



CHAPTER clix.

An Act to authorise the Brechin and Edzell District Railway Company to make substituted railways to abandon portions of their authorised railway to extend the time for purchase of lands and completion of works to raise additional capital and for other purposes. A.D. 1893.

[27th July 1893.]

WHEREAS by the Brechin and Edzell District Railway Act 1890 (in this Act called "the Act of 1890") the Brechin and Edzell District Railway Company (in this Act called "the Company") were incorporated with a share capital of thirty-seven thousand five hundred pounds and with power to borrow twelve thousand five hundred pounds and were authorised to construct a railway from Brechin to Edzell in the county of Forfar :

And whereas it is expedient that the Company should be authorised to make and maintain the substituted railways and other works herein-after described and to abandon the portion of their undertaking which will be rendered unnecessary by the construction of such substituted railways :

And whereas the period for the compulsory purchase of lands limited by the Act of 1890 will expire on the twenty-fifth day of July one thousand eight hundred and ninety-three and the period for the completion of the railway authorised by the said Act will expire on the twenty-fifth day of July one thousand eight hundred and ninety-five and the said railway not having been constructed it is expedient that the said periods should be extended as herein-after provided :

And whereas it is expedient that the Company should be authorised to raise additional money for the purposes of this Act :

And whereas it is expedient that the other powers herein-after contained should be granted to the Company :

[**Ch. clix.**] *Brechin and Edzell District Railway* [56 & 57 VICT.]
Act, 1893.

A.D. 1893.

And whereas plans and sections showing the lines and levels of the substituted railways authorised by this Act and the altered levels and level crossings 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 at Forfar with the principal sheriff clerk for the county of 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 :—

Short title.

1. This Act may be cited as the Brechin and Edzell District Railway Act 1893.

Incorporation of Acts.

2. The Lands Clauses Acts the Railways Clauses Consolidation (Scotland) Act 1845 the Companies Clauses Consolidation (Scotland) Act 1845 and Part I. (relating to construction of a railway) and Part II. (relating to extension of time) of the Railways Clauses Act 1863 Part I. (relating to cancellation and surrender of shares) Part II. (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 and by the Railway Companies (Scotland) Act 1867 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 Act of 1890 and 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 the expressions "the substituted railways" "the railways" mean respectively the Substituted Railway No. 1 and the Substituted Railway No. 2 by this Act authorised the expression "the undertaking" means the undertaking of the Company.

Power to make substituted railways.

4. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the substituted railways and alteration of levels of the railway authorised by the Act of 1890.

herein-after described with all proper stations sidings approaches works and conveniences connected therewith respectively and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for these purposes The substituted railways herein-before referred to and authorised by this Act are—

A.D. 1893.

(1) A railway (herein-after called "Substituted Railway No. 1") four furlongs or thereabouts in length commencing by a junction with the Brechin Branch of the Caledonian Railway at the authorised point of junction with that railway of the railway authorised by the Brechin and Edzell District Railway Act 1890 and therein called "the railway" and terminating by a junction with the authorised Railway No. 2 of the Forfar and Brechin Railway in course of construction ;

(2) A railway (herein-after called "Substituted Railway No 2") one mile six furlongs 6·90 chains or thereabouts in length commencing by a junction with the authorised Railway No. 1 of the Forfar and Brechin Railway in course of construction at the termination thereof on the west side of the main road from Brechin to Trinity and terminating by a junction with the authorised line of the Brechin and Edzell District Railway ;

(3) An alteration of the levels of the railway authorised by the Act of 1890 wholly situate in the parish of Stracathro situate and lying between the points respectively three miles six chains and three miles two furlongs seven chains from the commencement of the said railway on the said plans deposited in November one thousand eight hundred and eighty-nine in respect to the application to Parliament for the Act of 1890 as aforesaid.

5. 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 and notwithstanding anything to the contrary in the Act of 1890 or shown on the said plans and sections deposited in November one thousand eight hundred and eighty-nine in respect to, the application to Parliament for the Act of 1890 as aforesaid the Company may and in accordance with the deposited plans and sections in the construction of the railway authorised by the Act of 1890 carry the same with a single line only whilst the railway shall consist of a single line across

Power to cross certain roads on the level.

[Ch. clix.] *Brechin and Edzell District Railway* [56 & 57 VICT.]
Act, 1893.

A.D. 1893. and on the level of the roads next herein-after mentioned (that is to say) :—

No. on deposited Plan.	Parish.	Description of Road.
29	Stracathro	Public Road.
11	Edzell	Site of Old Mill Road Private.

Provided always that in making the level crossing over the said road No. 29 on the deposited plans in the parish of Stracathro the following conditions shall have effect namely :—

- (1) The side slope of the adjoining cutting shall be flattened sufficiently to allow the gates of the level crossing to be seen from the footplate of an engine for a distance of ten chains ;
- (2) A footbridge or subway shall be constructed over or under the railway as the case may be and no wickets shall be erected at the said level crossing.

Powers of lateral and vertical deviation.

6. The Company notwithstanding the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 may within the limits of lateral deviation shown on the deposited plans deviate the Substituted Railway No. 2 so far as situate between the point marked on the deposited plans indicating six furlongs from the commencement thereof and the termination of the said Substituted Railway No. 2 to any extent within such limits and may deviate from the levels of the railways as delineated on the deposited sections thereof to any extent downwards not exceeding ten feet.

Power to take easements &c. by agreement.

7. 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 right or privilege not being an easement right or privilege of water required for the purposes of this Act in over or affecting any such lands and the provisions of those Acts with respect to lands and feu duties and ground annuals so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Lands for extra-ordinary purposes.

8. 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 two acres in addition to the lands which they are authorised to take by agreement for the

[56 & 57 VICT.] *Brechin and Edzell District Railway* [Ch. clix.]
Act, 1893.

like purposes by the Act of 1890 but nothing in the Railways A.D. 1893.
Clauses Consolidation (Scotland) Act 1845 or in this Act shall
exempt the Company from any indictment action or other proceeding
for nuisance in the event of any nuisance being caused by them
upon any land taken under the powers of this section.

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

10. Notwithstanding anything in this Act contained no greater Common
quantity of the common or common lands situate in the parish of land.
Brechin known as Trinity Muir Market and Cattle Rake than one
quarter of an acre shall be acquired for the purposes of this Act.

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

Railway.	No. on deposited Plan.	Parish.	Description of Road.	Intended Inclination.
Substituted Railway No. 1.	14	Brechin	Public	1 in 15
„ „ No. 1.	16	Brechin	Public	1 in 15
Substituted Railway No. 2.	28	Brechin	Public Road or Cattle Rake.	1 in 12

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

Railway.	No. on deposited Plans.	Parish.	Description of Road.	Width of Road.
Substituted Railway No. 1.	16	Brechin	Public	25 feet
Substituted Railway No. 2.	21 and 22	Brechin	Public Road or Cattle Rake.	20 feet
„ „ No. 2.	36	Brechin	Public	20 feet
Alteration of levels	8	Stracathro	Public	20 feet

[Ch. clix.] *Brechin and Edzell District Railway* [56 & 57 Vict.]
Act, 1893.

A.D. 1893.

Power to divert road as shown on deposited plans.

13. 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.
Substituted Railway No. 1	Brechin	16

And when and so soon as the portion of 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.

New portions of road to be subject to same provisions as existing roads.

14. All new or diverted 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.

Deposit fund referred to in Act of 1890 to apply to substituted railways.

15. For the purpose of sections forty-one and forty-two of the Act of 1890 the substituted railways authorised by this Act shall be deemed to be part of the railway by that Act authorised to be constructed instead of the portion thereof by this Act directed to be abandoned but nothing in this section shall prejudice or alter any right of any owner or occupier of lands or other persons injuriously affected or any creditors to or over the deposit fund mentioned in the said sections.

Restriction on taking houses of labouring class.

16. The Company shall not under the powers of this Act or under the powers of the Act of 1890 extended by this Act purchase or acquire ten or more houses which on the fifteenth day of December next before the passing of this Act or of the Act of 1890 by which such purchase or acquisition was originally authorised as the case may be were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except

[56 & 57 VICT.] *Brechin and Edzell District Railway* [Ch. clix.]
Act, 1893.

with the consent of the Secretary for Scotland ten or more houses which were not so occupied on the respective fifteenth day of December but have been or shall be subsequently so occupied. A.D. 1893.

For the purposes of this section the expression "labouring class" means and includes mechanics artizans 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.

17. If the railways be 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 railways or otherwise in relation thereto shall cease except as to so much thereof as is then completed. Period for completion of railways.

18. The Company shall abandon the construction of so much of the railway authorised by the Act of 1890 as lies between its commencement and the point marked on the plans deposited as relative thereto indicating two miles five furlongs from its commencement. Part of authorised railway to be abandoned.

19. The abandonment by the Company under the authority of this Act of any portion of any railway or works shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels or probing or boring to ascertain the nature of the soil or setting out of the line of railway and shall not prejudice or affect the right of the owner or occupier of any land which has been temporarily occupied by the Company to receive compensation for such temporary occupation or for any loss damage or injury which has been sustained by such owner or occupier by reason thereof or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation (Scotland) Act 1845 or in the Act of 1890. Compensation for damage to land by entry &c.

20. Where before the passing of this Act any contract or agreement has been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to any portions of the railway or works authorised to be abandoned by this Act the Company shall be released from all liability to purchase or to complete the purchase of any such lands but notwithstanding full compensation shall be made by the Company to the owners and occupiers or other persons interested in such lands for all injury Compensation to be made in respect of railway abandoned.

[Ch. clix.] *Brechin and Edzell District Railway* [56 & 57 VICT.]
Act, 1893.

A.D. 1893.

or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice and the amount and application of the compensation shall be determined in manner provided by the Lands Clauses Acts for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Extension of time for purchase of lands.

21. The powers of the Act of 1890 with respect to the compulsory purchase or taking of lands are hereby extended and shall continue in force until the twenty-fifth day of July one thousand eight hundred and ninety-four except as to so much of the lands as were required for the portion of the railway authorised by this Act to be abandoned.

Extension of time for completion of railway authorised by Act of 1890.

22. The time limited by the Act of 1890 for the completion of the railway and works authorised by that Act is hereby extended until the twenty-fifth day of July one thousand eight hundred and ninety-six except as to so much of the said railway as is by this Act authorised to be abandoned.

Confirmation of agreements.

23. The agreements as respectively set forth in the First and Second Schedules to this Act made between the Company and the Forfar and Brechin Railway Company are hereby confirmed and made binding on the said companies respectively.

Railways to be part of Company's undertaking.

24. Subject to the provisions of this Act the substituted railways by this Act authorised shall be and be deemed to be in all respects and for all purposes in substitution for the portion of railway authorised by the Act of 1890 which is by this Act authorised to be abandoned and the substituted railways and the railway referred to in the First Schedule to this Act as in the joint ownership of the Company and the Forfar and Brechin Railway Company and the works connected therewith respectively shall be and be deemed subject to such joint ownership to be for all purposes part of the railway works property and undertaking of the Company and shall be subject to the terms and conditions contained in the agreement scheduled to and confirmed by the Act of 1890 and to the terms and conditions contained in the agreements scheduled to and confirmed by this Act.

Power to apply corporate funds to purposes of Act.

25. The Company may apply to the purposes of this Act to which capital is properly applicable any moneys which by the Act of 1890 they were authorised to raise by shares debenture stock or mortgage and which may not be required for the purposes to which they are by the Act of 1890 made specially applicable.

[56 & 57 VICT.] *Brechin and Edzell District Railway* [Ch. clix.]
Act, 1893.

26. 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 five thousand pounds by the issue of new ordinary shares.

A.D. 1893.
Power to raise additional capital.

27. The Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds 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.

28. 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.

29. If any money is payable to a shareholder mortgagee or debenture holder 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 for persons not sui juris.

30. The provisions of sections ten to seventeen (both inclusive) of the Act of 1890 shall subject to the provisions of this Act extend and apply to the case of any ordinary shares created by the Company 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.

Applying sections ten to seventeen of Act of 1890 to new shares.

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

Except as otherwise provided new shares to be subject to the same incidents as other shares.

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

Dividends on new shares.

33. The Company may in respect of the additional capital of five thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of their undertaking any sums not exceeding one thousand six hundred and sixty-six pounds

Power to borrow.

[Ch. clix.] *Brechin and Edzell District Railway* [56 & 57 VICT.]
Act, 1893.

A.D. 1893.

but no part thereof shall be borrowed until the whole of the additional capital of five thousand 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 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 shares were issued bonâ fide and are held by the persons or corporations to whom the same were 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.

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

34. The provisions of the Act of 1890 authorising the appointment of a judicial factor are hereby repealed without prejudice to any appointment or proceedings taken before the passing of this Act.

For 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 one thousand pounds in the whole.

Existing mortgages to have priority.

36. The principal moneys secured by all mortgages granted by the Company in pursuance of the powers of the Act of 1890 before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages have priority over the principal moneys secured by any mortgages to be granted by virtue of this Act.

Debenture stock.

37. The Company may raise all or any part of the money which they are by this Act authorised to raise on mortgage by the creation and issue of debenture stock subject to the provisions of section twenty of the Act of 1890.

Application of moneys.

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

[56 & 57 VICT.] *Brechin and Edzell District Railway* [Ch. clix.]
Act, 1893.

39. The classification of merchandise traffic and the schedule of maximum rates and charges applicable thereto and the regulations and provisions contained in the schedule to the Railway Rates and Charges No. 19 (Caledonian Railway &c.) Order Confirmation Act 1892 shall be applicable and apply to the Company as if it were one of the railway companies named in the Order confirmed by the said Act. Provided always that the provisions of this section shall be held to be sufficient compliance with the requirements of section fifty-six of the Act of 1890.

A.D. 1893.
Maximum rates for merchandise.

40. Section twenty-five of the Act of 1890 is hereby repealed and in lieu thereof it is enacted that the qualification of a director shall be the possession in his own right of not less than twenty-five ordinary shares.

Qualification of directors reduced.

41. Section sixty-two of the Act of 1890 shall extend and apply in all respects to and in relation to the substituted railways by this Act authorised and each of those railways.

Facilities as regards east coast traffic.

42. Nothing in this Act or in the Act of 1890 or in the agreement scheduled to the last-mentioned Act relating to the working of the railways or undertaking of the Company or any part thereof by the Caledonian Railway Company shall extend to impose upon the Postmaster General the obligation of transmitting under the provisions of the Telegraph Act 1868 or any agreement made in pursuance thereof between the Postmaster General and the Caledonian Railway Company any larger number of telegraph or telegraphic messages of that company free of charge than the Postmaster General would have been bound to transmit had such working not been authorised.

For protection of Postmaster General.

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

Interest not to be paid on calls paid up.

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

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

[Ch. clix.] *Brechin and Edzell District Railway* [56 & 57 VICT.]
Act, 1893.

A.D. 1893.
Provision as
to general
Railway Acts.

45. Nothing in this Act contained shall exempt any company in this Act mentioned or their railways 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 to be taken by such companies respectively.

Costs of Act.

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

SCHEDULES referred to in the foregoing Act.

A.D. 1893.

THE FIRST SCHEDULE.

AGREEMENT between the BRECHIN AND EDZELL DISTRICT RAILWAY COMPANY (herein-after called "the Brechin Company") of the first part and the FORFAR AND BRECHIN RAILWAY COMPANY (herein-after called "the Forfar Company") of the second part.

WHEREAS the Brechin Company are promoting a Bill in the present session of Parliament among other things to authorise that Company to make substituted railways and to abandon certain portions of their authorised railway and the Forfar Company have lodged a petition against the Bill and whereas the Brechin and the Forfar companies entered into an agreement dated the thirtieth day of April one thousand eight hundred and ninety but the said agreement was not confirmed and whereas it has been agreed between the Brechin Company and the Forfar Company that the said agreement should be cancelled and that the agreement herein-after written should be entered into and whereas the Forfar Company are in course of constructing their railway and works and whereas negotiations have taken place between the said companies parties hereto with the view of settling all matters in controversy between them the said parties have accordingly agreed and hereby agree as follows:—

First.—The Brechin Company and the Forfar Company shall respectively at the respective cost of each of these companies acquire the necessary land for and shall make and construct the respective railways and works following that is to say the Brechin Company shall so soon as they have raised the capital necessary for the construction of their railways make and construct the Substituted Railway No. 1 proposed to be authorised by the Bill and the Forfar Company shall complete their authorised railway now in course of construction so far as situate between the termination of the said Substituted Railway No. 1 and the commencement of the Substituted Railway No. 2 of the Brechin Company also proposed to be authorised by the Bill.

Second.—The said railways mentioned in the preceding article when constructed shall form a continuous line between the junction of the said Substituted Railway No. 1 with the Brechin branch of the Caledonian Railway and the junction of the said Substituted Railway No. 2 with the authorised Forfar and Brechin Railway and which continuous line of railway together with all the works accessory thereto shall be in the joint ownership of the Brechin Company and the Forfar Company from and after the date of the completion of the same to the satisfaction of the inspecting officer of the Board of Trade.

Third.—In the event of there being any difference between the cost of constructing the said railways referred to in Articles First and Second hereof such difference as the same shall failing agreement be determined by the arbiter after mentioned shall be borne equally by the Brechin Company and the Forfar Company either by a lump payment or an annual interest payment calculated at the rate of four per centum as may be mutually agreed by the

[Ch. clix.] *Brechin and Edzell District Railway* [56 & 57 VICT.]
Act, 1893.

A.D. 1893.

said companies and payment of such difference shall be made at or interest shall commence to run from and after the date of the completion of the railway of the Company who shall stand in the position of creditor under the obligation contained in this article and which interest shall form part of the working expenses of the Company paying the same.

Fourth.—The foresaid agreement dated the thirtieth day of April one thousand eight hundred and ninety made between the Brechin Company and the Forfar Company shall be and the same is hereby cancelled and all the obligations and conditions thereof on either side are hereby discharged.

Fifth.—In the event of any difference between the said companies arising out of or in relation to this agreement or in carrying out its provisions or as to the cost referred to in Article Third hereof such difference shall be referred to the decision of James Thompson the general manager or failing him William Patrick the assistant manager whom failing the general manager or failing him the assistant manager for the time being of the Caledonian Railway Company as sole arbiter whose decision shall be final and binding and the costs of any such arbitration shall be in the discretion of the arbiter.

Sixth.—This agreement is made subject to the approval of Parliament and to any alterations which Parliament may make thereon and the same shall be scheduled to and confirmed by the Bill In witness whereof these presents are sealed with the common seal of the Brechin and Edzell District Railway Company at Brechin the twenty-fifth day of April eighteen hundred and ninety-three in presence of Thomas Gardner teller and Robert Cowe Henderson apprentice clerk both in the British Linen Company Bank Brechin and are also sealed with the common seal of the Forfar and Brechin Railway Company and signed by John Grant Kinloch and William Shaw Adamson two of the directors and by Alexander Guild the secretary of that Company all at Brechin the twenty-seventh day of the said month of April and year last mentioned before these witnesses Henry Rivers Phillips civil engineer Brechin and Malcolm Green clerk to Messieurs Reid and Guild writers to the Signet Edinburgh.

THOS. GARDNER *Witness.*

ROBERT C. HENDERSON *Witness*

H. R. PHILLIPS *Witness.*

MALCOLM GREEN *Witness.*



JOHN GRANT KINLOCH *Dr.*

WM. SHAW ADAMSON *Director.*

ALEX. GUILD *Secy.*

THE SECOND SCHEDULE.

A.D. 1893.

MEMORANDUM OF AGREEMENT made between the BRECHIN AND EDZELL DISTRICT RAILWAY COMPANY (herein-after called the Brechin Company) of the first part and the FORFAR AND BRECHIN RAILWAY COMPANY (herein-after called the Forfar Company) of the second part.

First.—This agreement is entered into subject to the passing into an Act of the Bill promoted in the present session of Parliament by the Brechin Company and to the confirmation by that Act of the scheduled agreement thereto dated the twenty-fifth and twenty-seventh April eighteen hundred and ninety-three made between the Brechin Company and the Forfar Company as the same is set forth in the schedule and this agreement shall not in any way or to any extent prejudice or affect the said scheduled agreement.

Second.—In respect it is desirable in the interests of both the said companies parties hereto that the Substituted Railway No. 1 proposed to be authorised by the said Bill now being promoted by the Brechin Company as aforesaid should be constructed with the least possible delay and that it would be expedient that the same should be so constructed at the same time as and along with the railway now in course of completion of the Forfar Company the Forfar Company shall through the contractor or contractors of their said railway make and construct the said Substituted Railway No. 1 of the Brechin Company all at the sight and to the satisfaction of the Brechin Company and their engineer under a contract to be entered into between the Brechin Company and the Forfar Company at a price which shall be fixed by such contract but shall not exceed the sum of five thousand pounds exclusive of the cost of land which shall be provided by the Brechin Company as mentioned in the next following paragraph.

Third.—The Brechin Company shall serve the necessary notices to treat for the purchase of the land required for the Substituted Railway No. 1 within five days from the date of the passing of the said Bill into law and shall give the Forfar Company or their contractor or contractors possession of such land with the least possible delay thereafter by consigning the money to meet claims for land in the usual way.

Fourth.—The Brechin Company shall pay to the Forfar Company the contract price of the construction of the Substituted Railway No. 1 as the same may be fixed as after mentioned at the expiration of five years from and after the completion to the satisfaction of the Board of Trade of the said Substituted Railway No. 1 but the Brechin Company may in their option pay the same at any time previous to the expiration of such five years on giving three months notice of their intention to the Forfar Company and until payment such contract price shall bear interest at four per centum per annum from the date of such completion until payment.

[Ch. clix.] *Brechin and Edzell District Railway* [56 & 57. VICT.]
Act, 1893.

A.D. 1893.

Fifth.—Until payment of such price as aforesaid the Forfar Company shall have a lien over the said Substituted Railway No. 1 for the amount of such contract price and interest.

Sixth.—The solicitors and engineer of the Brechin Company shall forthwith prepare a contract and specifications and drawings for the construction of the said Substituted Railway No. 1 and the prices shall be agreed in writing between the Brechin Company and the Forfar Company or their contractor or contractors before the Forfar Company or the contractor shall enter on the lands or the works are begun to be executed.

Seventh.—The Forfar Company shall not lodge in the House of Commons any petition against the said Bill promoted by the Brechin Company.

Eighth.—This agreement is made subject to the approval of Parliament In witness whereof these presents are executed in duplicate as follows videlicet are sealed with the common seal of the Brechin and Edzell District Railway Company at Brechin the eighth day of June eighteen hundred and ninety-three in presence of John Young Straiton and Robert Cowe Henderson both clerks in the office of the British Linen Company Bank Brechin and are also sealed with the common seal of the Forfar and Brechin Railway Company at Brechin the twelfth day of said month of June and year last mentioned before these witnesses Montagu Alexis Pollard-Urquhart civil engineer Edinburgh and James Don writer Brechin.

JOHN Y. STRAITON Witness.

ROBERT C. HENDERSON Witness.



M. A. POLLARD-URQUHART Witness

JAMES DON Witness



Printed by EYRE and SPOTTISWOODE,

FOR

T. DIGBY FIGOTT, Esq., C.B., 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
JOHN MENZIES & Co., 12, HANOVER STREET, EDINBURGH, and
90, WEST NILE STREET, GLASGOW; or
HODGES, FIGGIS, & Co., LIMITED, 104, GRAFTON STREET, DUBLIN.