CHAPTER iv.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to the London and North Eastern Railway. [19th December 1930.]

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WHEREAS the Provisional Order set forth in the schedule hereunto annexed has after inquiry held before Commissioners been made by one of His Majesty's Principal Secretaries of State under the provisions of the Private Legislation Procedure (Scotland) Act 1899 as read with the Secretaries of State Act 1926 and it is requisite that the said Order should be confirmed by Parliament:

62 & 63 Vict. c. 47.
16 & 17 Geo. 5. c. 18.

Be it therefore enacted by the King'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:—

Confirmation of Order in schedule.

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed.

Short title.

2. This Act may be cited as the London and North Eastern Railway Order Confirmation Act 1930.

[*Price* 1*s. Net.*]

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SCHEDULE.

LONDON AND NORTH EASTERN RAILWAY.

Provisional Order to empower the London and North Eastern Railway Company to construct widenings of railway and to acquire lands to authorise the abandonment of a portion of the Union Canal and for other purposes.

WHEREAS it is expedient that the London and North Eastern Railway Company (in this Order referred to as "the Company") should be empowered to construct the widenings of railways by this Order authorised and to acquire certain lands in this Order described:

And whereas the acquisition of other lands already acquired by the Company should be sanctioned and confirmed:

And whereas it is expedient that the Company should be authorised to abandon and discontinue a portion of the Union Canal situate in the parish and burgh of Falkirk and in the county of Stirling and that the powers in this Order contained in relation to the portion of the said canal so abandoned should be conferred on the Company:

And whereas it is expedient that the agreement entered into between the Company and Sir John Douglas Don Wauchope of Edmonstone baronet as set forth in the schedule to this Order should be sanctioned and confirmed:

And whereas it is expedient that the Company should be empowered to apply their funds to the purposes of this Order and that the other powers in this Order mentioned should be conferred:

And whereas plans and sections showing the lines and levels of the works to be constructed under the powers of this Order and plans of the lands by this Order authorised to be acquired and also a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited with the sheriff clerks of the several counties within which the said

works will be constructed and the said lands are situate which plans sections and book of reference are in this Order respectively referred to as the deposited plans sections and book of reference :

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899 :

Now therefore in pursuance of the powers contained in the last-mentioned Act as read with the Secretaries of State Act 1926 the Secretary of State orders as follows :—

Short title.

1. This Order may be cited for all purposes as the London and North Eastern Railway Order 1930.

Interpretation.

2. In this Order unless there be something in the subject or context repugnant to such construction the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have in relation to the relative subject matter the same respective meanings and the reference to schoolmasters or to the town clerks of royal burghs in sections 7 8 and 9 of the Railways Clauses Consolidation (Scotland) Act 1845 shall be construed as references to the clerk of the district council of the district or to the town clerk of the burgh as the case may be in which the lands are situate And—

"The Company" means the London and North Eastern Railway Company;

"The widenings" means the widenings of railway by this Order authorised; and

All distances and lengths stated in any description of works or lands shall be read and have effect as if the words "or thereabouts" were inserted after each such distance and length.

Incorporation of general Acts.

3. The following Acts and parts of Acts so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Order are incorporated with and form part of this Order (that is to say) :—

The Lands Clauses Acts :

Provided that any question of disputed compensation under this Order or any Act incorporated herewith shall be determined by a single arbiter to be agreed upon between the

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Company and the person claiming the compensation or in default of such agreement appointed by the Board of Trade on the application of either party and if in determining any such question of disputed compensation any question of law shall arise the said arbiter shall have power at the request of either party to state a case for the opinion of the Court of Session and the said court shall determine such question of law:

The Railways Clauses Consolidation (Scotland) Act 1845:

Part I (relating to construction of a railway) of the Railways Clauses Act 1863.

Protection of gas and water mains of local authorities.

4. The provisions of sections 18 to 23 of the Railways Clauses Consolidation (Scotland) Act 1845 shall for the purposes of this Order extend and apply to the gas and water mains pipes and apparatus of any local authority or water board and shall be construed as if "local authority" and "water board" were mentioned in those sections in addition to "company or society" Provided that any penalties recovered under section 23 shall be appropriated to that fund of the local authority or water board to which their revenues in respect of gas or water (as the case may be) are appropriated.

Power to Company to make widenings.

5. Subject to the provisions of this Order the Company may in the lines shown on the deposited plans and according to the levels shown on the deposited sections make and maintain the widenings hereinafter described with all necessary works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference relating thereto as may be required for those purposes and for any other purposes connected with their undertaking (that is to say):—

In the county of Angus—

a widening (No. 1) (4 miles 4 furlongs 6·66 chains in length) of the Arbroath and Montrose Railway commencing in the parish of Inverkeilor 260 yards south of the south end of the bridge carrying the said railway over Lunan

Water passing into and through the parish of Lunan and into and terminating in the parish of Craig 360 yards south of the bridge carrying the road from Montrose to Usan over the said railway near Cotton of Usan; and

a widening (No. 2) (1 mile 6 furlongs 7·40 chains in length) of the said railway commencing in the royal burgh of Montrose 260 yards north of the footbridge at Montrose Station and terminating in the parish of Montrose 75 yards north of the bridge carrying the railway over the road from Hillside to Lower North Water Bridge.

Rates on widenings.

6. The widenings shall for the purposes of tolls rates and charges and for all other purposes whatsoever be part of the undertaking of the Company.

Power to Company to acquire lands.

7. Subject to the provisions of this Order the Company in addition to the other lands which they are by this Order authorised to acquire may for any purposes connected with or ancillary to their undertaking enter upon take use and appropriate all or any of the lands hereinafter described or referred to and delineated on the deposited plans and described in the deposited book of reference relating thereto (that is to say) :—

Lands in the parish of Kirkcaldy and Dysart in the county of Fife on the south side of and adjoining the Dunfermline and Thornton Railway and extending between points respectively two hundred and ten yards and one thousand three hundred yards west of the bridge carrying Main Street Thornton over the said railway and extending two hundred yards from the said railway.

Lands in the parish of Inverkeilor in the county of Angus situate on the east side of and adjoining the Arbroath and Montrose Railway at or near Inverkeilor Station and extending between limits respectively twenty yards and five hundred and twenty-five yards south of the road from Priestfield to Inverkeilor and for a distance ninety-five yards east of the said railway.

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Power to deviate in construction of works.

8. In constructing the widenings the Company may deviate from the lines thereof shown on the deposited plans to the extent of the limits of deviation marked thereon and may deviate from the levels of the widenings shown on the deposited sections thereof in accordance with the provisions of the Railways Clauses Consolidation (Scotland) Act 1845.

As to bridges on widenings.

9. The Company may make the arches of the bridges for carrying the widenings over any roads of any heights and spans not less than the heights and spans of the bridges carrying the existing railway over such roads respectively and may make the roadway over the bridges by which any roads will be carried over the widenings of such width between the fences thereof as the Company think fit not being less than the width between the fences of the roadway over the bridges by which such roads are respectively carried over the existing railway.

Power to divert footpath.

10. Subject to the provisions of this Order the Company may divert in the manner shown upon the deposited plans and sections the footpath numbered on the said plans of widening (No. 2) 3 5 and 5a in the royal burgh of Montrose and may stop up and cause to be discontinued as a footpath so much of the existing footpath as would be rendered unnecessary by the new portion of footpath so shown on the said plans.

Repair of roads where level not permanently altered.

11. Notwithstanding anything contained in section 39 of the Railways Clauses Consolidation (Scotland) Act 1845 the Company shall not be liable to maintain the surface of any road or public highway which shall be carried over the widenings or either of them by a bridge or bridges or the immediate approaches thereto except so far as the level of such road highway or approaches is permanently altered so as to increase the gradient Provided that nothing in this section shall relieve the Company from any liability which they were under immediately prior to the confirmation of this Order for the maintenance of the surface of any such road highway or approach.

Under-pinning of houses near works.

12. And whereas in order to avoid in the execution and maintenance of any works authorised by this Order injury to the houses and buildings within one hundred feet of such works it may be necessary to underpin or

otherwise strengthen the same Therefore the Company at their own costs and charges may and if required by the owners or lessees of any such house or building shall subject as hereinafter provided underpin or otherwise strengthen the same and the following provisions shall have effect (that is to say) :—

(1) At least ten days' notice shall unless in case of emergency be given to the owners lessees and occupiers or by the owners or lessees of the house or building so intended or so required to be underpinned or otherwise strengthened:

(2) Each such notice if given by the Company shall be served in manner prescribed by section 18 of the Lands Clauses Consolidation (Scotland) Act 1845 and if given by the owners or lessees of the premises to be underpinned or strengthened shall be sent to the principal office of the Company in Edinburgh:

(3) If any owner lessee or occupier of any such house or building or the Company as the case may require shall within seven days after the giving of such notice give a counter notice in writing that he or they as the case may be disputes or dispute the necessity of such underpinning or strengthening the question of the necessity shall be referred to the arbitration of an engineer to be agreed upon or in case of difference appointed at the instance of either party by the Minister of Transport:

(4) The arbiter shall forthwith upon the application of either party proceed to inspect such house or building and determine the matter referred to him and in the event of his deciding that such underpinning or strengthening is necessary he may and if so required by such owner lessee or occupier shall prescribe the mode in which the same shall be executed and the Company may and shall proceed forthwith so to underpin or strengthen the said house or building:

(5) The Company shall be liable to compensate the owners lessees and occupiers of every such house or building for any loss or damage which may result to them by reason of the exercise of the powers granted by this section:

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(6) If in any case in which any house or building shall have been underpinned or strengthened on the requisition of the Company such underpinning or strengthening shall prove inadequate for the support or protection of the house or building against any further injury arising from the execution or use of the works of the Company then and in every such case unless such underpinning or strengthening shall have been done in pursuance of the requirements of and in the mode prescribed by the arbiter the Company shall make compensation to the owners lessees and occupiers of such house or building for such injury provided the claim for compensation in respect thereof be made by such owners within twelve months and by such lessees or occupiers within six months from the discovery thereof :

(7) Nothing in this section contained nor any dealing with any property in pursuance of this section shall relieve the Company from the liability to compensate under the Lands Clauses Consolidation (Scotland) Act 1845 or under any other Act :

(8) Every case of compensation to be ascertained under this section shall subject to the provisions of this Order be ascertained according to the provisions of the Lands Clauses Acts :

(9) Nothing in this section shall repeal or affect the application of section 90 of the Lands Clauses Consolidation (Scotland) Act 1845.

Stopping up footpaths in case of diversion.

13. Where this Order authorises the diversion of a footpath or the making of a new footpath and the stopping up of an existing footpath or portion thereof such stopping up shall not take place until such new footpath is completed to the satisfaction of the road authority and is open for public use or in case of difference between the Company and the road authority until the sheriff or two justices shall have certified that the new footpath has been completed to his or their satisfaction and is open for public use.

Before applying to the sheriff or the justices for his or their certificate the Company shall give to the road authority of the district in which the existing footpath is situate seven days' notice in writing of their intention to apply for the same.

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As from the completion to the satisfaction of the road authority of the new footpath or as from the date of the said certificate as the case may be all rights of way over or along the existing footpath or portion authorised to be stopped up shall be extinguished and the Company may subject to the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to mines lying under or near the railway appropriate and use for the purposes of their undertaking the site of the footpath or portion thereof stopped up as far as the same is bounded on both sides by lands of the Company:

Provided that the Company shall make full compensation to all parties interested in respect of any private rights of way extinguished by virtue of this section and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Further provision as to repair of roads and footpaths.

14. Any road or footpath or portion of road or footpath made diverted or altered under the authority of this Order (except the stone steel or other structure carrying any such road or footpath over any railway of the Company which structure shall unless otherwise agreed be maintained by and at the expense of the Company) shall when made and completed unless otherwise agreed be maintained by and at the expense of the body or persons liable to maintain roads or footpaths of the same nature and in the same parish and district or burgh as the road or footpath or portion of road or footpath in question.

For protection of county council of Angus.

15. For the protection of the county council of the county of Angus (in this section referred to as "the county council") the following provisions shall unless otherwise agreed in writing between the county council and the Company apply and have effect (that is to say):—

(1) In the event of the widenings necessitating alterations on or additions to any existing bridge carrying the widenings or either of them over any public road the Company shall at least twenty-one days before commencing such works give to the county council notice thereof in writing accompanied by plans sections working drawings and specifications showing the manner

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in which such works are to be executed and the said plans sections working drawings and specifications shall be subject to the reasonable approval of the county council previously to such works being commenced and such works shall be executed in conformity with the said plans sections working drawings and specifications as approved of or settled Provided that if the county council do not within fourteen days after receipt of such notice intimate to the Company their approval or disapproval of the said plans sections working drawings and specifications the Company may thereupon proceed to execute the said works in accordance therewith :

(2) Any difference which may arise between the county council and the Company under subsection (1) of this section shall be referred to an arbiter to be mutually agreed upon between the county council and the Company or failing such agreement to be appointed on the requisition of either of them by the Minister of Transport :

(3) Nothing in this section shall be deemed to impose any obligation on the Company to make any bridge carrying the widenings of a greater width between the abutments than the width between the abutments of the existing bridge.

For protection of Grampian Electricity Supply Company.

16. Nothing in this Order shall extend to or authorise any interference with any electric lines or other works of the Grampian Electricity Supply Company except in accordance with and subject to the provisions of section 15 of the Electric Lighting Act 1882 and section 17 of the schedule to the Electric Lighting (Clauses) Act 1899.

As to private rights of way over lands acquired compulsorily.

17. All private rights of way over any lands which shall under the powers of this Order be acquired compulsorily shall as from the date of such acquisition be extinguished Provided that the Company shall make full compensation to all parties interested in respect of any such rights and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Power to acquire servitudes compulsorily in certain cases.

18. Notwithstanding anything contained in this Order or in any Act wholly or partly incorporated herewith the Company shall not be required to purchase any railway river canal navigation watercourse drain or sewer or any part thereof respectively which may be crossed or interfered with in constructing the widenings but they may acquire such servitudes and rights in over or under any such railway river canal watercourse drain or sewer as they may require for making maintaining working and using the widenings and may give notice to treat in respect of such servitudes and rights describing the nature thereof and (subject to the foregoing provisions of this section and to the other provisions of this Order) the provisions of the Lands Clauses Acts shall apply to and in respect of the acquisition of such servitudes and rights as fully as if the same were lands within the meaning of those Acts.

Period for compulsory purchase of lands.

19. The powers granted by this Order for the compulsory purchase of lands shall cease on the first day of October one thousand nine hundred and thirty-three.

Power to certain owners to grant servitudes &c.

20. Persons empowered by the Lands Clauses Acts to sell and convey or discharge lands may if they think fit subject to the provisions of those Acts and of this Order grant to the Company any servitude right or privilege (not being a servitude right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Order in over or affecting any such lands and the provisions of the Lands Clauses Acts with respect to lands and feuduties or ground annuals so far as the same are applicable in that behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively.

Power to enter upon property for survey and valuation.

21. The Company and their surveyors officers contractors and workmen may at all reasonable hours in the daytime upon giving in writing for the first time twenty-four hours' and afterwards twelve hours' previous notice enter upon and into the lands and premises by this Order authorised to be taken and used by them for the purpose of surveying and valuing the said lands and premises without being subject or liable to any fine or penalty on

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account of entering or continuing upon any part of the said lands and premises.

Costs of arbitration &c. in certain cases.

22. The tribunal to whom any question of disputed purchase money or compensation under this Order is referred shall if so required by the Company award and declare whether a statement in writing of the amount of compensation claimed has been delivered to the Company by the claimant giving sufficient particulars and in sufficient time to enable the Company to make a proper offer and if the tribunal shall be of opinion that no such statement giving sufficient particulars and in sufficient time shall have been delivered and that the Company have been prejudiced thereby the tribunal shall have power to decide whether the claimant's costs or any part thereof shall be borne by the claimant Provided that it shall be lawful for any judge of the Court of Session to permit any claimant after seven days' notice to the Company to amend the statement in writing of the claim delivered by him to the Company in case of discovery of any error or mistake therein or for any other reasonable cause such error mistake or cause to be established to the satisfaction of the judge after hearing the Company if they object to the amendment and such amendment shall be subject to such terms enabling the Company to investigate the amended claim and to make an offer de novo and as to postponing the hearing of the claim and as to costs of the inquiry and otherwise as to such judge may seem just and proper in all the circumstances of the case Provided also that this section shall be applicable only in cases where the notice to treat under the Lands Clauses Consolidation (Scotland) Act 1845 either contained or was endorsed with a notice of the effect of this section.

Compensation in case of recently altered buildings.

23. In settling any question of disputed purchase money or compensation for lands acquired by the Company under the powers of this Order the tribunal settling the same shall not award any sum of money for or in respect of any improvement or alteration made or any building erected after the first day of November one thousand nine hundred and twenty-nine if in the opinion of the tribunal the improvement alteration or building in respect of which the claim is made was made or erected with a view to obtaining or increasing compensation nor in the case of any estate or interest in the lands created

after the said date which in the opinion of the tribunal was created with a view to obtaining or increasing compensation shall any sum of money be awarded so as to increase the total amount of compensation which would otherwise have been required to be paid in respect of the acquisition of such lands by the Company.

Confirmation of purchase of lands by Company.

24. The Company may hold use and appropriate for the purposes of their undertaking the following lands and premises which have already been acquired by them and the expenditure of money by the Company in or in connection with the purchase or acquisition thereof or the works executed thereon is hereby sanctioned and confirmed (that is to say):—

(*a*) In the county of Banff—

Certain lands and pertinents in the parish of Gamrie and burgh of Macduff known as No. 8 Union Road Macduff and intended to be used for garages workshops and other purposes of road transport traffic.

(*b*) In the county of Aberdeen—

Certain lands and pertinents in the parish of Cruden known as Sereld Cottage Port Erroll.

Application of section 43 of Act of 1923 and section 8 of Order of 1925.

25. The provisions of section 43 (Power to Company and others to lease &c. lands) of the London and North Eastern Railway Act 1923 and of section 8 (Powers as to building on or over lands) of the London and North Eastern Railway Order 1925 shall extend and apply to any lands or premises acquired or held under the powers of this Order.

Abandonment of portion of Union Canal.

26.—(1) The Company may abandon stop up and discontinue the use of and close for public traffic so much of the canal or navigation authorised by the Acts 57 George III cap. lvi and 59 George III cap. xxix (known as "the Union Canal" and in this Order referred to as "the canal") as lies between the drawbridge at the junction with the Forth and Clyde Canal at Port Downie and the east end of Lock No. 11 situate in the parish and burgh of Falkirk and in the county of Stirling and all liabilities and obligations under the said Acts or otherwise with respect to the maintenance and use of the said portion of canal for the purposes of navigation are hereby cancelled and extinguished.

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(2) Upon such abandonment stopping up discontinuance and closing for public traffic as aforesaid all rights of way liberties servitudes rights and privileges and all obligations of every description upon over or along the said portion of canal or incident thereto shall be and the same are hereby extinguished Provided that the Company shall make full compensation to all parties interested in respect of any private rights of way extinguished by virtue of this subsection and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

(3) The Company may hold possess enjoy use and appropriate the said portion of the canal and so far as the same are now vested in them the lands and premises adjoining thereto and the wharves towing-paths locks bridges yards buildings erections and works in connection therewith and may fill up reclaim develop improve sell feu excamb or lease the same or any part or parts thereof or otherwise deal therewith in such manner as they think fit.

(4) The Company may on their own property at or near the said portion of the canal alter or strengthen the walls of the canal and may on such property construct such new basin or basins and other subsidiary works as may be necessary or expedient for the purposes of the canal and the traffic thereon.

For protection of London Midland and Scottish Railway Company.

27. The following provisions for the protection of the London Midland and Scottish Railway Company (in this section referred to as "the Midland Company") shall unless with the previous consent in writing of the Midland Company apply and have effect :—

(1) The expression "the railways" in section 30 of the North British Arbroath and Montrose Railway Act 1871 shall be deemed to include the widenings by this Order authorised :

(2) The expression "property of the Midland Company" where used in this section shall include any land railway siding canal or work belonging to the Midland Company :

(3) The Company shall not under the powers of this Order enter into upon use purchase take or interfere with any property of the Midland

Company except that the Company may purchase and take and the Midland Company may and shall sell and grant according to their estate and interest in and subject to all servitude rights affecting the property of the Midland Company such servitude as shall be necessary for the purpose of constructing using and maintaining the widening (No. 2) by this Order authorised (hereinafter in this section referred to as "the widening") so far as the same is according to this Order to be constructed on or across the property of the Midland Company :

(4) The consideration to be paid for any servitude to be acquired by the Company under the preceding subsection shall in case of dispute be determined in manner provided by the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement :

(5) The widening shall be carried over the property of the Midland Company by a bridge with a clear span between the abutments of not less than twenty-eight feet measured at right angles to the railway of the Midland Company and having a clear headway of not less than thirteen feet six inches measured from the upper surface of the rails of such railway :

(6) Before the Company exercise any of the powers in the section of this Order contained of which the marginal note is "Abandonment of portion of Union Canal" they shall construct such walls embankments fences roadways and other works as may be reasonably necessary in the opinion of the engineer of the Midland Company for the satisfactory closing of the cut between the Forth and Clyde Canal and the Union Canal at the basin at Port Downie :

(7) The Company shall twenty-eight days before they commence the construction of any works whether temporary or permanent upon or over the property of the Midland Company or which may in any way affect the same furnish to the Midland Company proper and sufficient plans sections and particulars of the works proposed to be made by the Company and

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such plans sections and particulars shall be settled and agreed upon between the respective engineers of the Company and the Midland Company or in the event of the engineer of the Midland Company neglecting or refusing to approve the said plans sections and particulars within twenty-eight days or in case of their failing to agree or of any difference arising between them the same shall be settled and determined by an arbiter as hereinafter provided and such work shall be carried into effect in accordance with this section and in accordance with such agreement or determination and under the superintendence (if the same be given) and to the reasonable satisfaction of the engineer of the Midland Company and at the costs charges and expenses in all respects of the Company and when commenced shall be proceeded with with all reasonable dispatch The engineer of the Midland Company and his assistants shall at all reasonable times during construction have free access to the said works and every facility shall be afforded to him or his assistants for inspecting them and every reasonable notice which they may give touching any defect shall immediately or as soon as practicable be complied with by the Company:

(8) The Company shall not in constructing thé widening deviate from the centre line (except so far as may be necessary to provide the headway set out in subsection (5) hereof) and levels shown on the deposited plans and sections so far as the same is across or may in any way affect the property of the Midland Company without the consent of the engineer of the Midland Company which consent shall not be unreasonably withheld:

(9) The Company shall maintain the widening and the works executed by them in connection with the closing of the said cut between the Forth and Clyde Canal and the Union Canal so far as these affect the property of the Midland Company in substantial repair and good

order and condition in accordance with the plans sections and specifications so approved as aforesaid to the reasonable satisfaction in all respects of the engineer and if and whenever the Company fail so to do the Midland Company may do in and upon the lands of the Company as well as their own lands all such works and repairs as may be reasonably requisite in that behalf and the reasonable amount of the sum which the engineer shall certify has been the expenditure of the Midland Company in so doing shall be repaid to them by the Company:

(10) The Company shall not in the execution maintenance or repair of any of their works obstruct or hinder or interfere with the free uninterrupted and safe user of any railway canal or work belonging to the Midland Company or any traffic thereon and if in the execution maintenance or repair of any of their works it is necessary to remove or disturb any of the rails of any railway or other work belonging to the Midland Company the Company shall at their own expense before any such removal or disturbance execute and maintain such temporary works as the engineer may consider necessary for the purpose of avoiding risk to the property of the Midland Company or interruption to the traffic thereon but the Company shall in no case remove or disturb any of the rails of any railway or other work belonging to the Midland Company save in accordance with the provisions of this section:

(11) If any subsidence shall occur by which the level of the bridge carrying the widening over the property of the Midland Company shall be lowered so that the headway prescribed by this section be not maintained then the Company shall at their own cost when called upon by the Midland Company to do so raise or lift the bridge over the property of the Midland Company to the height required to maintain such prescribed headway:

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(12) The Company shall bear and on demand pay to the Midland Company the reasonable expense of the employment by the Midland Company during the execution or repair of any work affecting any property of the Midland Company of such inspectors watchmen and signalmen to be appointed by the Midland Company as may be reasonably necessary for watching and signalling the same with reference to and during the execution or repair of any such work of the Company and for preventing all interference obstruction danger and accident from any of the operations or from the acts or defaults of the Company or their contractors or any person in the employment of the Company or of their contractors :

(13) If by reason of the construction or working of the widening it shall become necessary to add to or alter any signal posts signals or other similar works in connection with any property of the Midland Company the Midland Company may make such additions and alterations and the reasonable expense of such additions and alterations shall be repaid by the Company on demand and the cost of maintaining and working any such additional signal posts signals or other similar works and any reasonable addition (if any) to the cost of maintaining and working any signal posts signals or other similar works arising by reason of such addition to or alteration of the same as aforesaid shall at the end of every half year be repaid by the Company to the Midland Company :

(14) If by reason of the execution user or failure of any of the works of the Company or any act or omission of the Company or of their contractors or of any person in the employment of the Company or of their contractors any property of the Midland Company shall be injured or damaged such injury or damage shall be forthwith made good by the Company at their own expense or in the event of their failing so to do then the Midland Company may make good the same and the reasonable amount of the sum

which the engineer shall certify to have been the expenditure of the Midland Company in so doing shall be repaid to the Midland Company by the Company on demand and the Company shall indemnify the Midland Company against all losses which the Midland Company may sustain and shall pay all costs charges and expenses which the Midland Company may reasonably incur by reason of the execution user or failure of any of the works of the Company or any act or omission of the Company or their contractors or any person in the employment of the Company or their contractors :

(15) If in the opinion of the Midland Company or (in case of difference) of an arbiter to be appointed as hereinafter provided it shall be necessary for the Midland Company to purchase or pay compensation for any minerals required to be left unworked for the protection or safety of any works constructed under the powers of this Order then the Company shall on demand pay to the Midland Company a suitable proportion of the amount paid by the Midland Company for or in respect of such minerals together with a like proportion of all costs and expenses reasonably incurred by them in relation to any such purchase or payment of compensation :

(16) If at any time hereafter the Midland Company shall widen their existing Montrose Branch the Company shall afford all reasonable and proper facilities for this purpose :

(17) If any difference shall arise between the Company and the Midland Company or their respective engineers as to anything to be done or not to be done under this section the same shall be determined by an engineer to be appointed as arbiter by the President of the Institution of Civil Engineers on the application of either party after notice to the other.

For protection of Falkirk Town Council.

28. For the protection of the provost magistrates and councillors of the burgh of Falkirk (in this section referred to as "the town council") the following provisions shall notwithstanding anything in this Order contained and unless otherwise agreed in writing between

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the town council and the Company apply and have effect (that is to say) :—

(1) The roads or streets known as Tamfourhill Road to the north of the basin at Port Downie and "Summerford" between Tamfourhill Road and the former boundary of the burgh of Falkirk at the viaduct carrying the Company's Edinburgh and Glasgow Railway over the canal and which are entered as public roads in the register of streets kept by the town council for the burgh of Falkirk shall subject as regards the last mentioned road or street to the Company's right to maintain any railway sidings and connections which are at present or which by arrangement with the town council may be laid thereupon continue to be regarded as public roads or streets in the burgh of Falkirk and be maintained by and at the expense of the town council :

(2) The town council shall subject to the Company's right to maintain any railway sidings and connections which are at present or which by arrangement with the town council may be laid thereupon take over from the Company and maintain as a public road or street within the burgh of Falkirk the portion of the road in continuation south-eastwards of the road or street known as "Summerford" between the former boundary of the burgh of Falkirk at the said railway viaduct and a point thirty-eight yards or thereby east of Lock No. 11 :

(3) The Company shall adequately seal up the Union Canal at Lock No. 11 so that thereafter no water from the Union Canal shall pass into the locks or basins or the land occupied thereby to the west and north of Lock No. 11 or into any streams drains or sewers situated in the burgh of Falkirk :

(4) The Company shall also adequately seal up upon their property the cut between the Forth and Clyde Canal and their Union Canal at the basin known as Port Downie remove the existing bridge and as soon as possible thereafter fill up the cut and form a road ten feet in width

upon the Company's property in lieu of the bridge Should the town council at any time desire to have the road to be so formed and the continuation thereof east or west or east and west widened to a maximum of fifty feet the Company shall cede to the town council the necessary land on the south side of the existing bridge and road to enable the town council so to widen the road which widening shall be performed by and at the expense of the town council and to the reasonable satisfaction of the engineer of the Company For the actual land required for the widening the town council shall pay to the Company a sum calculated at the rate of one hundred and twenty-five pounds per acre :

(5) As regards the existing bridge and road over the canal situate near Lock No. 3 the town council shall if they so desire and subject to the Company's right to maintain any railway lines which they may consider necessary to lay thereupon be entitled at their own expense to form in lieu thereof either at the site of the existing bridge and road or at a point within a distance of fifty yards therefrom as such point shall be arranged between the Company and the town council a road of a maximum width of forty feet upon the Company's property between the road or street known as "Summerford" and Greenbank Road and thereby continue to give a means of communication between the said two roads and on such new road being formed the town council shall take it over and thereafter maintain it as a public road or street within the burgh of Falkirk Any replacement or re-arrangement of the railway lines or gates which may be necessary as a result of the construction by the town council of the new road shall be carried out by the Company at the expense of the town council :

(6) In the event of the town council desiring to widen the road or street known as "Summerford" and the continuation thereof as aforesaid along the whole length thereof

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between the basin at Port Downie and the point east of Lock No. 11 to a maximum of fifty feet increased to seventy feet at the south-east corner of Port Downie Basin the Company shall as and when the land is available within the period of seven years from the confirmation of this Order and on being so requested by the town council cede to the town council a strip of land of sufficient width beyond the limit of the existing road and within a distance of fifty feet measured from the east and north sides of the existing road :

The widening of the road including the provision of any necessary footpaths shall be carried out by and at the expense of the town council who shall thereafter maintain the road as so widened as a public road or street within the burgh of Falkirk except the area contained between the rails and two feet beyond each rail For the actual land required for the widening the town council shall pay to the Company a sum calculated at the rate of one hundred and twenty-five pounds per acre :

(7) The Company shall not be liable as frontagers to contribute towards the cost of the formation or maintenance of any of the roads mentioned in this section or any footpaths in connection therewith or sewers or drains therein and they shall have a right of access to the said roads as they at present exist or as they may be widened in terms of this section from any land or property belonging to them :

(8) In filling up and levelling the land at present used as locks and basins the Company shall do so by using as clean material as possible and shall not in so doing create a nuisance :

(9) In dealing with the land forming the portion of the property of the Union Canal proposed to be abandoned stopped up and discontinued as a canal the Company (*a*) shall be entitled to drain off the water in the locks and basins into the culverts and pipes at such times and in such manner as shall be arranged between the Company and the town council and (*b*) shall

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not prejudicially affect any stream at present flowing under the canal or any part thereof or any sewer drain gas or water pipes or electricity mains belonging to the town council which are laid in the said land but shall allow them to remain subject to the same statutory or other rights as the town council at present possess and under the same obligations which the town council are at present under thereanent provided that the Company shall be entitled to remove any overflow pipes discharging into the existing basins:

(10) Any difference which may arise between the Company and the town council under this section shall be referred to an arbiter to be mutually agreed upon between the Company and the town council or failing such agreement to be appointed by the sheriff of Stirling Dunbarton and Clackmannan.

For protection of Trustees of James Ross and Thomas Stark Brown.

29. For the protection of the trustees of the deceased James Ross esquire of Falkirk (proprietors of part of the estate of Glenfuir in the burgh of Falkirk) and of Thomas Stark Brown (proprietor of the remaining part of the said estate the said remaining part being now known as "Summerford") and their respective successors in title (all of whom are hereinafter in this section referred to as "the owners") the following provisions shall notwithstanding anything in this Order contained and unless otherwise agreed in writing between the owners and the Company apply and have effect (that is to say):—

The Company shall not in the exercise of the powers of this Order interfere with the road from Lock No. 16 of the Forth and Clyde Canal to Lock No. 11 of the Union Canal so as prejudicially to affect the rights of the owners to the use of the said road in terms of the supplementary disposition by the surviving trustees for the use and behoof of the Edinburgh and Glasgow Union Canal Company in favour of the trustees of the late John Piercy Henderson dated the sixth and seventh days of June one thousand eight hundred and sixty-two and recorded in the new general register of sasines &c. on

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the seventeenth day of that month and the said rights shall continue in full force and effect as if this Order had not been confirmed.

Confirming agreement with Sir John Douglas Don Wauchope bart.

30. The agreement made the eleventh day of July one thousand nine hundred and twenty-nine between the Company and Sir John Douglas Don Wauchope of Edmonstone baronet as set out in the schedule to this Order is hereby sanctioned and confirmed and made binding on the parties thereto and so much of section 17 of the North British Railway (Branches) Act 1862 as relates to the annual payment thereby required to be paid to John Wauchope of Edmonstone and his heirs and successors in the estate of Edmonstone and so much of sections 20 and 21 of the Edinburgh and Dalkeith Railway Act 1826 of section 2 of the Dalkeith and Hawick Railways (Purchase) Act 1845 and of section 58 of the North British Railway Consolidation Act 1858 as relates to wayleaves and tonnage duties reserved to the said John Wauchope and his heirs and successors in the said estate are hereby repealed.

Power to Company to apply funds.

31. The Company may appropriate and apply to all or any of the purposes or objects of this Order being purposes to which capital is properly applicable any of the moneys which they have raised or are authorised to raise and which may not be required for any purposes to which they are by any existing Act made specially applicable.

Provisions as to general railway Acts.

32. Nothing in this Order contained shall exempt the Company or their railway from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies passed before or after the confirmation of this Order or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised to be taken by the Company.

Costs of Order.

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

The SCHEDULE referred to in the foregoing Order. A.D. 1930.

Stamp.

Ten Shillings.

AGREEMENT and Discharge by Sir JOHN DOUGLAS DON WAUCHOPE of Edmonstone baronet in favour of the LONDON AND NORTH EASTERN RAILWAY COMPANY.

I Sir JOHN DOUGLAS DON WAUCHOPE of Edmonstone baronet considering that by (*a*) an Act Seven George Fourth Caput Ninety-eight entituled "An Act for making and maintaining a Railway "from Edinburgh to the south side of the River North Esk "near Dalkeith and Newbattle with branches therefrom all in "the County of Edinburgh" and (*b*) an Act Eight and Nine Victoria Caput Eighty-two entituled "An Act to empower the "North British Railway Company to purchase the Edinburgh "and Dalkeith Railway and to alter part of the line of the said "Railway and of the North British Railway and to construct "certain branch railways in connection therewith" certain wayleaves and tonnage duties were granted and reserved to Andrew Wauchope of Niddrie Marischall and John Wauchope of Edmonstone and their respective heirs and successors in the estates of Niddrie Marischall and Edmonstone respectively in respect of traffic passing along the railways referred to in the said Acts over the said estates which wayleaves and tonnage duties were by the North British Railway Consolidation Act 1858 Twenty-one and Twenty-two Victoria Caput One hundred and nine (except as to a part of the railway then abandoned) reserved entire notwithstanding the repeal of the said previous Acts Considering further that by section seventeen of the North British Railway (Branches) Act 1862 it was provided that the North British Railway Company should make to each of the said Andrew Wauchope of Niddrie Marischall and John Wauchope of Edmonstone the parties then in right of the said wayleaves and tonnage duties respectively and their respective heirs and successors in the said estates a perpetual annual payment of one thousand pounds commencing the first of the said annual payments on the fifteenth day of May eighteen hundred and sixty-three and continuing the same in all time thereafter with interest as therein mentioned which payments should cover and be in full of all claims of wayleave and tonnage duties before referred to Considering further that the said perpetual annual

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payment of one thousand pounds payable in terms of the said statutes to the said John Wauchope and his heirs and successors in the said estate of Edmonstone (hereinafter called "the annuity") has been duly made to my predecessors and to me formerly by the said North British Railway Company and thereafter by the London and North Eastern Railway Company (hereinafter called "the Company") in whom the undertaking of the said North British Railway Company is now vested by and in virtue of the Railways Act 1921 Considering further that I am the heir and successor of the said John Wauchope of Edmonstone and the proprietor in fee simple of the said estate of Edmonstone and that I have approached the Company with a view to their redeeming the annuity And now seeing that the Company have offered and I have agreed to accept all on the conditions aftermentioned the sum of fifteen thousand pounds (hereinafter called "the capital sum") in redemption of the annuity Therefore subject to the said conditions and in particular but without prejudice to the said generality to the provision and declaration (*a*) hereinafter contained being duly implemented as regards payment to me or my executors of the capital sum I hereby for myself and all others concerned for ever discharge the Company and their successors and assignees of the annuity Providing and declaring as it is hereby provided and declared that (*a*) this agreement and discharge shall only come into force and effect and the capital sum be payable by the Company to me or my executors upon this agreement and discharge being expressly confirmed by Act of Parliament (*b*) the said section seventeen of the said Act of eighteen hundred and sixty-two so far as relating to the annuity and previous enactments so far as relating to the said wayleaves and tonnage duties granted and reserved to the said John Wauchope of Edmonstone and his heirs and successors in the said estate of Edmonstone shall be expressly repealed by the said Act (*c*) this agreement and discharge shall be scheduled by the Company to the next Provisional Order or Bill to be promoted by them (*d*) until the passing of the said Act and down to the actual payment to me or my executors by the Company of the capital sum the Company shall continue to make payment of the annuity to me or my executors and (*e*) this agreement and discharge is to be subject to such alterations as Parliament may think fit to make thereon but should Parliament make any alterations thereon or insert any provision in the Provisional Order or Bill confirming the same which in the opinion of the Dean of the Faculty of Advocates in Edinburgh materially affect this agreement and discharge it shall not come into force and effect if either of the parties choose to withdraw from the same And I warrant this discharge at all hands In witness whereof these presents consisting of this and the two preceding pages are subscribed by me at Edinburgh on the

eleventh day of July nineteen hundred and twenty-nine before these witnesses Patrick Hamilton Don Wauchope writer to the signet Edinburgh and John Reid hall porter New Club Edinburgh. A.D. 1930.

J. D. DON WAUCHOPE.

P. H. DON WAUCHOPE Witness.
JOHN REID Witness.

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