



CHAPTER cc.

An Act to enable the Gifford and Garvald Railway Company A.D. 1893.
to construct a Deviation Railway and for other purposes.

[24th August 1893.]

WHEREAS by the Gifford and Garvald Railway Act 1891 (in this Act called "the Act of 1891") the Gifford and Garvald Railway Company (in this Act called "the Company") were incorporated with a share capital of one hundred and eleven thousand pounds and with power to borrow thirty thousand pounds and were authorised to construct a railway from Ormiston to Gifford and Garvald in the county of Haddington :

And whereas it is expedient that the Company should be empowered to make and maintain the deviation of that railway herein-after described to abandon the portion of their undertaking which will be rendered unnecessary by the construction of such deviation and to reduce their authorised capital :

And whereas by the agreement set forth in the Second Schedule to the Act of 1891 it is inter alia provided that if the net revenue accruing to the Company is not sufficient to pay a dividend of four per centum per annum on the paid-up share capital of the Company the North British Railway Company shall out of the mileage receipts accruing to them from traffic including mails passing over their system or any part thereof to or from the railway of the Company or any part thereof contribute such sum as may be necessary to make up that dividend and it will facilitate the raising of the funds 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 :

And whereas it is expedient that the time limited by the Act of 1891 for the completion of the railway by that Act authorised should be extended :

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

And whereas plans and sections showing the lines and levels of the deviation railway authorised by this Act and also a book of

A.D. 1893. — reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the principal sheriff clerk for the county of Haddington and are herein-after respectively referred to as the deposited plans 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 Gifford and Garvald Railway Act 1893.

Incorporation of Acts. 2. The Lands Clauses Acts the Railways 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 are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation. 3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction The expression "the deviation railway" means the deviation railway by this Act authorised the expression "the undertaking" means the undertaking of the Company.

Power to make deviation railway. 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 deviation railway herein-after described with all proper stations sidings approaches works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for that purpose The deviation railway herein-before referred to and authorised by this Act will be situate in the county of Haddington and is—

A deviation railway seven miles one furlong and three chains or thereabouts in length commencing by a junction with the railway authorised by the Act of 1891 at a point thereon one mile one furlong and four chains or thereabouts measured in an easterly direction from the commencement and along the centre line thereof as shown on the plans deposited in November one thousand eight hundred and ninety with the principal sheriff clerk of the county of Haddington at his

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

Lands for
extra-
ordinary
purposes.

Period for compulsory purchase of lands.

Inclination of roads.

Mileage.			No. on deposited Plan.	Parish.	Description of Road.	Intended Inclination.
Miles.	Fur.	Chs.				
2	0	6	$\left\{ \begin{array}{l} 5 \\ 1 \end{array} \right.$	Ormiston	$\left\{ \begin{array}{l} \text{Public} \end{array} \right.$	1 in 16 on one side and 1 in 20 on the other.
				Humbie		
7	0	5	23	Yester	Public	1 in 18 on one side and 1 in 20 on the other.
7	1	3	25	Yester	Public	1 in 18 on one side and 1 in 30 on the other.

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Power to
divert road
as shown
on deposited
plans.

9. The Company may divert the road numbered twenty-three in the parish of Yester on the deposited plans in the manner shown upon the deposited plans and sections and when the new portion of road is made to the satisfaction of two justices 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 and when and so soon as the portion of the said existing 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 deviation 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 and the new portion of road and all new and diverted portions of road authorised by the said last-mentioned Act as incorporated with this Act to be formed in lieu of roads altered or diverted shall as respects management and maintenance and in all other respects be deemed to be parts of and be subject to the same provisions as the existing roads or portions of roads for which the same are respectively substituted.

Restriction
on taking
houses of
labouring
class.

10. The Company shall not under the powers either of this Act or of the Act of 1891 purchase or acquire 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.

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 such persons who may be residing with them.

Power to
limited
owners to
take shares
for land.

11. Section thirty-eight of the Act of 1891 is hereby repealed and subject to the provisions herein-after contained it shall be lawful for any limited owner named in the schedule to this Act of any lands shown on the deposited plans and described in the deposited books of reference referred to in the Act of 1891 and this Act required by the Company for the purposes of any part of their undertaking to agree with the Company that the consideration

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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” includes any person or corporation 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 any limited owner shall be deemed to be fully paid up shares in the capital of the Company and the names of the holders thereof respectively shall be registered as such in the register of shareholders and such issue and registration shall for the purposes of sections seventy-four seventy-five and seventy-six 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 any 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 sixty-eight of the Lands Clauses Consolidation (Scotland) Act 1845 :
- (4.) The Company shall make an entry in their register of shareholders to the effect that the said shares are subject to such uses trusts and purposes as aforesaid and subject to the uses trusts and purposes affecting such shares the limited owner in respect thereof shall have all the other rights and powers of a shareholder of the Company :
- (5.) The Company shall not be bound to see to the application of any dividend payable to a limited owner or be in any way responsible with respect to the application thereof.

12. It shall be lawful for any limited owner named in the schedule to this Act whose land the Company are authorised to take for the purposes of this Act to grant convey dispoise or dispose of the same or any portion thereof to the Company free of cost to the Company.

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

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Deposit
fund referred
to in Act
of 1891 to
apply to
deviation
railway.

13. Whereas the amount of the estimate in respect of the deviation railway does not exceed the amount of the estimate in respect of the portion of the authorised railway of the Company by this Act directed to be abandoned Be it enacted that for the purpose of sections forty and forty-one of the Act of 1891 the deviation railway 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 Provided always that nothing in this section shall prejudice or alter any right of any owner lessee or occupier of lands or other persons injuriously affected or any creditors to or over the deposit fund mentioned in those sections.

Period for
completion
of deviation
railway.

14. If the deviation railway 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 same or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Abandon-
ment of
part of
authorised
railway.

15. The Company shall abandon the construction of so much of the railway stations sidings and other works connected therewith authorised by the Act of 1891 as lies between the commencement and termination of the deviation railway by this Act authorised.

Compensa-
tion for
damage to
land by
entry &c.
for purposes
of portion
of railway
abandoned.

16. The abandonment by the Company under the authority of this Act of the portion of railway described in the next preceding section or any part thereof 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 1891.

Compensa-
tion to be
made in
respect of
portion of
railway
abandoned.

17. Where before the passing of this Act any contract has been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to the portion of the railway or any part thereof 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

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.

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18. The time limited by the Act of 1891 for the completion of the railway by that Act authorised is hereby extended to five years from the date of the passing of this Act except as to so much of that railway as is by this Act authorised to be abandoned.

Extension
of time
limited for
completion
of railway
authorised by
Act of 1891.

19. From and after the passing of this Act the Act of 1891 shall be read and have effect as if in section six thereof the sum of seventy-five thousand pounds had been mentioned therein instead of one hundred and eleven thousand pounds and the shares in that section mentioned had been seven thousand five hundred instead of eleven thousand one hundred shares.

Reduction
of capital.

20. Section eighteen of the Act of 1891 is hereby repealed and the Company may from time to time borrow on mortgage any sums not exceeding in the whole twenty-five thousand pounds (that is to say) In respect of each thirty-seven thousand five hundred pounds of their share capital as reduced by this Act the Company may borrow not exceeding twelve thousand five hundred pounds but no part of either of such sums of twelve thousand five hundred pounds shall be borrowed until the whole portion of capital of thirty-seven thousand five hundred pounds in respect of which the borrowing 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

Power to
borrow in
respect of
reduced
capital.

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Power to
raise part of
authorised
capital by
preference
shares.

21. Sections ten to seventeen of the Act of 1891 are hereby repealed and subject to the provisions of Part II. of the Companies Clauses Act 1863 the Company may notwithstanding anything contained in the Act of 1891 raise any sum or sums not exceeding thirty-seven thousand five hundred pounds of the seventy-five thousand pounds which they are by the Act of 1891 as amended by this Act authorised to raise by the creation and issue of preference shares with a preferential dividend or interest Provided always that no such preference shares shall be created and issued unless and until the sheriff or one of the sheriff substitutes of the sheriffdom of the Lothians and Peebles shall have certified upon the production of the books of the Company and of such other evidence as he shall think sufficient that thirty-seven thousand five hundred pounds of the said seventy-five thousand pounds 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.

22. 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.

Power to
apply
money.

23. Subject to the provisions of this Act the Company may apply for the purposes of this Act to which capital is properly applicable any moneys which they may raise by shares debenture stock or borrowing under the powers of the Act of 1891 as altered by this Act.

Deviation
railway to
be part of
Company's
undertaking.

24. Subject to the provisions of this Act the deviation railway 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 1891 which is by this Act authorised to be abandoned and the deviation railway and the works connected therewith shall be and be deemed for all purposes to be part of the railway works property and undertaking of the Company.

Extending
working
agreement
with North
British

25. Section forty-five of the Act of 1891 and the agreement set forth in the Second Schedule annexed to that Act shall be read and have effect as if the deviation railway had originally formed part of the railway by that Act authorised to be constructed instead of the

portion of that railway by this Act directed to be abandoned and the gross revenues of the Company mentioned in the agreement shall be held to include all revenues arising from the deviation railway and the share and loan capital of the Company mentioned in the said agreement shall be deemed to be the share and loan capital prescribed by this Act.

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Railway
Company.

26. 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 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 forty-four of the Act of 1891.

Tolls for
merchandise.

27. From and after the passing of this Act 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.

Quorum of
general
meeting of
Company.

28. No interest or dividend shall be paid out of any share or loan capital which the Company are by the Act of 1891 as amended by this Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in the Act of 1891 or 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.

29. Section forty-nine of the Act of 1891 shall extend and apply in all respects to the deviation railway by this Act authorised.

Facilities as
regards east
coast traffic.

30. The Company shall not out of any money by the Act of 1891 as amended 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.

31. Nothing in this Act contained shall exempt the Company or the deviation railway from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter

Provision
as to general
Railway
Acts.

[Ch. cc.]

Gifford and Garvald Railway [56 & 57 VICT.]
Act, 1893.

A.D. 1893. — 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.

Expenses
of Act.

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

The SCHEDULE referred to in the foregoing Act.

NAMES OF LIMITED OWNERS.

The Marquess of Tweeddale.

The Earl of Hopetoun.

John Fletcher of Saltoun.

W. D. O. Hay Newton of Newton.

Printed by EYRE and SPOTTISWOODE,

FOR

T. DIGBY PIGOTT, Esq., C.B., the Queen's Printer of Acts of Parliament.

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