CHAPTER lxx.

An Act to enable the Edinburgh Northern Tramways Company to make and maintain additional Tramways and for other purposes. [5th July 1887.]

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WHEREAS by the Edinburgh Northern Tramways Act 1884 (in this Act called "the Act of 1884") the Edinburgh Northern Tramways Company (in this Act called "the Company") were incorporated and were authorised to make and maintain certain tramways in Edinburgh and Leith and with power to raise ninety thousand pounds by shares and twenty-two thousand five hundred pounds by borrowing:

And whereas it is expedient that the respective times limited by the Act of 1884 for the exercise of the powers of the Company for the compulsory purchase of lands and for the completion of the tramways and works by that Act authorised should be extended and enlarged as by this Act provided:

And whereas it is expedient that the Company should be empowered to extend their tramways:

And whereas it is expedient that subject to the conditions in this Act contained the Company should be authorised to build purchase hire horse work and use omnibuses and other vehicles in connexion with their tramways or otherwise and to demand take and recover tolls rates and charges for the use thereof and for the conveyance of passengers articles and goods:

And whereas it is expedient that the Company should be authorised to raise further capital for the purposes of this Act or other the general purposes of the Company and that their borrowing powers should be increased:

And whereas plans and sections showing the lines and levels and indicating the position in the streets along which they are to be laid of the tramways by this Act authorised and books of reference to those plans have been deposited with the principal sheriff clerks

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of the county of Edinburgh and of the county of the city of Edinburgh and those plans sections and books of reference are in this Act referred to as the deposited plans sections and books of reference:

And whereas the objects of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

Short title.

1. This Act may be cited for all purposes as the Edinburgh Northern Tramways Act 1887.

Incorporation of general Acts.

2. The following Acts and parts of Acts are except where expressly varied by this Act incorporated with and form part of this Act (that is to say):—

The Lands Clauses Consolidation (Scotland) Act 1845 except the provisions thereof with respect to the purchase of lands otherwise than by agreement and with respect to the entry upon lands by promoters of the undertaking:

The Lands Clauses Consolidation Acts Amendment Act 1860:

Section 3 (interpretation of terms) section 19 (local authority may lease or take tolls) and Part II. (construction of tramways) and Part III. (general provisions) of the Tramways Act 1870:

The provisions of the Companies Clauses Consolidation (Scotland) Act 1845 with respect to the following matters (that is to say):—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;

The forfeiture of shares for non-payment of calls;

The remedies of creditors of the Company against the shareholders;

The borrowing of money by the Company on mortgage or bond;

The conversion of borrowed money into capital;

The consolidation of shares into stock; and

The provision to be made for affording access to the special Act: and

Part I. (relating to cancellation and surrender of shares) and Part II. (relating to additional capital) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or in part incorporated herewith shall have the same respective meanings unless there be something in the subject or context repugnant to such construction:

The expression "the Company" means the Edinburgh Northern Tramways Company;

The expression "the tramways" means the tramways and works by this Act authorised;

The expression "the undertaking" means the undertaking of the Company as authorised by the Act of 1884 and this Act;

The word "contingencies" in the Companies Clauses Consolidation (Scotland) Act 1845 (section 125) shall with reference to the Company be construed to include the contingency of the undertaking being sold to the local authority under the Tramways Act 1870 (section 43) at a sum less than the aggregate amount of the capital and debts of the Company.

Extension of time for purchase of land.

4. The powers granted to the Company by the Act of 1884 for the compulsory purchase of the lands mentioned in Schedule A to that Act annexed are with respect to the lands numbered on the deposited plan referred to in that Schedule 120A and 125 hereby revived and extended and may be exercised by the Company until the thirty-first day of December one thousand eight hundred and eighty-seven.

Extension of time for completion of works.

5. The time limited by the Act of 1884 for the completion of the tramways thereby authorised is hereby extended and enlarged until the expiration of two years from the seventh day of August one thousand eight hundred and eighty-seven and on the expiration of that period the powers granted to the Company by the Act of 1884 for executing those tramways or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed and sections 55 and 56 of the Act of 1884 shall be read and take effect accordingly.

Power to make tramways.

6. Subject to the provisions of this Act and of Parts II. and III. of the Tramways Act 1870 the Company may make form lay down work use and maintain the tramways and works herein-after described in the lines and according to the levels shown on the deposited plans and sections and in all respects in accordance with those plans and sections with all proper rails plates tubes ropes engines engine-houses subways manholes turntables works and conveniences connected therewith The tramways and works hereinbefore referred to and authorised by this Act will be wholly situate

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in the royal burgh city and county of the city of Edinburgh and are—

A Tramway No. 1 3 furlongs 0·30 chains in length of which 2 furlongs 6·80 chains will be single line and 3·50 chains double line commencing in Pitt Street by a junction with the Tramway No. 1 authorised by the Act of 1884 passing along Pitt Street Henderson Row Claremont Place Deanbank Place Hamilton Place and terminating in Glanville Place Kerr Street by a junction with Tramway No. 6 authorised by the Act of 1884;

A Tramway No. 2 single line 1·25 chains in length commencing in the roadway of Pitt Street and Brandon Street by a junction with Tramway No. 1 authorised by the Act of 1884 passing along said roadway and along Henderson Row and terminating in Henderson Row by a junction with the proposed Tramway No. 1;

A Tramway No. 3 single line 1·25 chains in length commencing in Stockbridge by a junction with the Tramway No. 6 authorised by the Act of 1884 passing along Stockbridge and along Hamilton Place and terminating in Hamilton Place by a junction with the proposed Tramway No. 1:

Provided always that the Company shall not except with the consent in writing of the Corporation of Edinburgh construct the said tramways herein-before described until the Tramway No. 6 authorised by the Act of 1884 has been constructed and completed Provided also that notwithstanding anything to the contrary in the deposited plans or in this Act the Company in constructing Tramway No. 1 herein authorised shall construct lay down make use and maintain the same so that the extreme western point of the passing place thereon shall not be at a greater distance than eighty-eight feet westward from the point of intersection of the centre line of Clarence Street with the centre line of Hamilton Place And provided also that the Company shall if required by the Corporation of Edinburgh at any time remove the wall at the south-east corner of the bridge at Stockbridge for a distance of twenty-two feet or thereabouts to the north-westward of the angle terminal pillar of the bridge and shall re-erect the same six feet back measuring at the existing angle of the bridge so that the new wall shall run from the said angle terminal pillar and join the existing parapet wall of the bridge all at the cost of the Company and to the satisfaction of the burgh engineer of the Corporation of Edinburgh.

Correction of errors in deposited

7. If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands

shown on the deposited plan or specified in the deposited book of reference the Company after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to the sheriff for the correction thereof and if it appear to the sheriff that the omission misstatement or wrong description arose from mistake he shall certify the same accordingly and he shall in his certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described and such certificate shall be deposited with the principal sheriff clerk for the county of Edinburgh and a duplicate thereof shall also be deposited with the session clerks of the several parishes in which the land affected thereby is situate and such certificate and duplicate respectively shall be kept by such principal sheriff clerk and session clerks respectively with the other documents to which the same relate and thereupon the deposited plan and book of reference shall be deemed to be corrected according to such certificate and it shall be lawful for the Company to take the lands and execute the works in accordance with such certificate.

plans and books of reference.

8. The Company shall not under the powers of this Act without the consent of the Secretary for Scotland purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1867 ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

Restriction on taking houses occupied by labouring class.

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

9. The provisions of sections 7 to 16 (both inclusive) sections 18 to 20 (both inclusive) sections 26 to 37 (both inclusive) and section 67 of the Act of 1884 shall extend and apply to the tramways by this Act authorised and to the Company in respect thereto as fully and effectually to all intents and purposes as if those sections and Schedule B annexed to the said Act had been repeated and expressly re-enacted in this Act with reference thereto.

Extension of provisions of Act of 1884.

10. The Company may from time to time purchase take on lease and acquire by agreement such land as they may require for the

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tramways and works hereby authorised not exceeding in the whole three acres but nothing in this Act contained shall exempt the Company from any prosecution action or other proceeding for nuisance in the event of any nuisance being caused by them upon any lands taken by agreement under the powers of this section.

Period for completion of works.

11. The tramways and works authorised by this Act shall be completed within three years from the passing of this Act and on the expiration of that period the powers by this Act granted to the Company for executing the same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed.

Power to apply existing funds.

12. The Company may apply towards any of the purposes of this Act to which capital is properly applicable any moneys which they have raised or may hereafter raise under the Act of 1884 and which may not be required for the purposes to which by that Act such moneys are made applicable.

Power to raise additional capital.

13. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise any additional capital not exceeding in the whole thirty thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by any one or more of those modes respectively but the Company shall not issue any share of less nominal value than ten pounds nor shall any share vest in the person or corporation accepting the same unless and until a sum not being less than one-fifth of the amount of such share shall have been paid in respect thereof.

Calls.

14. One-fifth of the amount of a share shall be the greatest amount of a call and three months at least shall be the interval between successive calls and three-fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

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

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

The capital in new shares or stock so created shall form part of the capital of the Company.

Dividends on new shares or stock.

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

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

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

Receipt on behalf of incapacitated persons.

18. If any money be payable to any shareholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to borrow.

19. In addition to any sum which by the Act of 1884 they are entitled to borrow the Company may from time to time after the opening for public traffic of the Tramways Nos. 1 and 2 (Princes Street to Golden Acre) authorised by the Act of 1884 but not sooner borrow on mortgage of the undertaking any sum not exceeding in the whole seven thousand five hundred pounds and of that sum they may from time to time borrow any sums not exceeding in the whole one thousand eight hundred and seventy-five pounds in respect of every seven thousand five hundred pounds of the capital by this Act authorised but no part of any such sum of one thousand eight hundred and seventy-five pounds shall be borrowed until shares for the whole of the seven thousand five hundred pounds in respect of which it is to be borrowed are 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 shares for the whole of such respective portion of capital have been issued and accepted and that one-half thereof has been paid up and that not less than one-fifth part of the amount of each separate share in such respective portion of capital has been paid on account thereof before or at the time of the issue or acceptance thereof and the Company have proved to such sheriff as aforesaid before he so certifies that such shares were issued and accepted bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and that such persons or corporations their executors administrators successors or assigns are legally liable for the same and upon production to such sheriff of the books of the Company and of such other evidence as

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he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which shall be sufficient evidence thereof.

Provisions of Act of 1884 as to appointment of a judicial factor repealed.

20. The provisions of the Act of 1884 authorising the appointment of a judicial factor for principal or interest moneys due upon any mortgages of the Company are hereby repealed but subject and without prejudice to any appointment of a judicial factor or proceedings taken under or by virtue of such provisions and in force or pending at the time of the passing of this Act.

For appointment of a judicial factor.

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

Moneys borrowed on mortgage to have priority.

22. All moneys to be borrowed on mortgage under this Act from the time when the same shall be advanced and the interest for the time being due thereon shall have priority against the Company and all the property from time to time of the Company over all other claims on account of any debts incurred or to be incurred or engagements entered into by them but nothing in this section shall affect any claim in respect of land acquired by the Company for the purposes of this Act or injuriously affected by the construction of the tramways or by the exercise of any of the powers conferred upon the Company.

Debenture stock.

23. The Company shall not create debenture stock.

Mortgage to comprise purchase money paid on compulsory sale.

24. Every mortgage of the Company's undertaking shall be deemed to comprise all purchase money which may be paid to the Company in the event of a compulsory sale to the local authority under the forty-third section of the Tramways Act 1870 or under section 66 of the Act of 1884 or under this Act and may comprise all or any moneys carried to the contingency fund according to the terms of the mortgage.

Indorsement of notice of power of future purchase by the local authority.

25. Every mortgage deed granted by the Company under this Act shall be indorsed with notice that such mortgage will not be a charge upon the tramway or the tramway undertaking in the event of the purchase by the local authority under the forty-third section of the Tramways Act 1870.

Application of moneys.

26. All moneys raised under this Act whether by shares or borrowing shall be applied only for the purposes of this Act and

for the general purposes of the Company's undertaking being in every case purposes to which capital is properly applicable.

Deposit money not to be repaid except as far as tramway opened.

27. Whereas pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her present Majesty chapter twenty a sum of two hundred and fifty-six pounds being five per centum upon the amount of the estimate in respect of the tramways has been deposited with the Court of Exchequer in Scotland in respect of the application to Parliament for this Act (which sum is in this Act referred to as the deposit fund) Be it enacted that notwithstanding anything contained in the said Act the said deposit fund shall not be paid 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 the completion of the tramways by this Act authorised open the same for the public conveyance of passengers Provided that if within such period as aforesaid the Company open any portion of the tramways 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 tramway 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 tramway so opened bears to the entire length of the tramway hereby authorised the Court shall on the application of the depositors or the majority of them 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.

28. If the Company do not previously to the expiration of the period limited for the completion of the tramways authorised by this Act complete the same and open them 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 tramways or any portion thereof or who have been

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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 also in compensating all road authorities for the expenses incurred by them in taking up any tramways or materials connected therewith placed by the Company in or on any road vested in or maintainable by such road authorities respectively and in making good all damage caused to such roads by the construction or abandonment of such tramways 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 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 either be forfeited to Her Majesty and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Court thinks fit to order on the application of the Solicitor to Her Majesty's Treasury and shall be carried to and form part of the Consolidated Fund of the United Kingdom or in the discretion of the Court if the Company is insolvent and has been ordered to be wound up or a judicial factor has been appointed shall wholly or in part be paid or transferred to such judicial factor or to the liquidator or liquidators of the Company or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof 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.

Tolls.

29. Subject to the provisions of this Act the Company may demand and take in respect of the tramways authorised by this Act the tolls and charges which they are by the Act of 1884 authorised to demand and take with respect to the tramways by that Act authorised and sections 58 to 64 both inclusive of the said Act shall extend and apply to the tramways authorised by this Act and the passengers using the same and the tolls and charges to be taken for the use of the same as fully and effectually to all intents and purposes as if those sections had been repeated and expressly re-enacted in this Act with reference thereto Provided always that for the purpose of such tolls and charges the tramways by this Act authorised and the tramways authorised by the Act of 1884 shall be deemed to form continuous lines of tramway.

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Application of agreement set forth in Schedule C to Act of 1884.

30. All the terms obligations and provisions contained in the agreement set forth in Schedule C to and confirmed by the Act of 1884 shall apply also to the tramways by this Act authorised and to the Company as fully and effectually to all intents and purposes as if the said agreement had been also scheduled to and confirmed by this Act.

Power to local authority of Edinburgh to purchase tramways.

31. The local authority of Edinburgh may require the Company to sell and the Company shall be bound to sell to them the tramways authorised by this Act at the times and upon the like terms and conditions and subject to the same provisions as are specified and set forth in section 66 of the Act of 1884 with reference to the undertaking of the Company and the tramways authorised by this Act shall for the purposes of that section be held to be part of the undertaking of the Company.

Company may acquire and work omnibuses &c. and take rates and charges in respect thereof.

32. The Company may from time to time purchase hire and construct omnibuses or other vehicles and may from time to time purchase acquire and hire horses and may use and work such omnibuses and vehicles and may from time to time exact demand take and recover in respect of passengers articles and goods carried in or by such omnibuses or other vehicles any rates and charges not exceeding in the case of any such omnibuses or other vehicles plying for hire the rates fixed for the time being by the magistrates of Edinburgh or Leith respectively for similar omnibuses or other vehicles plying for hire Provided that the said magistrates of Edinburgh and Leith respectively shall have power to license and regulate the omnibuses and other vehicles which the Company may use and work and the owners proprietors drivers and conductors thereof in all respects and to the same extent and effect as they at present have or may hereafter obtain power to license and regulate omnibus and hackney carriage or cab traffic and that the licenses for such omnibuses or other vehicles shall be granted in the name of an officer of the Company who shall be responsible for every contravention of such regulations as if he were the owner of such omnibuses or other vehicles Provided further that for the purpose of such licensing and regulating as aforesaid by the magistrates of Edinburgh the omnibuses and other vehicles aforesaid shall be deemed to be hackney carriages within the meaning of the Edinburgh Municipal and Police Act 1879 and that for the purpose of fixing by the magistrates of Leith the said rates an omnibus shall be deemed to be a hackney carriage within the meaning of the General Police and Improvement (Scotland) Act 1862 Provided also that a list of all rates and charges to be taken

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by the Company from time to time shall be exhibited in a conspicuous place inside each omnibus or other vehicle.

Corporation of Edinburgh may require Company to sell their vehicles.

33. If the Company exercise any of the powers of the last preceding section and at any time thereafter the Corporation of Edinburgh (herein-after in this section referred to as "the Corporation") make a representation to the Board of Trade that such powers are exercised by the Company in a manner contrary to the public interest the Board of Trade may direct an inquiry by a referee in manner provided by section 63 of the Tramways Act 1870 into the truth of the representation and if the referee shall find that the representation is true the following provisions shall have effect that is to say:—

(A) The Corporation may by resolution to be passed at a special meeting of the Corporation determine to give notice in writing under their corporate seal to the Company requiring the Company at the expiration of six months from the service of such notice upon the Company to sell to a purchaser to be named by the Corporation the omnibuses coaches hackney carriages and other vehicles then belonging to the Company and the horses harness stock and plant connected therewith for a sum of money to be fixed in case of difference by a single arbitrator to be appointed by the Board of Trade not exceeding in any case one-fourth of the authorised share and loan capital for the time being of the Company;

(B) The sum of money so to be fixed shall include compensation to the Company for any loss or injury which they may sustain by reason of any part of any stabling or buildings belonging to or leased by them becoming useless or of less value to the Company by reason of the sale by the Company of their vehicles horses stock and plant under sub-section (A) of this section;

(C) Upon the expiration of the said notice and upon payment of the sum of money so to be fixed as aforesaid the Company shall deliver to the purchaser the vehicles horses stock and plant included in the sale:

Provided always that nothing in this section shall limit or affect any jurisdiction right or power of the Corporation or of the magistrates of Edinburgh under the Edinburgh Municipal and Police Acts 1879 to 1887 or any of them.

Carrying of mails by Company.

34.—(1.) The Company if required by the Postmaster-General shall perform with respect to any tramway owned or worked by them all such reasonable services in regard to the conveyance of

mails as Her Majesty's Postmaster-General from time to time requires provided as follows:—

(A.) Nothing in this section shall authorise the Postmaster-General to require mails in excess of the following weights to be carried by the Company in or upon any carriage (that is to say):—

(i.) If the carriage is conveying or intended to convey passengers and not goods or parcels then in excess of the maximum weight for the time being fixed for the luggage of ordinary passengers; and

(ii.) If the carriage is conveying or intended to convey parcels only then in excess of such maximum weight as is for the time being fixed for ordinary parcels or if that maximum appears to the Postmaster-General to be so low as to exclude him from availing himself of the use of any such carriage then as is for the time being fixed by agreement or in default of agreement by a referee to be appointed at the request of either party by the Secretary for Scotland; and

(iii.) If the carriage is conveying or intended to convey both parcels and passengers but not goods then in excess of the maximum weight for the time being fixed for ordinary parcels or for the luggage of ordinary passengers whichever is the greater:

(B.) Mails when carried in or upon a carriage conveying passengers shall be so carried as not to inconvenience the passengers but so nevertheless that the custody of the mails by any officer of the Post Office in charge thereof shall not be interfered with:

(C.) Nothing in this section shall authorise the Postmaster-General to require any mails to be carried by the Company in or upon a carriage conveying or intended to convey passengers but not goods or parcels except in charge of an officer of the Post Office travelling as a passenger:

(D.) If the Company carry goods as well as passengers and parcels the enactments relating to the conveyance of mails by railway shall subject to the provisions of this section apply in like manner as if the Company were a railway company and the tramway were a railway.

(2.) The remuneration for any services which have been performed by the Company in pursuance of this section shall be such as may be from time to time determined by agreement between Her Majesty's Postmaster-General and the Company or in default of agreement by

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a referee to be appointed by the Secretary for Scotland at the request of either party and this provision shall have effect in lieu of any provisions respecting remuneration contained in the enactments relating to the conveyance of mails by railway which are applied by this section.

(3.) For the purposes of this section the expression "mails" has the same meaning as in the Regulation of Railways Act 1873 and includes parcels within the meaning of the Post Office (Parcels) Act 1882.

(4.) For the purposes of this section a requisition by Her Majesty's Postmaster-General may be signified by writing under the hand of any person who is at the time either such Postmaster-General or a Secretary or Assistant-Secretary of the Post Office or the Inspector-General of Mails and any document purporting to be signed by any such person as aforesaid shall until the contrary is proved be deemed without proof of the official character of such person to have been duly signed as required by this section.

Provision for protection of the Postmaster-General.

35. In the event of the tramways of the Company being worked by electricity the following provisions shall have effect:—

1. It shall not be lawful for the Company to lay down any line or rail or to do any act or work for working the tramways by electricity whereby any telegraphic line of the Postmaster-General is or may be injuriously affected and before any such line or rail is laid down or any such act or work is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs or the laying of lines crossing the line of the Postmaster-General at right angles at the point of shortest distance and so continuing for a distance of six feet on each side of such point) the Company or their agents not more than twenty-eight nor less than fourteen days before commencing such work shall give written notice to the Postmaster-General specifying the course of the line or rail and the nature of the work including the gauge of any wire and the Company and their agents shall conform with such reasonable requirements (either general or special) as may from time to time be made by the Postmaster-General for the purpose of preventing any telegraphic line of the Postmaster-General from being injuriously affected by the said act or work;
2. Any difference which arises between the Postmaster-General and the Company or their agents with respect to any requirements so made shall be determined by the Board of Trade whose decision shall be final and sections thirty to thirty-two

both inclusive of the Regulation of Railways Act 1868 shall apply in like manner as if the Company or their agents were a company within the meaning of that Act; 31 & 32 Vict. c. 119.

3. In the event of any contravention of or wilful non-compliance with this section by the Company or their agents the Company shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues or if the telegraphic communication is wilfully interrupted not exceeding fifty pounds for every day on which such interruption continues;

4. Provided that nothing in this section shall subject the Company or their agents to a fine under this section if they satisfy the court having cognizance of the case that the immediate doing of the act or execution of the work was required to avoid an accident or otherwise was a work of emergency and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the act or work was done a notice of the execution thereof stating the reason for doing or executing the same without previous notice;

5. For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such line is whether through induction or otherwise in any manner affected by such act or work or by any use made of such work;

6. For the purposes of this section and subject as therein provided sections two eight nine ten eleven and twelve of the Telegraph Act 1878 shall be deemed to be incorporated with this Act as if the Company were undertakers within the meaning of those sections without prejudice nevertheless to any operation which the other sections of the said Act would have had if this section had not been enacted. 41 & 42 Vict. c. 76.

36. Subject to the provisions of this Act the agreement set forth in Schedule A to this Act and made between the Edinburgh and District Water Trustees and the Company is hereby confirmed and made binding on the parties thereto and full effect shall be given by them to the same accordingly. Confirming agreement with Edinburgh and District Water Trustees.

37. The agreement set forth in the Schedule B to this Act and made between the Edinburgh and Leith Gas Light Company and the Company is hereby confirmed and made binding on the parties thereto and full effect shall be given by them to the same accordingly Confirming agreement with Edinburgh and Leith

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Gas Light Company.

but nothing in the said agreement shall prejudice or affect any rights powers or obligations of the local authority.

Confirming agreement with Edinburgh Gas Light Company.

38. The agreement set forth in the Schedule C to this Act and made between the Edinburgh Gas Light Company and the Company is hereby confirmed and made binding on the parties thereto and full effect shall be given by them to the same accordingly but nothing in the said agreement shall prejudice or affect any rights powers or obligations of the local authority.

Saving for Corporation of Leith.

39. This Act shall not be deemed or construed to alter or prejudice the agreement set forth in Schedule E to and confirmed by the Act of 1884 or any of the provisions in that Act contained for the benefit or protection of the Corporation of Leith.

Interest not to be paid on calls paid up.

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

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

41. 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 tramways or to execute any other work or undertaking.

Provision as to general tramway Acts.

42. Nothing in this Act contained shall exempt the Company or the tramways from the provisions of any general Act relating to tramways 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 tolls or charges authorised by this Act.

Costs of Act.

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

SCHEDULES referred to in the foregoing Act. A.D. 1887.

SCHEDULE (A).

It is agreed between the parties following videlicet the Edinburgh and District Water Trustees of the first part and the Edinburgh Northern Tramways Company incorporated by Act of Parliament of the second part in manner following that is to say the said parties considering that the second party is promoting a Bill in the present session of Parliament by which it is proposed to obtain authority to lay down tramways in certain roads and streets situated within the royal burgh city and county of the city of Edinburgh in which roads and streets there are laid mains and pipes belonging to the first parties and used by them for supplying water And further considering that by the said Bill it is proposed to incorporate with and form part thereof Parts II. and III. of the Tramways Act 1870 save where expressly varied or excepted And further considering that the parties hereto have agreed that certain of the provisions of Part II. of said Tramways Act 1870 shall as between the parties hereto be varied or excepted And now seeing that it is right and proper that the agreement so come to should be set forth in a formal minute of agreement which shall be incorporated in or appended to said Bill and be confirmed by Parliament Therefore the parties hereto have agreed and hereby agree and bind themselves to implement and fulfil as follows videlicet:—

First. Notwithstanding anything contained in the Tramways Act 1870 or in the Bill the second party agrees and undertakes not to alter or interfere with the existing lines or levels of the mains aqueducts conduits or lines of pipes and apparatus connected therewith or any of them belonging to the first parties including consumers' pipes nor injuriously to affect or interrupt the supply of water conveyed by the same but that all alterations on such mains aqueducts conduits or lines of pipe and apparatus connected therewith including consumers' pipes as in the opinion of the engineers of the first parties are necessary in consequence of the undertaking of the second party shall be executed by the first parties at the expense of the second party and the first parties shall at all times have a right of access to such mains aqueducts conduits or lines of pipe and apparatus connected therewith including consumers' pipes for the repair enlargement alteration and maintenance of the same and for making new connexions and laying additional pipes when and where they shall see fit and any additional cost of such alterations or repairs caused by the works of the second party in any road or street where any such mains aqueducts conduits or lines of pipe and apparatus connected therewith including consumers' pipes

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shall have been laid before the construction of such tramway shall be borne by the second party.

Second. With the view of causing as little interference as possible with the works of the second party it is agreed (first) that where in Henderson Row Claremont Place and Hamilton Place the four-inch main of the first parties lies under the line of the tramways the same shall be diverted to the south side thereof and used as the service main for the south side of these streets only and (second) that the three-inch main of the first parties which is already laid on the north side of Henderson Row as far west as the Academy grounds shall be extended west through Claremont Place and Hamilton Place to Stockbridge and connected with the four-inch main above-mentioned at such place as the first parties' engineers may direct and the first parties shall of new fix all fire-cocks and valves and connect with the re-laid or new main the existing consumers' pipes And it is further agreed that the first parties shall during the construction of the tramways perform and execute the works in this article provided for and the second party shall pay to the first parties two-thirds of the actual cost thereof.

Third. When in terms of this agreement works are to be executed by the first parties and paid for or partly paid for by the second party the first parties shall use every means in their power to have the works executed as economically as possible but should any dispute arise between the parties as to the cost thereof the same shall be decided by arbitration in the manner provided by the next succeeding article hereof and all payments for work executed by the first parties shall be made by the second party within three months after the cost of the work has been certified by the first parties' engineers with interest till paid.

Fourth. In all cases in which under the Tramways Act 1870 or under this agreement any dispute shall arise between the parties the same shall be determined by arbitration under the provisions of the Lands Clauses Consolidation (Scotland) Act 1845 and the Lands Clauses Consolidation Acts Amendment Act 1860 and the expenses of the arbitration shall be borne as the arbiters or oversman may direct.

Fifth. This agreement is made subject to the approval of Parliament and shall be scheduled to and confirmed by the Bill.

Lastly. The parties hereto bind and oblige themselves and their successors to implement and fulfil their respective parts of the premises to each other under the penalty of £600 to be paid by the party failing to the party performing or willing to perform their part over and above performance and both parties consent to the registration hereof and of any awards and decrects arbitral to be pronounced interim or final for preservation and execution In witness whereof these presents written on this and the preceding page of stamped paper by Wilson Elder Brown clerk to Messrs. A. & G. V. Mann solicitors Leith are together with a duplicate thereof written by Walter Moodie also clerk to the said A. & G. V. Mann executed as follows videlicet the same are subscribed on behalf of the said Edinburgh Northern Tramways Company the second party by Peter Couper accountant Edinburgh and James Galloway house factor Leith two of the directors and George Villiers Mann solicitor Leith the secretary of the said Edinburgh Northern Tramways Company and sealed

with the common seal of the second party all at Leith the twenty-third day of February in the year one thousand eight hundred and eighty-seven before these witnesses—Horatio Knox Stuart and George Cuthbert Kirkpatrick both clerks to the said A. & G. V. Mann and the same are subscribed on behalf of the said Edinburgh and District Water Trustees the first party by the Right Honourable Sir Thomas Clark Lord Provost of the city of Edinburgh chairman of and the Honourable James William Moncrieff writer to the signet clerk to the said Edinburgh and District Water Trustees and sealed with the common or corporate seal of the said trustees all at Edinburgh the eleventh day of March and year last mentioned as follows videlicet by the said Right Honourable Sir Thomas Clark before these witnesses—Alexander Harris depute town clerk Edinburgh and William Hodges Cameron treasurer to the said Edinburgh and District Water Trustees and by the said Honourable James William Moncrieff before these witnesses—John Laing and Angus Paterson both clerks to Mackenzie Innes and Logan writers to the signet Edinburgh.

H. K. Stuart Witness.
Geo. C. Kirkpatrick Witness.

Peter Couper Director.
Jas. Galloway Director.
Geo. V. Mann Secretary.

Seal of the Edinburgh Northern Tramways Company.

Alex. Harris Witness.
W. H. Cameron Witness.
John Laing Witness.
Angus Paterson Witness.

Thomas Clark Chairman.
James W. Moncrieff Clerk.

Seal of the Edinburgh and District Water Trustees.

SCHEDULE (B).

It is agreed between the parties following videlicet the Edinburgh and Leith Gas Light Company incorporated by Act of Parliament of 23rd March 1840 herein-after called "the first party" of the first part and the Edinburgh Northern Tramways Company incorporated by the Edinburgh Northern Tramways Act 1884 herein-after called "the second party" of the second part in manner following (that is to say) The said parties considering that the second party are promoting a Bill in the present session of Parliament intituled "A Bill to "enable the Edinburgh Northern Tramways Company to make and maintain "additional tramways and for other purposes" by which it is proposed to obtain authority to lay down tramways in certain roads and streets situated within the royal burgh city and county of the city of Edinburgh in which roads and streets there are laid pipes belonging to the first party and used by them for supplying gas that by the Bill it is proposed to incorporate therewith and form part thereof Part II. (construction of tramways) and Part III. (general provisions) of the Tramways Act 1870 except where expressly varied by the Bill and that the parties hereto have agreed that certain of the provisions of Part II. of the Tramways Act 1870 shall as between the parties hereto be

AD. 1887. varied or excepted in manner herein-after mentioned And now seeing that it is proper that the agreement so come to should be set forth in a formal minute of agreement which shall be incorporated in or appended to said Bill and be confirmed by Parliament Therefore the parties hereto have agreed and hereby agree and bind themselves to implement and fulfil as follows videlicet :—

First. In all cases other than those provided for in the second article hereof in which it may be necessary or expedient during the construction of the said tramways to alter the position of any mains or pipes belonging to the first party the works requisite for doing so shall be settled in manner provided for by the thirtieth section of the Tramways Act 1870 subject to the provision in article fourth hereof and shall be executed by the first party and the second party shall pay to the first party the actual cost thereof.

Second. In respect that it will be for the mutual advantage of the parties hereto that in place of the present trunk and service mains belonging to the first party in the roads or streets herein-after mentioned through which the additional tramways of the second party are to be constructed new trunk and service mains for the supply of service or consumers' pipes shall be laid on each side of such roads or streets where the present trunk and service mains are under the centre of the streets or on the other side of said roads or streets where the present trunk and service mains are laid on one side thereof It is agreed that during the construction of the additional tramways the first party shall lay such new trunk and service mains of the sizes herein-after specified and affix anew all syphons plugs valves stop-cocks and other apparatus and connect the existing service or consumers' pipes therewith and shall then cut off or otherwise disconnect the service or consumers' pipes from the trunk and service mains previously in use and the second party shall pay to the first party one half of the actual cost of the said works The roads and streets and works referred to in this article are as follows videlicet (1) From the ten-inch main belonging to the first party in North Pitt Street a new six-inch pipe shall be laid along the north side of Henderson Row Claremont Place and Hamilton Place and joined to five-inch and eight-inch mains at the foot of Kerr Street Stockbridge and all cross mains and service pipes on the north side of the streets shall be connected to it (2) The nine-inch main belonging to the first party under the centre of the said street of Henderson Row for a distance or length of about five hundred and thirty yards from North Pitt Street shall be removed from its present position and relaid on the south side of the street of Henderson Row and all cross mains and service pipes on the south side of the said street shall be connected thereto.

Third. When in terms of this agreement works are to be executed by the first party and paid for or partly paid for by the second party the first party shall use every means in their power to have the same executed as economically as possible but should any dispute arise between the parties as to the cost thereof the same shall be decided by arbitration in the manner provided by the next succeeding article hereof and all payments for works executed by the first party shall be made by the second party within three months after the cost of the works has been certified by the first parties' engineers with interest till paid.

Fourth. In all cases in which under the Tramways Act 1870 or under this agreement any dispute shall arise between the first and second parties the

same shall be determined by arbitration under the provisions of the Lands Clauses Consolidation (Scotland) Act 1845 and the Lands Clauses Consolidation Acts Amendment Act 1860 and the expenses of the arbitration shall be borne as the arbiters or oversman may direct.

Fifth. This agreement is made subject to the approval of Parliament and shall be scheduled to and confirmed by the Bill.

Lastly. The parties hereto respectively bind and oblige themselves and their respective successors to implement and fulfil their respective parts of the premises to each other under the penalty of three hundred pounds sterling to be paid by the party failing to the party performing or willing to perform their part over and above performance and both parties consent to the registration hereof and of any awards and decreets arbitral to be pronounced interim or final for preservation and execution In witness whereof these presents written on this page and the preceding page of stamped paper by Wilson Elder Brown clerk to Messieurs A. & G. V. Mann solicitors Leith are together with a duplicate thereof written by Walter Moodie also clerk to the said A. & G. V. Mann executed as follows videlicet the same are subscribed by Ralph Erskine Scott chartered accountant Edinburgh George Hunter McThomas Thoms advocate there John Tawse writer to the signet there Robert Burt Ranken writer to the signet there and James Boyd Fleming doctor of medicine there five and a quorum of the directors of the said Edinburgh and Leith Gas Light Company the first party duly authorised to sign these presents for and on behalf of the first party and sealed with the seal of the first party all at Edinburgh the fifth day of March in the year one thousand eight hundred and eighty-seven before these witnesses John Smith Gibb treasurer to the first party and James Dickson clerk to Messieurs Duncan and Archibald law agents and conveyancers Edinburgh and the same are subscribed on behalf of the said Edinburgh Northern Tramways Company the second party by John Boulton retired army officer residing at number eight Inverleith Terrace Edinburgh and Peter Couper accountant Edinburgh two of the directors and George Villiers Mann solicitor Leith the secretary all of the said Edinburgh Northern Tramways Company and are sealed with the common or corporate seal of the said Edinburgh Northern Tramways Company all at Leith the seventh day of said month of March and year last mentioned before these witnesses the said Wilson Elder Brown and George Cuthbert Kirkpatrick also clerk to the said A. & G. V. Mann.

John S. Gibb Witness.
Jas. Dickson Witness.

R. E. Scott.
Geo. H. M. Thoms.
John Tawse.
R. B. Ranken.
J. B. Fleming.

Seal of the Edinburgh and Leith Gas Light Company.

W. E. Brown Witness.
Geo. C. Kirkpatrick Witness.

J. Boulton Director.
Peter Couper Director.
Geo. V. Mann Secretary.

Seal of the Edinburgh Northern Tramways Company.

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SCHEDULE (C).

It is agreed between the parties following videlicet the Edinburgh Gas Light Company incorporated by Act of Parliament passed in the fifty-eighth year of the reign of King George the Third chapter sixty-seven and the five ordinary directors of that company hereto subscribing and designed in the testing clause hereof being a quorum of the committee of management of the said company herein-after called "the first party" of the first part and the Edinburgh Northern Tramways Company incorporated by the Edinburgh Northern Tramways Act eighteen hundred and eighty-four herein-after called "the second party" of the second part in manner following that is to say the said parties considering that the second party are promoting a Bill in the present session of Parliament intituled "A Bill to enable the Edinburgh Northern Tramways "Company to make and maintain additional tramways and for other purposes" by which it is proposed to obtain authority to lay down tramways in certain roads and streets situated within the royal burgh city and county of the city of Edinburgh in which roads and streets there are laid pipes belonging to the first party and used by them for supplying gas that by the Bill it is proposed to incorporate therewith and form part thereof Part II. (construction of tramways) and Part III. (general provisions) of the Tramways Act 1870 except where expressly varied by the Bill and that the parties hereto have agreed that certain of the provisions of Part II. of the Tramways Act 1870 shall as between the parties hereto be varied or excepted in manner herein-after mentioned And now seeing that it is proper that the agreement so come to should be set forth in a formal minute of agreement which shall be incorporated in or appended to said Bill and be confirmed by Parliament Therefore the parties hereto have agreed and hereby agree and bind themselves to implement and fulfil as follows videlicet:—

First. In all cases (other than those provided for in the second article hereof) in which it may be necessary for the purposes of constructing the tramways to alter the position of any mains or pipes belonging to the first party the works requisite for doing so shall be determined upon as provided by section 30 of the Tramways Act 1870 subject to the provisions in Article Fourth hereof and shall be executed by the first party and the second party shall pay to the first party the actual cost thereof.

Second. In respect that a trunk main belonging to the first party lies along the streets through or along which the said additional tramways are to be laid it is hereby agreed that during the construction of the said additional tramways the said trunk main shall be shifted to the nearest side of the route of the said tramways and a new four-inch service main shall be laid on the other side of said route and that there shall be affixed to said trunk main when shifted and to the said new service main all syphons plugs valves stop-cocks and other apparatus and the existing service or consumers' pipes be connected therewith and the second party shall pay to the first party one half of the actual cost of the said works.

Third. When in terms of this agreement works are to be executed by the first party and paid for or partly paid for by the second party the first party shall use every means in their power to have the same executed as economically as possible but should any dispute arise between the parties as to the cost thereof the same shall be decided by arbitration in the manner provided by the next succeeding article hereof and all payments for work executed by the first party shall be made by the second party within three months after the cost of the works has been certified by the first party's engineer with interest till paid.

Fourth. In all cases in which under the Tramways Act 1870 or under this agreement any dispute shall arise between the parties hereto the same shall be determined by arbitration under the provisions of the Lands Clauses Consolidation (Scotland) Act 1845 and the Lands Clauses Consolidation Acts Amendment Act 1860 and the expenses of the arbitration shall be borne as the arbiters or oversman may direct.

Fifth. Nothing contained herein or in the said Edinburgh Northern Tramways Act shall take away or abridge any powers vested in the said Edinburgh Gas Light Company by any Act of Parliament excepting only in so far as the same are hereby or by the said Edinburgh Northern Tramways Act expressly varied.

Sixth. This agreement is made subject to the approval of Parliament and shall be scheduled to and confirmed by the Bill.

Lastly. The parties hereto bind and oblige themselves and their respective successors to implement and fulfil their respective parts of the premises to each other under the penalty of one hundred pounds sterling to be paid by the party failing to the party performing or willing to perform their part over and above performance and both parties consent to the registration hereof and of any awards and decreets arbitral (interim or final) to be pronounced for preservation and execution In witness whereof these presents written on this and the preceding page of stamped paper by Wilson Elder Brown clerk to Messieurs A. & G. V. Mann solicitors Leith are together with a duplicate thereof written by Walter Moodie also clerk to the said A. & G. V. Mann executed as follows videlicet—the same are subscribed on behalf of the said Edinburgh Northern Tramways Company the second party by John Boulton retired army officer residing at eight Inverleith Terrace Edinburgh and Peter Couper accountant Edinburgh two of the directors and George Villiers Mann solicitor Leith the secretary of the said Edinburgh Northern Tramways Company and sealed with the common seal of the second party all at Leith the seventh day of March in the year one thousand eight hundred and eighty-seven before these witnesses the said Wilson Elder Brown and George Cuthbert Kirkpatrick also clerk to the said A. & G. V. Mann and the same are subscribed on behalf of the said Edinburgh Gas Light Company the first party by John Blair writer to the signet Edinburgh Alexander Kincaid Mackenzie nineteen Grosvenor Crescent Edinburgh Daniel Ainslie forty-eight Moray Place Edinburgh Sir Thomas Jamieson Boyd Knight and James Syme nine Drumsheugh Gardens Edinburgh being five ordinary directors of the said Edinburgh Gas Light Company all at Edinburgh the eighth day of the said month of March and year last mentioned as follows—videlicet by the said John Blair before these witnesses William Gun and David Mann both clerks to Messieurs Davidson

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and Syme writers to the signet Edinburgh by the said Alexander Kincaid Mackenzie Daniel Ainslie and Sir Thomas Jamieson Boyd before these witnesses Robert Cockburn and David Vedder Schenck both clerks in the office of the said Edinburgh Gas Light Company and by the said James Syme before these witnesses the said William Gun and David Mann.

W. E. Brown Witness.
Geo. C. Kirkpatrick Witness.

J. Boulton
Director.
Peter Couper
Director.
Geo. V. Mann
Secretary.

Seal of the Edinburgh Northern Tramways Company.

Will. Gun Witness.
David Mann Witness.
Rob. Cockburn Witness.
D. V. Schenck Witness.
Will. Gun Witness.
David Mann Witness.
Rob. Cockburn Witness.
D. V. Schenck Witness.
Rob. Cockburn Witness.
D. V. Schenck Witness.

James Syme
Director.
Thomas J. Boyd
Director.
John Blair
Director.
Dan. Ainslie
Director.
A. K. Mackenzie
Director.

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