

[56 & 57 Vict.] *Aberlady, Gullane, and North Berwick* [Ch. cxcix.]
Railway Act, 1893.



CHAPTER cxcix.

An Act for incorporating the Aberlady Gullane and North Berwick Railway Company and authorising the construction of railways in the county of Haddington and for other purposes. [24th August 1893.] A.D. 1893.

WHEREAS the construction of the railways in the county of Haddington herein-after described would be of public and local advantage :

And whereas the persons herein-after named with others are willing to carry the undertaking into execution and it is expedient that they be incorporated into a company (herein-after called "the Company") with all proper and necessary powers for the purpose :

And whereas it is expedient that the Company and the North British Railway Company (herein-after in this Act called "the North British Company") be empowered to enter into and carry into effect working and other agreements as herein-after provided :

And, whereas by the agreement between the promoters of the Company of the first part and the North British Company of the second part confirmed by and set forth in the Second Schedule to this Act it is inter alia provided that in the event of the net revenues accruing to the Company in any year being insufficient after defraying certain payments to yield a dividend at the rate of four and a half per centum per annum to the holders of the share capital of the Company from time to time issued so far as paid up the North British Company shall out of fifty per centum of the mileage proportion of receipts accruing to them on their own railway in respect of through traffic advance and pay to the Company such a sum as shall be sufficient to make up the said dividend and it will facilitate the raising of the capital required for the execution of the undertaking if the Company are authorised to raise part of their share capital as preference capital and it is expedient that such power should be conferred on the Company :

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And whereas it is expedient that the Company and any company or persons for the time being working or using the railways of the Company be authorised to run over and use the portion of railway and the stations and works and conveniences herein-after in that behalf mentioned :

And whereas plans and sections showing the lines and levels of the railways as originally proposed to be authorised by the Bill for 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 certain of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the principal sheriff clerk of the county of Haddington and are herein-after respectively referred to as the original plans sections and books of reference :

And whereas since the original plans and sections were deposited it has been found that an alteration of the line of a portion of Railway No. 1 by this Act authorised as shown on those plans and sections would be not less advantageous to the public and would be less objectionable to the owners lessees and occupiers of certain of the lands through which the said railway is intended to pass and an amended plan and amended sections of such altered line with a book of reference to such amended plan have been deposited with the principal sheriff clerk of the county of Haddington and the same are herein-after respectively referred to as the amended plan sections and book 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 Aberlady Gullane and North Berwick Railway Act 1893.

Incorporation of general Acts.

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

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

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Interpreta-
tion.

4. George Bradley Wieland Henry Grierson David Robert Kemp Peter Brodie and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking and their executors administrators successors and assigns respectively shall be and are hereby united into a company for the purpose of making and maintaining the railways and for other the purposes of this Act and for those purposes shall be and are hereby incorporated by the name of "The Aberlady Gullane and North Berwick Railway Company" and by that name shall be a body corporate with perpetual succession and a common seal and with power to purchase take hold and dispose of lands and other property for the purposes of this Act.

Company in-
corporated.

5. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the original plans and sections and on the amended plan and sections respectively the railways herein-after described with all proper stations sidings junctions approaches works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the original and amended plans and described in the original and amended books of reference as may be required for that purpose The railways herein-before referred to and authorised by this Act will be wholly situate in the county of Haddington and are—

Power to
make rail-
ways.

- (1) A Railway (No. 1) 4 miles 7 furlongs and 3·80 chains or thereabouts in length commencing in the parish of Aberlady by a junction with the North British Railway Company's main line of railway from Edinburgh to Berwick-on-Tweed at a point thereon ten yards or thereabouts measuring in an easterly direction along the same from the centre of the bridge at or near Spittal carrying the public road leading from Longniddry to Ballincrieff over the said main line and terminating in the parish of Dirleton at a point one hundred and fifty yards or thereabouts measuring in a southerly direction from the

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entrance gate of Muirfield House in the said parish of Dirleton
Provided that notwithstanding anything in this Act Railway
No. 1 as by this Act authorised shall between the points marked
respectively "commencement of deviation" and "termination
of deviation" on the amended plan and sections be made and
maintained not in the line and according to the levels shown
on the original plans and sections but in the line and according
to the levels shown on the amended plan and sections:

- (2) A Railway (No. 2) 2 miles 7 furlongs and 9 chains or
thereabouts in length to be wholly situate in the parish of
Dirleton commencing by a junction with Railway No. 1 at its
termination as above described and terminating by a junction
with the North Berwick Branch Railway of the North
British Railway Company at a point thereon seven hundred
yards or thereabouts measuring in a south-westerly direction
from the farm steading of the farm of Williamston in the said
parish of Dirleton.

Capital.

6. The capital of the Company shall be sixty-six thousand
pounds in six thousand six hundred shares of ten pounds each and
subject to the provisions of Part II. of the Companies Clauses Act
1863 the Company may raise any sum or sums not exceeding in the
whole thirty-three thousand pounds of the said capital by the creation
and issue of preference shares with a preferential dividend or interest
in priority to the ordinary shares of the Company Provided always
that no such preference shares shall be created and issued unless
and until it shall be certified by the sheriff upon the production of
the books of the Company or such other evidence as he may think
sufficient that the like sum of thirty-three thousand pounds of the
said capital has been issued as ordinary share capital and accepted
and one half thereof has been paid up.

Restriction as
to votes in
respect of
preferential
shares.

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

Shares not
to be issued
until one
fifth paid.

8. The Company shall not issue any share created under the
authority of this Act nor shall any such share vest in the person
accepting the same unless and until a sum not being less than one
fifth of the amount of such share is paid in respect thereof.

Calls.

9. 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.

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10. If any money is payable to a shareholder or mortgagee or debenture stockholder being a pupil 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.

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Receipt in
case of per-
sons not sui
juris.

11. The Company may from time to time borrow on mortgage of the undertaking any sums not exceeding in the whole twenty-two thousand pounds (that is to say) In respect of each thirty-three thousand pounds of their share capital the Company may borrow not exceeding eleven thousand pounds but no part of either of such sums of eleven thousand pounds shall be borrowed until the whole portion of capital of thirty-three thousand pounds in respect of which the borrowing power is exercised is issued and accepted and one half thereof is paid up and the Company have proved to the sheriff who is to certify under the forty-second section of the Companies Clauses Consolidation (Scotland) Act 1845 before he so certifies that the whole of such capital has been issued and accepted and that one half thereof has been paid up and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and that such capital was issued bonâ fide and is held by the persons or corporations to whom the same was issued or their executors administrators successors or assigns and that such persons or corporations their executors administrators successors or assigns are legally liable for the same and upon production to such sheriff of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which shall be sufficient evidence thereof Provided always that the Company shall not exercise the powers of borrowing by this section conferred until it shall be certified by the sheriff on the evidence of the engineer of the Company or such other evidence as the sheriff may think sufficient that the Company have completed Railway No. 1 to formation level.

Power to
borrow.

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

For appoint-
ment of a
judicial
factor.

13. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act

Debenture
stock.

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A.D. 1893. 1863 but notwithstanding anything therein contained the interest of all debenture stock and of all mortgages at any time created and issued or granted by the Company under this or any subsequent Act shall subject to the provisions of any subsequent Act rank *pari passu* (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages. Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Application of moneys. 14. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only to the purposes of this Act to which capital is properly applicable.

First ordinary meeting. 15. The first ordinary meeting of the Company shall be held within six months after the passing of this Act.

Quorum of general meeting of the Company. 16. The quorum of a general meeting of the Company shall be shareholders holding in the aggregate not less than one twentieth of the capital of the Company.

Number of directors. 17. The number of the directors shall be five but the Company may from time to time reduce and again increase the number provided that the number be never more than five nor less than three.

Qualification of directors. 18. The qualification of a director shall be the possession in his own right of not less than twenty shares.

Quorum. 19. The quorum of a meeting of directors shall be three.

First directors. 20. George Bradley Wieland Henry Grierson David Robert Kemp Peter Brodie and one person to be nominated by them or the majority of them and consenting to such nomination shall be the first directors of the Company and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act or nominated as aforesaid or any of them or may elect a new body of directors or directors to supply the place of those not continued in office the directors appointed by this Act or nominated as aforesaid being if they continue qualified eligible for re-election and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the powers herein-before contained for altering the number of directors) elect persons to supply the places of the directors then retiring from office agreeably to the provisions of the Companies Clauses Consolidation (Scotland) Act 1845 and the

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several persons elected at any such meeting being neither removed nor disqualified nor having died or resigned shall continue to be directors until others are elected in their stead in manner provided by the same Act. A.D. 1893.

21. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation (Scotland) Act 1845 shall not exceed five acres but nothing in that Act or in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them upon any land so taken. Lands for extra-ordinary purposes.

22. 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. Period for compulsory purchase of lands.

23. The Company may make the roadway over the bridge by which the following road will be carried over the railway of such width between the fences thereof as the Company think fit not being less than the width herein-after mentioned (that is to say) :— Width of a certain roadway.

No. on Original Plans.	Parish.	Description of Roadway.	Width of Roadway.
		RAILWAY No. 2.	
49 - -	Dirleton - - -	Public road - -	30 feet.

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

25. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement servitude right or privilege (not being an easement of water) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges ground annuals or feu duties so far as the same are applicable in this behalf shall extend and apply to such grants Power to take easements &c. by agreement.

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— respectively.

Power to
limited
owner to
take shares
for land.

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

(1.) For the purposes of this section the expression “limited owner” means the person named in the said schedule and empowered under the seventh section of the Lands Clauses Consolidation (Scotland) Act 1845 to sell and convey or release lands or any estate or interest therein to the promoters of the undertaking:

(2.) All shares issued pursuant to this section to such limited owner shall be deemed to be fully paid up shares in the capital of the Company and the name of the holder thereof shall be inserted as such in the register of shareholders and such issue and registration shall for the purposes of sections 74 75 and 76 of the Lands Clauses Consolidation (Scotland) Act 1845 be deemed equivalent to and have the same effect as the deposit in the bank of the purchase money or compensation:

(3.) All shares issued pursuant to this section to such limited owner shall be held upon the like uses and trusts and for the same purposes and in the same manner as the lands in consideration for which such shares are issued stood settled or were subject immediately before the conveyance of such lands to the Company and as if such shares were an investment of purchase money or compensation duly authorised by section 68 of the Lands Clauses Consolidation (Scotland) Act 1845:

(4.) The Company shall make an entry in their register of shareholders of the uses trusts and purposes aforesaid and subject to the uses trusts and purposes affecting such shares such limited owner shall in respect thereof have all the other rights and powers of a shareholder of the Company:

(5.) The Company shall not be bound to see to the application of any dividend payable to such limited owner or be in any way responsible with respect to the application thereof.

27. It shall be lawful for the limited owner named in the First Schedule to this Act whose land the Company are authorised to take for the purposes of their undertaking to grant convey or dispose of the same or any portion thereof to the Company free of cost and without consideration other than the construction of the railways.

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 Power to limited owner to convey lands free of charge in certain cases.

28. 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 on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Secretary for Scotland ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

Restriction on taking houses of labouring class.

For the purposes of this section the expression "labouring class" means and 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 of such persons who may be residing with them.

29. Whereas pursuant to the standing orders of both Houses of Parliament and to the Parliamentary Deposits Act 1846 a sum of three thousand one hundred and fifty pounds being equal to five per centum upon the amount of the estimate in respect of the railways 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 which sum is referred to in this Act as "the deposit fund" Be it enacted that notwithstanding anything contained in the said Act the said deposit fund shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act or the survivors or survivor of them which persons survivors or survivor are or is in this Act referred to as "the depositors" unless the Company shall previously to the expiration of the period limited by this Act for completion of the railways open the same for the public conveyance of passengers and if the Company shall make default in so opening the railways the deposit fund shall be applicable and shall be applied as provided by the next following section Provided that if within such period as aforesaid the Company open any

Deposit money not to be repaid except so far as railways are opened.

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A.D. 1893. — portion of the railways for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of the railways 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 railways so opened bears to the entire length of the railways the court shall on the application of the depositors order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of this Act having passed anything in the above-mentioned Act to the contrary notwithstanding.

Application
of deposit.

30. If the Company do not previously to the expiration of the period limited for the completion of the railways complete and open the same for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the "Edinburgh Gazette" shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railways or any portion thereof or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act and for which injury or loss no compensation or inadequate compensation has been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Exchequer in Scotland may seem fit and if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall if a judicial factor has been appointed or the Company is insolvent or the undertaking has been abandoned be paid or transferred to such judicial factor or be applied in the discretion of the court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid to the depositors Provided that until the deposit fund has been repaid to the depositors or has become otherwise applicable as herein-before mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.

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31. If the railways are 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.

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Period for
completion
of works.

32. The Company may demand and take for the use of the railways such reasonable tolls as they think fit.

33. 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. 25 (North British Railway &c.) Order 1892 (which Order is scheduled to and confirmed by the Railway Rates and Charges No. 25 (North British 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 appendix to the schedule to the Order confirmed by the said Act.

Maximum
rates for
merchandise.

34. With respect to small parcels not exceeding five hundred pounds in weight (other than small parcels chargeable as perishable merchandise) conveyed by passenger trains the Company may demand and take any charges not exceeding the following (that is to say) :—

Charges for
small parcels.

For any parcel not exceeding seven pounds in weight threepence ;

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

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

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

And for any parcel exceeding fifty-six pounds but not exceeding five hundred pounds in weight the Company may demand any sum they think fit :

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

35. The maximum rate of charge to be made by the Company for the conveyance of passengers on the railways including every expense incidental to such conveyance shall not exceed the following (that is to say) :—

Maximum
rates for
passengers.

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

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

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

Provided that for every passenger conveyed on the railways or either of them for a less distance than three miles the Company may demand rates and charges as for three miles and that in respect of passengers every fraction of a mile beyond an integral number of miles shall be deemed a mile.

Passengers
luggage.

36. Every passenger travelling upon the railways may take with him his ordinary luggage not exceeding one hundred and twenty pounds in weight for first class passengers one hundred pounds in weight for second class passengers and sixty pounds in weight for third class passengers without any charge being made for the carriage thereof.

Foregoing
charges not
to apply to
special
trains.

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

Company
may take
increased
charges by
agreement.

38. Nothing in this Act shall prevent the Company from taking any increased charges over and above the charges by this Act limited for the conveyance of animals or goods of any description by agreement with the owners or persons in charge thereof either by reason of any special service performed by the Company in relation thereto or in respect to the conveyance of animals or goods (other than small parcels) by passenger trains.

Power to
enter into
contracts and
agreements
as to junc-
tions with
other rail-
ways &c.

39. The Company on the one hand and the North British Company on the other hand may from time to time enter into and carry into effect contracts and agreements for or with respect to the following purposes or any of them (that is to say):—

(A.) The point or points at which the mode in which and the terms and conditions upon which any junction of the railways of the Company with the railways of the North British Company shall be made :

(B.) The construction use management and maintenance of stations sidings platforms works and conveniences upon the railways of the Company and the North British Company and all matters incidental thereto :

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Provided that any difference arising between the Company and the North British Company in or connected with the exercise of the powers of this section or with respect to any matter relating thereto shall from time to time be determined by an arbiter to be appointed on the application of either Company by the Board of Trade and the decisions of such arbiter shall be final and binding on the Companies and the costs and expenses of such arbitration shall be defrayed as the arbiter shall direct.

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

Power to enter into working agreements with North British Company.

The working use management and maintenance by the North British Company of the railways of the Company or either of them or any part or parts thereof respectively and of the works in connexion therewith;

The management regulation interchange collection transmission and delivery of traffic upon or coming from or destined for the railways of the contracting companies or either of them;

The supply and maintenance during the continuance of any agreement for the railways being worked and used by the North British Company of engines rolling or working stock and plant necessary for the purposes thereof and the employment of officers and servants for the conduct of traffic;

The fixing collection payment appropriation apportionment and distribution of the tolls rates charges and revenues arising from the respective undertakings of the contracting companies or either of them or any part thereof in respect of the traffic aforesaid;

The payments allowances or rebates to be made and the conditions to be performed with respect to the matters aforesaid.

41. The agreement between the promoters of the Company of the first part and the North British Company of the second part set forth in the Second Schedule to this Act shall apply to the railways as by this Act authorised and the same is hereby confirmed and made binding on the Company and the North British Company respectively. Provided always that the said agreement shall notwithstanding anything therein contained be subject to revision in the manner provided by section 27 of the Railways Clauses Act 1863 as amended by the Railway and Canal Traffic Acts 1873 and 1888.

Confirmation of agreement with North British Company.

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Saving for
Postmaster
General.

42. Nothing in the agreement set forth in the Second Schedule to this Act or in any agreement made under the authority of this Act shall affect the rights of Her Majesty's Postmaster General under the Telegraph Act 1878 to place and maintain telegraphic lines in under upon along over or across the railways and works comprised in the undertaking of the Company and from time to time to alter such telegraphic lines and to enter upon the land and works comprised in such undertaking for the purposes in the Telegraph Act 1878 specified and the Postmaster General shall be at liberty to exercise all the rights aforesaid notwithstanding that the undertaking of the Company is worked by the North British Company.

Running
powers over
part of
North Ber-
wick Branch
Railway.

43. The Company and any company or persons for the time being lawfully working or using the railways of the Company or either of them or any part thereof may run over and use with their engines carriages and waggons and officers and servants for the purposes of traffic of every description so much of the North Berwick Branch Railway of the North British Company as lies between the junction therewith herein-before described of Railway No. 2 and the termination of the said North Berwick Branch Railway at North Berwick including the station thereat together with all other stations and all sidings platforms points signals junctions roads water watering places and water engines engine sheds standing room for engines and carriages booking and other offices warehouses staiths tips hydraulic and other machinery works and conveniences on or connected therewith.

Terms upon
which run-
ning powers
to be exer-
cised.

44. The terms conditions and regulations to be observed and fulfilled and the tolls charges or other consideration to be paid by the Company for and in respect of the use of the said portion of railway stations works and conveniences shall be such as are from time to time agreed upon between the Company and the North British Company or failing agreement as may from time to time be determined by an arbiter to be appointed on the application of either Company by the Board of Trade and the decisions of such arbiter shall be final and the costs and expenses of such arbitration shall be defrayed as the arbiter shall direct.

Byelaws to
be observed.

45. In running over and using the said portion of the North Berwick Branch Railway and stations works and conveniences in accordance with the provisions herein-before contained the regulations and byelaws for the time being in force on the North Berwick Branch Railway shall be at all times observed so far as such byelaws shall be applicable.

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46. The Company and such other companies or persons as aforesaid may from time to time demand and take for all passengers animals minerals and goods conveyed by them on the said portion of the North Berwick Branch Railway and for the use of the stations and works and conveniences respectively and for carriages waggon and trucks and for locomotive engines or other power and for all services performed by them and for all other matters with respect to traffic thereon a like amount of rates and charges as by the several Acts relating to the said portion of the said railway stations works and conveniences and the Railway Rates and Charges No. 25 (North British Railway &c.) Order 1892 confirmed by the Railway Rates and Charges No. 25 (North British Railway &c.) Order Confirmation Act 1892 are authorised to be demanded and taken for like traffic services and matters respectively and in like manner and with and subject to like powers and provisions in all respects.

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Tolls on portion of railway run over.

47. During the continuance of the agreement set forth in the Second Schedule to this Act or of any agreement to be entered into under the provisions of this Act for the working or use of the railways or any part thereof by the North British Company or the exercise of the running powers authorised by this Act the railways of the Company and of the North British Company shall for the purposes of short distance rates and charges be considered as one railway and in estimating the amount of rates and charges in respect of passengers and small parcels other than parcels chargeable as perishable merchandise conveyed by passenger train partly on the railways and partly on the railways of the North British Company rates and charges may be charged as for three miles and for every mile or fraction of a mile beyond three miles as for one mile only and in estimating the amount of rates and charges in respect of merchandise traffic conveyed partly on the railways of the Company and partly on the railways of the North British Company the Company shall be deemed to be a company connected with the North British Company and specified in the appendix to the schedule to the Railway Rates and Charges No. 25 (North British Railway &c.) Order 1892 confirmed by the Railway Rates and Charges No. 25 (North British Railway &c.) Order Confirmation Act 1892.

Rates for certain traffic conveyed partly on the railways and partly on other railways.

48. The several facilities powers privileges and provisions by the North British and Edinburgh and Glasgow Railway Companies Amalgamation Act 1865 granted secured and provided as regards East Coast traffic as defined by that Act shall if and so long and so

Facilities as regards East Coast traffic.

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A.D. 1893. — often as the railways are worked by the North British Company extend and apply to the railways in all respects as if they had been railways in extension of or connected with the North British lines as defined by the said Act and belonging to or leased by the North British Company but the running powers by that Act granted shall not extend to the railways.

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

49. Notwithstanding anything in this Act or in any Act or Acts incorporated therewith contained the Company may out of any moneys by this Act authorised to be raised pay interest at such rate not exceeding three pounds per centum per annum as the directors may determine to any shareholder on the amount from time to time paid up on the shares held by him from the respective times of such payments until the expiration of the time limited by this Act for the completion of the works by this Act authorised or such less period as the directors may determine subject to the conditions herein-after stated (that is to say):—

(A.) 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 share capital authorised by this Act in respect of which such interest may be paid has been actually issued and accepted and is held by shareholders who or whose executors administrators or assigns are legally liable for the same :

(B.) 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 :

(C.) The aggregate amount to be so paid for interest shall not exceed four 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 :

(D.) Notice that the Company has power so to pay interest out of capital shall be given in every prospectus advertisement or other document of the Company inviting subscriptions for shares in every certificate of shares :

(E.) 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

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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. A.D. 1893.
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50. 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.

51. Nothing in this Act contained shall exempt the Company or the railways or the North British Company 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 the said companies respectively. Provision as to general Railway Acts.

52. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto including the cost of the opposition of Henry Walter Hope to the Bill for this Act shall be paid by the Company. Costs of Act.

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SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

NAME OF LIMITED OWNER.

Mrs. Mary Georgiana Constance Nisbet Hamilton Ogilvy.

THE SECOND SCHEDULE.

AGREEMENT between HENRY GRIERSON residing at Craigend Park Liberton Edinburgh DAVID ROBERT KEMP Banker Edinburgh and PETER BRODIE House Proprietor North Berwick being the Promoters of and for and on behalf of an intended Company to be called "The Aberlady Gullane and North Berwick Railway Company" (herein-after called "the intended Company") of the first part and the North British Railway Company (herein-after called "the North British Company") of the second part.

WHEREAS the parties hereto of the first part are with others promoting a Bill in the present session of Parliament (herein-after called "the intended Act") for powers to incorporate a Company (herein-after as aforesaid called "the intended Company") to make and maintain the following railways in the county of Haddington (which with the whole works connected therewith are herein-after called "the proposed railways") namely (1) A Railway (No. 1) four miles three furlongs and three chains and eighty decimal or one-hundredth parts of a chain or thereabouts in length commencing in the parish of Aberlady by a junction with the North British Company's main line of railway from Edinburgh to Berwick-on-Tweed at a point thereon ten yards or thereabouts measuring in an easterly direction along the same from the centre of the bridge at or near Spittal carrying the public road leading from Longniddry to Ballincrieff over the said main line and terminating in the parish of Dirleton at a point one hundred and fifty yards or thereabouts measuring in a southerly direction from the entrance gate of Muirfield House in the said parish of Dirleton (2) A Railway (No. 2) two miles seven furlongs and nine chains or thereabouts in length to be wholly situate in the parish of Dirleton commencing by a junction with Railway No. 1 at its termination as above described and terminating by a junction with the North Berwick Branch Railway of the North British Railway Company at a point thereon seven hundred yards or thereabouts measuring in a south-westerly direction from the farm steading of the farm of Williamston in the said parish of Dirleton And whereas it would

be for the public convenience that the North British Company should work the traffic of from and over the proposed railways in connexion with their own railways and the parties hereto have accordingly entered into an arrangement with that view. Therefore they have agreed and do hereby agree as follows:—

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First.—The intended Company shall make construct and complete as a first class single line of railway with rails chairs and sleepers for the permanent way of the weight and quality used and laid down in the manner observed in the North British Company's main line the proposed railways or such of them or such parts thereof as shall be authorised by Parliament and shall also before the proposed railways are opened for traffic construct or provide all necessary stations station accesses station masters houses gate-keepers houses goods sheds sidings loading banks cranes at stations and weighing machines signal cabins signals water tanks with water supply speaking telegraphic apparatus and Tyer's train tablet system of working (unless otherwise agreed) and all other furnishings and conveniences required for the efficient and economical working and carrying on of the said railways which works machinery and conveniences shall be constructed or provided in a good sufficient substantial and workmanlike manner and to the reasonable satisfaction of the engineer of the North British Company for the time being or in case of any difference of opinion between him and the engineer or engineers of the intended Company respecting the same to the satisfaction of a competent neutral engineer to be named by the Board of Trade on the application of either party.

Second.—In the formation of the proposed railways the North British Company shall afford the intended Company the usual facilities for their construction at their junctions with the North British Company's railways. The intended Company shall not otherwise than with the consent of the North British Company take any property belonging to the latter company and at and adjacent to the said junctions the intended Company shall in accordance with and subject to the provisions of the Railways Clauses Act 1863 receive from the North British Company an easement or servitude for making and maintaining thereon the said junctions and other works in so far as the latter company can competently give such easement or servitude. The intended Company shall not be liable for payment of any compensation to the North British Company.

Third.—Upon the construction completion and opening by the sanction of the Board of Trade of the proposed railways and each part thereof the North British Company shall in perpetuity but subject to the provision in Article Ninth hereof work and manage the traffic at and upon the same in a proper safe and efficient manner and they shall be entitled to fix the tolls rates dues and charges in respect of all traffic. The North British Company shall work and manage the proposed railways and fix the tolls rates and charges under this article of the agreement so as fairly to develop the traffic to from and on the proposed railways. They shall also maintain in all time coming the said proposed railways and any part or parts thereof from and after twelve months after the passing thereof by the Board of Trade.

Fourth.—The North British Company shall have the power of selecting appointing suspending and dismissing all officers agents book-keepers booking and other clerks servants enginemen guards signalmen porters carters surface-

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A.D. 1893. — men and all others employed on and connected with the proposed railways or required for keeping in their general offices the accounts connected with the traffic of the same or employed in superintending or directing or actually engaged in conducting the said traffic and the said officers agents servants and others above mentioned shall be paid by the North British Company and shall be exclusively under their control The intended Company shall have the selection appointment and control of and shall pay the secretary treasurer and other officers usually engaged and required by them in the management of the capital and the financial and directorial departments of their undertaking.

Fifth.—The gross revenues of the intended Company shall consist of and include (1) all receipts in respect of local traffic including mails that is to say traffic which shall both arise and terminate on the proposed railways (2) a mileage proportion of all receipts arising from through traffic including mails that is to say traffic which passes over the proposed railways or any part thereof and which likewise passes over the railways of the North British Company or of any other company or any part thereof corresponding to the distance for which such traffic is carried over the said railways respectively after deduction from such receipts of the terminals on such traffic (which shall belong and be paid to the companies respectively entitled thereto) and the expense of cartage collection and delivery when included in the through rate and not in the terminals nor separately charged for (3) the terminals immediately before referred to so far as belonging to the intended Company in respect of said through traffic after deduction of the expense (when included in such terminals) of the cartage of goods and of the collection and delivery of parcels fish and other traffic and (4) rents for the use of any property of the intended Company (including refreshment rooms bookstalls advertising and dépôt ground) and all other revenues of the intended Company except transfer fees Returns of all traffic falling within this agreement shall be rendered by the North British Company to the intended Company monthly and the intended Company may at their own expense employ officials to check the same and to see that all has been duly accounted for and the North British Company shall give all reasonable facilities to such officials.

Sixth.—The North British Company shall collect and receive the said gross revenues and shall be entitled to retain fifty per cent. thereof as their remuneration for maintaining the proposed railways and working and managing the traffic thereon and collecting the said revenues and shall pay over the balance of fifty per cent. by monthly instalments to the intended Company or their treasurer or secretary or such banker or other person as the intended Company shall direct and appoint.

Seventh.—Out of the said balance the intended Company shall pay (1) Government duty (2) all feu duties ground annuals rents and other periodical or annual payments if any payable in respect of any lands feued or held in lease by the intended Company (3) all compensation to tenants if any in respect of any lands acquired or injuriously affected by the intended Company in so far as not chargeable against the capital of the intended Company (4) all rates taxes and public and local burdens of every kind payable in respect of the ownership of the proposed railways (5) all interest upon money borrowed by the intended Company in exercise of their statutory powers whether upon mortgages

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debenture stock or otherwise and (6) the reasonable expense of the directorial and financial management of the business of the intended Company including salaries of secretary treasurer and other officers who may be employed by them in those departments and such other charges and expenses as may be reasonably incurred on behalf of the intended Company. A.D. 1893.

Eighth.—In the event of the nett revenues accruing to the intended Company in any year ending on the 31st day of January after the opening for public traffic of the proposed railways or either of them or any part of them in accordance with the provisions of this agreement being insufficient after defraying the payments specified in Article 7 to yield a dividend at the rate of $4\frac{1}{2}$ per centum per annum to the holders of the share capital from time to time issued so far as paid up the North British Company shall out of 50 per centum of the mileage proportion of receipts accruing to them on their own railway in respect of through traffic as before defined advance and pay to the intended Company in the month of April next following the end of the year in which such deficiency shall arise such a sum as shall be sufficient to make up the said dividend for that year in so far as the said 50 per centum of receipts shall suffice to pay such deficiency. In the event of the North British Company having to make good any deficiency of revenue under this article the same shall be repaid to them with interest at the rate of £4 per centum per annum out of the first and readiest future surplus revenues after payment of such dividend of $4\frac{1}{2}$ per centum as may accrue to the intended Company and subject thereto such surplus revenues shall be divided equally between the intended Company and the North British Company.

Ninth.—This agreement shall be in perpetuity subject nevertheless to the unconditional determination thereof by the first parties at the end of ten years from the passing of the Act confirming this agreement upon six months previous notice in writing by the first parties to the second parties and on such determination the first parties shall repay to the second parties any advances under Article Eighth hereof.

Tenth.—This agreement is made subject to such alterations as Parliament may see fit to make thereon and shall be scheduled to and confirmed by the foresaid Bill. Should any such alterations be made as in the opinion of Alexander Asher Q.C. whom failing of Richard Burdon Haldane Q.C. are material either of the parties may withdraw therefrom.

Eleventh.—All questions which may arise between the parties hereto in relation to this agreement or to the import or meaning thereof or to the carrying out of the same except as otherwise provided in Articles First and Second hereof shall be referred to arbitration under and in terms of the Railway Companies Arbitration Act 1859.

Twelfth.—Upon the passing of the said Bill confirming this agreement the Company thereby incorporated shall thereupon become and be the first parties to this agreement in place of the individual promoters.

In witness whereof these presents consisting of this and the four preceding pages together with the marginal addition on page first all written by Robert Alexander McGuffie clerk to Messrs. Dundas and Wilson clerks to the signet Edinburgh are with a duplicate hereof subscribed as

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follows namely They are sealed with the common or corporate seal of the North British Railway Company and subscribed on behalf of that Company by George Robertson writer to the signet Edinburgh and John Jordan merchant Leith two of the directors and by John Cathles secretary all of the said North British Railway Company at Edinburgh upon the ninth day of March eighteen hundred and ninety-three before these witnesses John Martin assistant secretary and William Irving clerk both to the said North British Railway Company and by the said Henry Grierson David Robert Kemp and Peter Brodie all at Edinburgh upon the tenth day of said month of March and year last mentioned before these witnesses John Campbell and John McLaren both clerks to the said Messrs. Dundas & Wilson.

JOHN CAMPBELL witness.

JOHN McLAREN witness.

HENRY GRIERSON.

D. R. KEMP.

PETER BRODIE.



Seal of the
North British
Railway
Company.

JN. MARTIN witness.

W. IRVING witness.

GEO. ROBERTSON Director.

JOHN JORDAN Director.

JNO. CATHLES Secy. N.B. Ry. Co.

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