Right Hon. Francis Earl of Rosslyn.

The Right Hon. Lawrance Earl of Zetland.

John Thomson }
David Thomson } As Trustees of the late Thomas Goodall.

THE SECOND SCHEDULE.

MINUTE OF AGREEMENT between the KIRKCALDY AND DISTRICT RAILWAY COMPANY incorporated by the Seafeld Dock and Railway Act 1883 and the Seafeld Dock and Railway (Extension of Time and Further Powers) Act 1888 (herein-after called "the first parties") of the first part and the PROVOST MAGISTRATES AND TOWN COUNCIL OF THE BURGH OF KIRKCALDY as such and as Police Commissioners under the Kirkcaldy Burgh and Harbour Act 1876 and the General Police and Improvement (Scotland) Act 1862 incorporated therewith (herein-after called "the second parties") of the second part.

WHEREAS the first parties are in the present session of Parliament promoting a Bill entitled "A Bill to authorise the Kirkcaldy and District Railway Company to extend their railways and for other purposes" under which they apply inter alia for power to construct a railway between the dock in course of construction by them at Seafeld in the parish of Kinghorn and the harbour of Kirkcaldy along the foreshore ex adverso of the said burgh being Railway No. 1 shown on the parliamentary plans deposited in connexion with the said Bill with the necessary works in connexion therewith:

[Ch. clxviii.] *Kirkcaldy and District Railway* [53 & 54 VICT.]
Act, 1890.

A.D. 1890. — And whereas the second parties for all their right and interest have agreed not to oppose the said Bill but to consent to the same being passed into an Act on certain conditions which it has been resolved to reduce into writing Therefore it is hereby agreed between the said parties that when the said railways and works come to be constructed the following provisions shall have effect viz. :—

First. The said railway and works shall be constructed according to the said parliamentary plans and within the limits of deviation shown on said plans and to the provisions of the Railways Clauses Consolidation (Scotland) Act 1845.

Second. The first parties upon obtaining land for the purpose shall at their own expense form and make up to a width of forty-five feet including the footpath as after mentioned the road in said burgh known as Sands Road between the innermost or north fence of the proposed railway and the houses abutting on such road or as near thereto as circumstances will permit from a point fifty yards or thereabouts southwards from the south-east corner of the Port Brae Church to the street in the said burgh known as Heggies Wynd so that the said road when completed shall extend in the line or as nearly as may be in the line shown within dotted blue lines upon a plan hereunto annexed.

Third. The first parties shall construct a footpath (being the footpath before referred to) with proper kerb and channel along the west side of the roadway before mentioned for its entire length of a breadth including kerb of seven feet and they shall cover the footway with engine ashes or gravel and shall macadamise the remainder of the road except for a width of five feet on the eastern side thereof on the outer side of which five feet being the side next the roadway there shall be laid a sufficient causeway channel to carry off the surface water and which channel shall be properly connected with the main drains in said Sands Road or with the sea beach by accesses underneath the railway.

Fourth. The first parties shall make three accesses suitable for carts and foot passengers through or under said railway as approaches for the public to the sea beach also two overhead footbridges suitable for access by the public to the sea beach the site of one of said accesses and one of said footbridges being to be fixed by the second parties and the site of the other two accesses and the other footbridge being to be fixed by the first parties.

Fifth. The first parties shall properly fence the said railway on the side next the said portion of the Sands Road with a wall two feet in height from the surface of the ground surmounted by an open iron railing not less than three feet in height.

Sixth. The roadway and footpath shall be formed and made up in a suitable manner and to the reasonable satisfaction of the second parties and in the event of any difference of opinion arising between the parties the same shall be settled by arbitration as after mentioned.

Seventh. On the completion of the said roadway and footpath as aforesaid the second parties shall if authorised by the Act now being applied for pay

[53 & 54 VICT.] *Kirkcaldy and District Railway* [Ch. clxviii.]
Act, 1890.

to the first parties the sum of three thousand pounds towards the expenses incurred by the first parties in connexion with the formation of the said roadway and footpath. A.D. 1890.

Eighth. The first parties shall have power at any time and from time to time to lay rails over and across said Sands Road and the footpaths thereof on the level so as to give access to and egress from the works adjoining the said road but no waggons or engines shall be allowed to stand on the said rails.

Ninth. The first parties undertake in the event of their being in a position to do so (of which they shall be the sole judges) to continue the said roadway from Heggies Wynd to the Horse Wynd in the said burgh at their own expense the line of which continued roadway shall be adjusted between the parties and failing agreement shall be settled by the arbiter herein-after named and in the event of the first parties continuing the said roadway and footpath the second parties undertake and bind themselves to pay if authorised by the Act now being applied for to the first parties the further sum of five hundred pounds towards the expense of such continuation of the said roadway and footpath.

Tenth. The portion of the Sands Road and footpath to be formed and made up as herein-before provided shall be formed and made up in terms of the specification marked Number I. annexed and signed as relative hereto and the continuation of the said roadway and footpath from Heggies Wynd to Horse Wynd shall be constructed according to the specification marked Number II. signed as relative hereto.

Eleventh. The aforesaid portion of the Sands Road and the said continuation thereof (including the footpath thereof) as and when respectively made up shall on the expiry of twelve months from the time of completion thereof during which time the first parties shall maintain and uphold the same be taken over and be kept up and maintained at the expense of the second parties.

Twelfth. In the event of any difference or dispute arising between the parties, hereto the same is hereby submitted and referred to George Miller Cunningham whom failing Benjamin Hall Blyth as sole arbiter whose decision shall be final and binding on both parties And the parties hereto consent to the registration hereof for preservation and execution.

In witness whereof these presents written upon this and the two preceding pages are along with the two relative specifications marked No. I. (Number One) and No. II. (Number Two) and relative plan all annexed (under the declaration that the word "outer" in the fourth line of page second is written on an erasure) subscribed by Thomas Black provost and William Roy Spears town clerk both of the burgh of Kirkcaldy for and on behalf of and as duly authorised by the said provost magistrates and town council of the burgh of Kirkcaldy as police commissioners foresaid both at Kirkcaldy on the fifteenth day of April eighteen hundred and ninety before these witnesses Wemyss Erskine Mitchell Maxwell clerk to Messrs. Gibson and Spears

[Ch. clxviii.] *Kirkcaldy and District Railway* [53 & 54 VICT.]
Act, 1890.

A.D. 1890. — solicitors Kirkcaldy and James Donaldson Boswall apprentice to Messrs. Dundas and Wilson clerks to the signet Edinburgh and by Charles Grey Mott Esquire justice of the peace residing at Harrow Weald Lodge Stanmore Middlesex chairman and James Tynk Agg-Gardner Esquire justice of the peace Member of Parliament Evesham House Cheltenham two of the directors of the said Kirkcaldy and District Railway Company for and on behalf of the said Company both at London on the sixteenth day of said month and year last mentioned before these witnesses William Fiske Fowle accountant residing at Number Two Saint James Road Stratford London and Horace Eland clerk Spencer Road Wealdstone London.

W. F. FOWLE Witness.

H. ELAND Witness.

WEMYSS E. M. MAXWELL
Witness.

J. D. BOSWALL Witness.

C. G. MOTT

J. T. AGG-GARDNER } Directors.

THOMAS BLACK Provost.

W. N. SPEARS Town Clerk.

Printed by EYRE and SPOTTISWOODE,

FOR

T. DIGBY FIGOTT, Esq., the Queen's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
EYRE AND SPOTTISWOODE, EAST HARDING STREET, FLEET STREET, E.C.; or
ADAM AND CHARLES BLACK, 6, NORTH BRIDGE, EDINBURGH; or
HODGES, FIGGIS, & Co., 104, GRAFTON STREET, DUBLIN.