CHAPTER xcviii.

An Act to empower the Commissioners of the Burgh of Borrowstounness to form and lay out a new Road or Street within the burgh to confer powers on the Caledonian Railway Company with respect to parts of the North British Railway and for other purposes. A.D. 1897.

[15th July 1897.]

WHEREAS the Commissioners of the Burgh of Borrowstounness (herein-after called "the Burgh Commissioners") acting under the Burgh Police (Scotland) Act 1892 (herein-after called "the Police Act") are the local authority within the said burgh and the affairs of the burgh are now administered and managed by the Burgh Commissioners under the Police Act and Acts amending the same:

And whereas certain of the streets and roads within the burgh are narrow steep and circuitous and great inconvenience arises therefrom and it would be for the public advantage of the community of the burgh and for the more convenient conduct of traffic therein that the Burgh Commissioners should be authorised to form construct and lay out and maintain the new road or street hereinafter described and to acquire lands for that purpose:

And whereas it is expedient to authorise the Burgh Commissioners to apply the rates and assessments authorised by the Police Act and to borrow money for the purposes of the work authorised by this Act:

And whereas by the Borrowstounness Town and Harbour Act 1875 (in this Act referred to as "the Act of 1875") the former Acts relating to the town and harbour of Borrowstounness were repealed and a new body of trustees were incorporated under the name of the Trustees for the Town and Harbour of Borrowstounness for carrying that Act into execution and were empowered amongst other things to maintain the harbour and make and maintain new works therein and to borrow money for dock and harbour purposes

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to an amount not exceeding one hundred and eighty-five thousand pounds:

And whereas by the Borrowstounness Town and Harbour (Amendment) Act 1878 (in this Act referred to as "the Act of 1878") the harbour undertaking was again transferred to a body of commissioners who were thereby incorporated under the name of the Borrowstounness Harbour Commissioners (in this Act referred to as "the harbour commissioners"):

And whereas by the Borrowstounness Harbour Act 1883 (in this Act referred to as "the Act of 1883") the harbour commissioners were empowered to make and maintain the works by that Act authorised and to borrow further moneys not exceeding one hundred thousand pounds:

And whereas under the provisions of the Police Act the local Acts as therein provided in relation to the administration and management of burghs in Scotland were repealed and the Burgh Commissioners of Borrowstounness thereby incorporated are now in room and place of the town trustees and are entitled to and do exercise all the powers rights functions authorities and jurisdictions of the town trustees appointed under the Acts of 1875 and 1878:

And whereas it is expedient that the Caledonian Railway Company should obtain running powers as in this Act provided over certain railways herein-after mentioned of the North British Railway Company and railway and dock sidings and should have and may exercise all the rights powers and authorities incident thereto for obtaining access to the harbour and docks of Borrowstounness for the purposes of traffic:

And whereas a plan and section showing the lines and levels of the new road or street authorised by this Act and also a book 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 in the office at Linlithgow of the principal sheriff clerk of the county of Linlithgow and are herein-after respectively referred to as the deposited plan section 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 Borrowstounness Town Improvement and Harbour Act 1897.

Commencement of Act.

2. Except where in this Act otherwise provided this Act shall commence and come into operation on the passing hereof.

Part I.—Preliminary.

Division of Act into parts.

3. This Act shall be divided into parts:—

Part I.—Preliminary.

Part II.—New road or street.

Part III.—Running powers to Caledonian Railway Company to Harbour of Borrowstounness.

Incorporation of Acts.

4. The Lands Clauses Acts and the Burgh Police (Scotland) Act 1892 (so far as the last-mentioned Act is applicable) shall apply to Part II. of this Act.

Interpretation.

5. 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 burgh" means the burgh of Borrowstounness;

"The Burgh Commissioners" mean the commissioners of the burgh acting under the Burgh Police (Scotland) Act 1892 and include the Borrowstounness town trustees and the town trustees under the Harbour Acts;

"The Police Act" means the Burgh Police (Scotland) Act 1892 and any Acts amending the same in force within the burgh;

"The Caledonian Company" means the Caledonian Railway Company;

"The North British Company" means the North British Railway Company.

Part II.—New Road or Street.

Power to construct works.

6. Subject to the provisions of this Act the Burgh Commissioners may make and maintain in the lines and according to the levels shown on the deposited plan and section the work herein-after described with all necessary and proper works and conveniences connected therewith and may enter upon take hold and use such of the lands delineated on the deposited plan and described in the deposited book of reference as may be required for such purposes The work herein-before referred to and authorised by this Act is the following (that is to say):—

A new road or street commencing at a point in the road known as the Church Wynd or road leading from Borrowstounness

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to Linlithgow one hundred and seventeen yards or thereby measured in a south-westerly direction from the north-west corner of the graveyard wall and terminating at a point in the road known as Starks Brae Road ninety-three yards or thereby measured in an easterly direction from the south-east corner of Braehead Cottage in the said road all situate and lying within the burgh of Borrowstounness in the parish of Borrowstounness and Carriden and county of Linlithgow.

Omission or misstatement in plan &c. may be corrected.

7. If there be any omission misstatement or erroneous description of any lands or the buildings thereon or of the owners lessees or occupiers of any lands or buildings shown on the deposited plan or specified in the deposited book of reference the Burgh Commissioners after giving ten days notice to the owners lessees and occupiers of the lands or buildings in question may apply to the sheriff for the correction thereof and if it appear to the sheriff that such omission misstatement or erroneous description arose from accident or mistake he shall certify the same accordingly and shall in such certificate state the particulars of the omission and in what respect any such matter is misstated or erroneously described and the decision of the sheriff in such matters shall be final and such certificate shall be deposited in the office of the sheriff clerk of the county of Linlithgow and kept by such sheriff clerk with the other documents to which the same relates and thereupon the deposited plan and book of reference shall be deemed to be corrected in accordance with the certificate and the Burgh Commissioners may enter on purchase take hold and use for the purposes of this Act any lands or buildings in accordance with such certificate.

Certificates to be deposited.

Period for compulsory purchase of lands.

8. The powers of the Burgh Commissioners for the compulsory purchase of lands and houses for the purposes of this Act shall cease after the expiration of three years from the commencement of this Act.

Period for completion of works.

9. If the work shown on the deposited plan and authorised by this Act is not completed within five years from the commencement of this Act then on the expiration of that period the powers granted to the Burgh Commissioners by this Act for executing the work not so completed or in relation thereto shall cease except as to so much thereof as is then completed or commenced.

Power to take easements &c. by agreement.

10. The Burgh Commissioners may take by agreement and any person empowered by the Lands Clauses Acts or otherwise 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 Burgh Commissioners for the purposes and subject to the provisions of this

Act any servitude interest right or privilege (not being a servitude interest right or privilege of water in which other than the grantors have an interest) required for the purposes of this Act in over or affecting or belonging to any such lands at a yearly rent feu duty or otherwise and the provisions of the said Acts with respect to lands ground annuals or feu duties so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes interests rights and privileges as aforesaid respectively.

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

11. And whereas in the exercise of the powers of this Act it may happen that portions only of the lands houses buildings or manufactories shown on the deposited plan may be sufficient for the purposes of this Act or any of them and that such portions may be severed from the remainder of the said properties without material detriment thereto therefore notwithstanding section 90 of the Lands Clauses Consolidation (Scotland) Act 1845 the owners of and other persons interested in the lands houses buildings or manufactories described in the schedule to this Act annexed and whereof portions only are required for the purposes of this Act may (if such portions can in the opinion of the jury arbiters or other authority to whom the question of disputed compensation shall be submitted be severed from the remainder of such properties without material detriment thereto) be required to sell and convey to the Burgh Commissioners such portions only without the Burgh Commissioners being obliged or compellable to purchase the whole or any greater portion of such properties the Burgh Commissioners always paying for the portions taken by them and making compensation for any damage sustained by the owners of such properties and other persons interested therein by severance or otherwise.

Restriction on taking houses of labouring class.

12. The Burgh Commissioners 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 The expression "labouring class" includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

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Lateral and vertical deviations.

13. In executing the work herein-before described the Burgh Commissioners may deviate laterally from the lines thereof shown on the deposited plan to any extent within the limits of deviation shown thereon and may deviate from the levels of the work authorised by this Part of this Act as shown on the deposited section to any extent not exceeding three feet.

Power to alter roads and make subsidiary works.

14. Subject to the provisions of this Act and within the limits shown on the deposited plan the Burgh Commissioners may for the purposes of the work authorised by this Act make junctions and communications with any existing streets roads highways footpaths ways and rights of way which may be intersected or interfered with by the same or be contiguous thereto and for the purpose of such junctions or communications may alter the lines or levels of existing streets roads highways footpaths ways and rights of way and may temporarily remove stop up alter divert inclose or appropriate all or any part of any roads streets highways lanes bridges footpaths courts passages ways and rights of way sewers drains watercourses telegraphic or telephonic or electric wires or tubes or mains or other apparatus and gas or water pipes or other property within the limits aforesaid Provided always that the Burgh Commissioners in carrying out any of the powers referred to in this section shall first provide a proper substitute before interrupting the flow of water or sewage in any watercourse drain or sewer or removing any telegraphic apparatus or interfering with any gas or water pipe and shall make full compensation to all persons injuriously affected by anything so done and they shall not divert alter or stop up temporarily or otherwise any telegraph or telegraphic apparatus belonging to the Postmaster-General without his consent in writing first had and obtained Provided also that nothing in this section shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 to 1890 to which the provisions of section 15 of the Electric Lighting Act 1882 apply.

Commissioners to form sewers drains &c. and to maintain streets &c.

15. The Burgh Commissioners may cause such parts of the new road or street to be laid out for carriageways and such parts thereof for foot passengers as they think fit and may construct erect and provide such vaults cellars arches sewers drains and other works and conveniences as they may think proper and the site and solum of the new road or street shall be vested in the Burgh Commissioners and the same shall be subject to the provisions of the Police Act and be deemed to be a public street and falling to be kept up and maintained in accordance with the provisions of the Police Act and the provisions of section 151 of the Police Act shall apply to

the said new road or street and shall be held to include the cost of the land acquired for the said road or street as well as the cost of opening up and making the same and the provisions of section 141 of the Police Act as to foot pavements shall also apply to the said new road or street.

Power to alter steps doors &c.

16. If in consequence of the execution by the Burgh Commissioners of any part of the work by this Act authorised the levels of any street road or lane shall be raised or otherwise changed or if any alterations of any steps doors or entrances into any house or building or of any pavement sewer drain or culvert adjoining or belonging thereto shall be rendered necessary such alteration shall be made by and at the expense of the Burgh Commissioners and the Burgh Commissioners shall make compensation to all persons injuriously affected by the exercise of the powers of this section.

Power to take down buildings and lay out lands anew.

17. The Burgh Commissioners may take down the whole or any part of the buildings situated on any part of the lands to be acquired by them under the authority of this Act and sell and dispose of the materials thereof and may lay out the said lands anew in such way and manner as they may deem best and may sell or dispose of the ground and buildings or any part thereof or lease or feu or let the same on such terms and for such price or consideration or for such rent and subject to such conditions as they may determine and generally the Burgh Commissioners may deal with the lands houses and heritages acquired by them under this Act as proprietors thereof subject only to the conditions and provisions of this Act and the Police Act.

Purchase of lands by agreement.

18. In addition to the lands and houses which the Burgh Commissioners are by this Act authorised to take compulsorily they may from time to time by agreement purchase and acquire for the purposes of the said work any other lands and houses not exceeding one acre but nothing in this Act shall exempt the Burgh Commissioners from any action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them on any lands so acquired.

Application of rates and assessments.

19. The rates and assessments levied or received by the Burgh Commissioners under the authority of the Police Act shall so far as may be necessary be applied for carrying into effect the purposes of Part II. of this Act and for the payment of money borrowed for the purposes thereof and all other obligations in connexion therewith as if the new road or street had been constructed under the provisions of the Police Act.

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Power to borrow money.

20. The Burgh Commissioners may for the purpose of executing the work hereby authorised and the purchase of lands and property borrow from time to time any sums of money not exceeding in the whole seven thousand pounds and in security of the money so borrowed and interest thereon may make and grant mortgages of the rates and assessments authorised and levied by the Burgh Commissioners under the Police Act for the general purposes of that Act.

Application of money borrowed.

21. The money borrowed by the Burgh Commissioners on mortgage or cash account or otherwise under the authority of this Act shall be applied only to purposes to which capital is properly applicable.

Saving existing securities.

22. Nothing in this Part of this Act contained shall prejudice or affect the priority of money borrowed or bonds mortgages or assignations in security granted by the Burgh Commissioners under the Police Act before the passing of this Act and the same shall be as valid and effectual in all respects as if this Act had not been passed.

Application of sections of the Police Act.

23. The provisions of the Police Act as to assessments and borrowing of money for the general purposes of that Act and sinking fund and forms of bonds for money borrowed shall apply mutatis mutandis to the money authorised to be borrowed by this Act.

PART III.—RUNNING POWERS TO CALEDONIAN RAILWAY COMPANY TO HARBOUR OF BORROWSTOUNNESS.

Running powers.

24. The Caledonian Company may from and after the passing of this Act run over work and use with their engines carriages and waggons of every description and their clerks officers and servants whether in charge of engines and trains or for any other purposes whatsoever and for the purpose of traffic of every description all or any part of the railways and undertaking herein-after mentioned (that is to say):—

So much of the railways of the North British Company as lies between the junctions of the railways of that company with the railways of the Caledonian Company at Larbert and Carmuirs East Junctions respectively on the one hand and the harbour and docks of Borrowstounness including the branch to Bridgeness on the other hand:

Together with the stations platforms junctions roads railway and dock sidings water watering-places booking and other offices warehouses approaches engine-sheds sidings turntables telegraphs

telephones signals works staiths cranes tips hydraulic and other machinery appliances and conveniences connected therewith respectively Provided always that the Caledonian Company in respect of all descriptions of traffic conveyed by them in the exercise of the running powers conferred by this Act to or from places on the Caledonian Railway and beyond from time to time shall not charge rates exceeding the rates for similar traffic from or to the Grangemouth Branch Railway of the Caledonian Company the harbour and dock at Grangemouth and the harbour of South Alloa to or from the same places Provided also that nothing herein contained shall prejudice or affect any application which any person or company interested may make to the Railway and Canal Commissioners for a through rate or through rates from or to any place or places on the Caledonian Company's system to or from the harbour and docks of Borrowstounness including the branch to Bridgeness.

Terms of user.

25. The terms and conditions on which the Caledonian Company may run over and use the said portions of railways stations works appliances and conveniences before mentioned shall be such terms and conditions as may from time to time be agreed upon by the Caledonian Company and the North British Company or as failing agreement between them 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 decision of such arbiter shall be final and the costs and expenses of such arbitration shall be defrayed as the arbiter shall direct Provided always that the arbiter in fixing such terms and conditions may have regard to the obligations imposed on the Caledonian Company by the immediately preceding section with respect to rates.

Byelaws to be observed.

26. In running over and using any portions of railways and in using any stations and conveniences in accordance with the provisions herein-before contained the regulations and byelaws for the time being in force on the undertaking so used shall be at all times observed so far as such byelaws shall be applicable.

Tolls on portions of railways run over.

27. The Caledonian Company may demand and take for all passengers animals minerals and goods conveyed by them on the said portions of railways and for carriages waggons and trucks and for locomotive engines and other power and for all services performed by them and for all other matters with respect to traffic thereon a like amount of tolls fares rates or other charges as by the several Acts relating to the several portions of railways stations works and conveniences respectively are authorised to be demanded and taken by the North British Company for like traffic services

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and matters respectively and in like manner and with and subject to like powers and provisions and (where applicable) like limitation of maximum charges in all respects.

Guarantee by Caledonian Company.

28. Whereas in respect of the running powers conferred by this Act on the Caledonian Company certain rights and powers are conferred on the North British Company by the Caledonian Railway Act 1897 in connexion with the new dock works at Grangemouth authorised by that Act And whereas such rights and powers cannot be exercised by the North British Company until the completion and opening for traffic of the said new dock works Therefore—

(1) The Caledonian Company shall upon the exercise by them of the said running powers or upon the expiration of six months after the passing of this Act whichever shall first occur and until the completion and opening of the said new dock works at Grangemouth guarantee to the extent of one moiety thereof the principal of any moneys which the Borrowstounness Harbour Commissioners have already borrowed or may under the existing Borrowstounness Harbour Acts lawfully borrow after the passing of this Act and prior to such completion and opening and shall also during the like period guarantee to the extent of one moiety thereof the interest on the principal moneys so borrowed so far as the revenues of the harbour and docks of Borrowstounness after paying all expenses properly chargeable against such revenues excluding interest on the indebtedness of the said harbour commissioners to the North British Company may in any year during such period be insufficient to meet such interest and the Caledonian Company shall from and after the passing of this Act and until the completion and opening of the said new dock works at Grangemouth pay half-yearly to the North British Company the sum of five hundred pounds with which sum that company shall credit the said harbour commissioners in reduction of the indebtedness of such commissioners to the North British Company :

(2) Any principal moneys repaid by the said harbour commissioners during the continuance of the guarantee by this section provided shall be reborrowed by the said harbour commissioners under the guarantee of the North British Company contained in the North British Railway (Amalgamations &c.) Act 1880 the North British Railway Act 1885 and the North British Railway Act 1887 and the guarantee of the Caledonian Company under this section :

(3) Any money paid by the Caledonian Company under the guarantee of principal by this section provided shall be repaid to the Caledonian Company out of the moneys reborrowed as aforesaid and any money paid by the Caledonian Company under the guarantee of interest by this section provided shall be a debt due to the Caledonian Company and shall be repayable out of one moiety of any surplus revenues of the said harbour and docks of Borrowstounness arising in any subsequent year or years prior to the completion and opening of the said new dock works at Grangemouth:

(4) During the continuance of the guarantee by this section provided the rates dues and duties levied at the harbour and docks of Borrowstounness shall (except to the extent to which such rates dues and duties are at present lower) not be less than the rates dues and duties from time to time levied at the harbour and docks of Grangemouth.

Provision as to genera Railway Acts.

29. Nothing in this Act contained shall exempt the Caledonian Company or the North British Company or their respective railways from the provisions of any general Act relating to railways and 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.

Saving rights of public.

30. Nothing in this Part of this Act shall prejudice or affect any rights of access of the public to the harbour which they may at present possess.

For the protection of the trustees of Duke of Hamilton.

31. For the protection of the trustees of the deceased Most Noble William Alexander Louis Stephen Duke of Hamilton Brandon and Chatelherault the following provisions shall have effect:—

(1) Nothing in this Act contained shall be deemed or construed to extend to prejudice or affect any land foreshore or rights of property belonging to or vested in the said trustees or lying ex adverso of any lands belonging to the said trustees:

(2) Nothing in this Act contained shall affect hurt or prejudice such rights (if any) which the said trustees and their successors may have within the limits of the harbour of Borrowstounness or derogate from the rights (if any) of the said trustees or their successors to levy any shore dues tolls or duties or affect hurt or prejudice the estate of superiority in relation to the said harbour to which the said trustees may at present have right except as in the Act of 1875 and the Act of 1883 otherwise provided and specially nothing in this Act contained shall

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interfere with affect hurt or prejudice the conditions provisions declarations and reservations contained in (A) the disposition granted by the then trustees of the then Duke of Hamilton in favour of the harbour commissioners of various portions of land and foreshore part of their dock and harbour property and other rights dated seventh and eighth December one thousand eight hundred and eighty and recorded in the division of the General Register of Sasines applicable to the county of Linlithgow at Edinburgh eighth February one thousand eight hundred and eighty-one and (B) the disposition granted by the then Duke of Hamilton and the Kinneil Iron and Coal Company (Limited) proprietor and lessees respectively of the seams of coal and ironstone thereby disponed in favour of the harbour commissioners dated the seventh and twenty-eighth days of February one thousand eight hundred and eighty-four.

For protection of Postmaster-General.

32. Nothing in this Act conferring powers upon the Caledonian 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 Company any larger number of telegraphic messages of that company free of charge than the Postmaster-General would have been bound to transmit had this Act not been passed.

Saving rights of the Crown in the foreshore.

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

Saving rights of Crown under Crown Lands Act.

34. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved by sections twenty-one and twenty-two of the Crown Lands Act 1866 and belonging to or exerciseable on behalf of Her Majesty.

Costs of Act.

35. The costs charges and expenses of this Act or otherwise in relation thereto shall be paid by the Caledonian Company.

SCHEDULE referred to in the foregoing Act.

Lands Houses Buildings and Manufactories of which Portions only may be taken without taking the whole.

Parish.	Number on Deposited Plan.
Parish of Borrowstounness and Carriden -	2 3 4 5 7 8A 9 9A 10 11 12 14 15 16 17 20 21 22 23 24 25.

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