CHAPTER civ.

An Act for extending the time for the completion of the Newport Railway, and for confirming an Agreement for the working and use of the same by the North British Railway Company; and for other purposes. [7th July 1873.] A.D. 1873.

WHEREAS by "The Newport Railway Act, 1866," (herein-after called "the Act of 1866,") the Newport Railway Company (herein-after called "the Company") were incorporated and authorised to make and maintain the Railways, Nos. 1, 2, and 3, respectively therein described: 29 & 30 Vict. c. cccxxix.

And whereas by "The Newport Railway Act, 1867," (herein-after called "the Act of 1867,") the Company were authorised to abandon a portion of the said Railway No. 1, as therein specified, and the said Railways Nos. 2 and 3, and in substitution thereof to construct the deviation railway therein described: 30 & 31 Vict. c. clxvii.

And whereas by "The Newport Railway Act, 1870," (herein-after called "the Act of 1870,") the Company were authorised to abandon the said deviation railway, and to construct the railway therein described: 33 & 34 Vict. c. cliii.

And whereas under the Act of 1866 and the Act of 1870 the time limited for the completion of the said Railway No. 1, so far as not abandoned, will expire on the sixth of August one thousand eight hundred and seventy-three, and under the Act of 1870 the time limited for the completion of the said railway authorised by that Act will expire on the first of August one thousand eight hundred and seventy-four:

And whereas the said Railway No. 1, so far as not abandoned, and the said railway authorised by the Act of 1870, (both herein-after called "the Newport Railway,") form a line of railway from the railway station of the North British Railway Company at Ferryport-on-Craig to the Tay Bridge Railway of the North British Railway Company authorised to be constructed by "The North British Railway (Tay Bridge and Railways) Act, 1870:"

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And whereas the time for the completion of the said Tay Bridge Railway extends to the first of August one thousand eight hundred and seventy-five, and it is expedient that the time for the completion of the Newport Railway should be extended to the same period:

And whereas it is further expedient that the agreement set forth in the schedule to this Act entered into between the Company and the North British Railway Company in relation to the working, use, and management of the Newport Railway, and of the traffic that may arise thereon, by the North British Railway Company, should be sanctioned and confirmed:

And whereas the objects aforesaid 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 Newport Railway Act, 1873."

Provisions of general Act herein named incorporated.

2. Part II. (relating to extension of time) of "The Railways Clauses Act, 1863," is (except where expressly varied by this Act) incorporated with and forms part of this Act.

Extending time for completion of railway.

3. The respective periods limited by the Act of 1866 and the Act of 1870 for the construction and completion of the Newport Railway shall be and are hereby extended until the first day of August one thousand eight hundred and seventy-five.

For securing completion of railway.

4. 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 three thousand six hundred and eighty pounds (being the balance of the original deposit of seven thousand six hundred and eighty pounds) is deposited in the name of the Queen's Remembrancer of the Court of Exchequer in Scotland, in respect of the application to Parliament for the Act of 1866, and a sum of one thousand seven hundred and fifty pounds is deposited in the name of the said Queen's Remembrancer in respect of the application to Parliament for the Act of 1870: Be it enacted, that, notwithstanding anything contained in the first-mentioned Act, the said sums of three thousand six hundred and eighty pounds, and one thousand seven hundred and fifty pounds, deposited as aforesaid, shall not be paid or transferred to or on the application of the person or persons or the majority of the persons respectively named in the warrants or orders issued in pursuance

of the same Act, or the survivors or survivor of them, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the Newport Railway, either open the same for the public conveyance of passengers, or prove to the satisfaction of the Board of Trade that the Company have paid up one half of the amount of the capital authorised to be raised by means of shares by the Act of 1866, as reduced by the Act of 1867, and have expended for the purposes of the Act of 1866 and the Act of 1870 a sum equal in amount to said one half of such capital; and if the said period shall expire before the Company shall either have opened the said railway for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Board of Trade, the said sums of money deposited as aforesaid shall be applied in the manner herein-after specified; and the certificate of the Board of Trade that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the first-mentioned Act to the contrary notwithstanding.

Providing for application of deposits in compensation to parties injured.

5. The said sums of money deposited as aforesaid shall be applicable and, after due notice in the Edinburgh Gazette shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the Newport Railway, or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by the Act of 1866 and the Act of 1870, and for which injury or loss no compensation or inadequate compensation shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid, in such manner and in such proportions as to the Court of Session in Scotland may seem fit; and if no such compensation shall be payable, or if a portion of the said sums of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sums of money, 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 of Session in Scotland thinks fit to order, on the application of the Solicitor of 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 receiver has been appointed, shall wholly or in part be paid or transferred to such receiver or to the

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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 said sums of money shall have been repaid to the depositors, or shall have 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 person or persons, or the majority of the persons, respectively named in such warrants or orders as aforesaid, or the survivors or survivor of them.

Time limited for completion of railway.

6. If the Newport Railway shall not be completed within the period limited by this Act, then, on the expiration of such period, the powers by the Act of 1866, the Act of 1870, and this Act, granted to the Company for making and completing the said railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Agreement with North British Railway Company confirmed.

7. The agreement entered into by and between the North British Railway Company of the first part, and the Company of the second part, set forth in the schedule to this Act, is hereby confirmed, and shall be carried into effect as fully as if the provisions of the said agreement were set forth and enacted in the body of this Act.

Tolls on traffic conveyed partly on the Newport Railway and partly on the railway of the NorthBritish Railway Company.

8. During the continuance of the agreement hereby confirmed, the railways of the Company and the railways of the North British Railway Company, excepting that portion thereof which will cross, by means of a bridge, the river or firth of Tay, shall, for the purposes of short-distance tolls and charges, be considered as one railway; and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the Newport Railway and partly on the railway of the North British Railway Company, excepting as aforesaid, for a less distance than four miles, tolls and charges may only be charged as for four miles; and in respect of passengers, for every mile or fraction of a mile beyond four miles, tolls and charges as for one mile only; and in respect of animals and goods, for every quarter of a mile or fraction of a quarter of a mile beyond four miles, tolls and charges as for a quarter of a mile only; and no other short-distance charge shall be made for the conveyance of passengers, animals, or goods partly on the Newport Railway and partly on the railway of the North British Railway Company.

Railways not exempt from provisions of present and future general Acts.

9. Nothing herein contained shall be deemed or construed to exempt the Company from the provisions of any general Act relating to railways, or to the better or more impartial audit of the accounts of railway companies, now in force or which may here-

after pass during this or any future session of Parliament, or from any future revision or alteration, under the authority of Parliament, of the maximum rates of fares and charges, or of the rates for small parcels, by the Acts relating to the Company authorised.

Expenses of Act.

10. 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 North British Railway Company and the Company.

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SCHEDULE referred to in the foregoing Act.

AGREEMENT between the NORTH BRITISH RAILWAY COMPANY of the first part, and the NEWPORT RAILWAY COMPANY of the second part.

WHEREAS by "The Newport Railway Act, 1866," the said second parties were incorporated to construct a railway from the North British Railway to Newport, in the county of Fife, as therein particularly described: And whereas by "The Newport Railway Act, 1867," the said second parties were empowered to make a deviation from the works authorised in the said first-mentioned Act, and to abandon certain portions of such works: And whereas by the Newport Railway Act, 1870, the said second parties were empowered to extend the authorised Newport Railway to Long Craig in the county of Fife, and to abandon the deviation authorised in the last-recited Act: And whereas the line of the Newport Railway so extended will connect the proposed North British Tay Bridge Railway with the town of Ferryport-on-Craig and places intermediate: And whereas provision is made in the last-mentioned Act to the Companies, parties hereto, to enter into arrangements respecting the traffic and working of the said Newport Railway: And whereas the said first parties, upon the construction of the said Newport Railway as proposed to be extended, are willing to work and maintain the same on certain terms and conditions: Therefore the said parties hereto have agreed with each other, and do hereby agree and bind and oblige themselves to each other, in manner following:—

First. That the expression "North British Railway" where used in this agreement shall mean the railways of the North British Railway Company as incorporated by Act of Parliament, and all other railways, except the Newport Railway, leased to or worked by the North British Railway Company.

Second. That the contracts for the construction of the works of the said railway, and other expenditure incident to the formation thereof, shall be subject to the approval and control of the said first parties, and that the whole expenditure upon the undertaking of the said second parties shall not exceed the sum of sixty-one thousand three hundred pounds sterling.

Third. That when and so soon as the said Newport Railway, with all the necessary stations, sidings, buildings, turntables, signals, and other appliances necessary for working the traffic thereon economically and efficiently, shall have been constructed to the satisfaction of the engineer for the time being of the said first parties, and shall have been approved by the Government inspector, the said first parties shall take possession of the said railway for the purpose of working the same, and they shall work the traffic arising upon or passing along or to or from the said railway, and shall provide the necessary rolling stock and plant of every kind for the purpose of effectually working such traffic.

Fourth. That in the event of any additions or extensions to stations, sidings, offsets, or other conveniences of the said railway, at any time after the opening of the railway as aforesaid, in consequence of increased traffic or otherwise, being found by the joint committee of management after mentioned to be necessary or expedient for the proper working of the said traffic, such additions or extensions shall be provided by and at the expense of the said second parties.

Fifth. That after the lapse of six months from the opening of the said railway for public traffic under the sanction of the Board of Trade, the said first parties shall maintain in good order the said railway, and works, stations, and conveniences connected therewith.

Sixth. That for the said period of six months after the opening of the said railway for public traffic as aforesaid, the said railway, and works, stations, and conveniences connected therewith, shall be maintained by and at the cost of the said second parties, to the satisfaction of the said engineer of the said first parties.

Seventh. That the said first parties shall have the power of selecting and appointing all officers, agents, book-keepers, booking and other clerks, servants, porters, and others employed on the said Newport Railway, or required for keeping in the offices of the said first parties in Edinburgh the accounts connected with the traffic conveyed by them, or employed in superintending and directing or actually engaged in conducting such traffic, except surfacemen, for the first six months after the opening of the railway; and the said servants shall be paid by the said first parties, and shall be exclusively under their control; and the said second parties shall, in the same manner, have the appointment and control of and shall pay the secretary, treasurers, and other officers and servants required by them in the management of the capital, finance, and directorial departments of the undertaking.

Eighth. That the traffic of the said railway, including the fixing of the tolls, rates, and charges to be levied or taken in respect of said traffic, shall be managed and fixed by a joint committee, consisting of six persons, three of whom shall be named by the board of directors of the said first parties, and three by the directors of the said second parties (not being directors of the said first parties), and the chairman of the said committee shall be appointed by the said first parties, but shall have no casting vote; and all differences of opinion, when the said committee shall be equally divided, shall be referred to arbitration, in terms of and as if the same were specially referred to arbitration under "The Railway Companies Arbitration Act, 1859:" Provided always, that the said first parties shall have the right to fix the tolls, rates, and charges to be levied or taken in respect of through traffic.

Ninth. That the gross revenue accruing to the Newport Railway shall be ascertained and determined as follows; videlicet,

(1.) The entire receipts derived from all traffic which both arises and terminates upon the Newport Railway shall, subject only to deduction by the said first parties of the actual expense of cartage where incurred, belong and be credited to the Newport Railway Company.

(2.) The receipts derived from through traffic, passing from the Newport

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Railway to the North British Railway, or vice versâ, shall be first subject to deductions as follows; videlicet,

(A.) Parcels traffic:—A terminal allowance to each Company of one penny per parcel:

(B.) Goods traffic:—When conveyed between any station on the Newport Railway and Dundee, a terminal allowance to each Company of threepence per ton; when conveyed distances of not more than thirty miles, except upon Dundee traffic, a terminal allowance to each Company of ninepence per ton; when conveyed for distances above thirty miles, a terminal allowance to each Company of one shilling and sixpence per ton:

(C.) If traffic included in sub-sections (A.) and (B.) be carted, the actual expense of such cartage shall be repaid to the Company incurring the same:

(D.) Mineral traffic:—When conveyed distances less than eight miles, a terminal allowance to each Company of twopence per ton; when conveyed distances of eight miles and above, a terminal allowance to each Company of fourpence per ton:

(E.) Live stock traffic:—A terminal allowance to each Company of sixpence per waggon.

Subject to the deductions aforesaid, and to the qualification in regard to the mileage of the Tay Bridge after mentioned, the receipts derived from the said through North British Railway traffic shall be divided between the two Companies in the proportion of the actual mileage of their respective railways used: Provided always, that in the case of revenue arising from popular excursion trains, the division shall be the subject of special arrangement by the said joint committee.

(3.) The receipts derived from through foreign traffic, that is to say, traffic passing from the Newport railway to railways beyond the North British railway, or vice versâ, shall, subject to the qualification in regard to the mileage of the Tay Bridge after mentioned, be divided in accordance with the regulations of the Railway clearing-house for the time being.

(4.) In computing as between the parties hereto the mileage of rates and fares accruing to the said first parties in respect of traffic passing between Dundee or any station north of the Tay on the one hand, and any station on the Newport Railway on the other hand, or vice versâ, as well as between stations south of the River Tay, the Tay Bridge shall be measured and taken at its actual length, any enactment to the contrary notwithstanding.

Tenth. That the said first parties shall not be bound to send any traffic over or by the Newport Railway to places south thereof, except in those cases where that railway forms part of the shortest route; and with respect to all traffic between places on the Newport Railway and places north or south of the Tay, the said first parties shall have the option of forwarding such traffic by which of their alternative routes they may think proper, credit being given to the said second parties for the mileage proportion of all traffic north or south for which their line would form the shortest route, which, as between places on the Newport Railway and places north of the Tay and eastwards of Dundee, shall be held to be the Tay Bridge route.

Eleventh. In respect of the working and maintenance of the railway, it is hereby provided that, out of the gross revenues of the Newport Railway Company derived from the proposed railway, there shall be paid the actual expenses of the North British Company for cartage at the stations of the Newport Railway Company of such local traffic as may be carried at rates including cartage, and forty-five per cent. of the residue of such revenues for working and maintaining the line; and the remaining fifty-five per cent. shall be paid to the Newport Railway Company, and be applicable to the payment of dividends to the shareholders of the Newport Railway Company.

Twelfth. That seventy-five per cent. of the gross revenues which shall accrue upon the North British Railway in respect of additional traffic developed upon that railway through the formation of the proposed railway shall be retained by the said first parties, and the remaining twenty-five per cent. thereof shall be applicable towards payment of dividends to the shareholders of the Newport Railway Company.

Thirteenth. That the amount of revenue derived from additional traffic on the North British Railway arising from the construction of the proposed railway, the division of which is provided for in the preceding article, shall, for the purposes of this Agreement, be held to be the annual revenue derived by the second parties, after the opening of the proposed railway, from traffic between the North British Railway and the Newport Railway.

Fourteenth. That when and so long as the shareholders of the Newport Railway Company receive five and one half per centum per annum of dividend out of those portions of the proper revenues of the Newport Railway Company, and of the revenues derived from the aforesaid additional traffic, applicable to dividends as aforesaid, or from either of these sources, the whole residue and remainder of such revenues respectively, after deducting the payments to be made by the Newport Railway Company as aforesaid, shall be paid over to or retained by the said first parties, as the case may be.

Fifteenth. That out of the said second parties share of the gross receipts there shall be paid by them all public and parish burdens, including poor rates, county rates, prison assessments, and taxes generally, that may be chargeable upon the said railway in respect of the said line and works, also the governmental duty on passengers, and all payments (if any) to be made for land held or to be held by the Newport Railway Company in feu or lease, also all interest on loans, and dividends on share capital, and salaries, and office expenses disbursed in the office of the second party.

Sixteenth. That the said first parties shall cause to be kept regular books of accounts of all receipts, payments of money, and other transactions of or in relation to the traffic of the said Newport Railway, and shall permit the secretary of the said second parties for the time being, or any other person duly authorised by the directors of the said second parties, to have free access to and to inspect and take extracts from such books of accounts, and all other documents relating to the traffic of the said railway, at all reasonable times.

Seventeenth. That the said first parties shall collect and receive all revenues due and payable for and in respect of the traffic and the working of the said railway, and shall, before the expiration of every month, make up a statement

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of the gross earnings during the preceding month; and the share thereof due and payable to the said second parties shall thereupon be paid over to the directors for the time being of the said second parties, or to their treasurer or secretary, or such banker or other person as they shall direct and appoint.

Eighteenth. That this Agreement shall come into operation on the opening of the said Newport Railway as aforesaid, and shall subsist in perpetuity.

Nineteenth. That the said first parties shall have the option, at any time within seven years after the opening of the said Newport Railway for public traffic, to require the holders of shares in the said Newport Railway Company for the time being, in the reduced capital of forty-six thousand pounds, upon two months notice, to transfer to the said first parties the shares held by them respectively, upon payment of a price calculated at the rate of one hundred and ten pounds for each one hundred pounds of share capital expended.

Twentieth. That in the event of any disputes arising betwixt the parties hereto as to the true interpretation of the terms of or the mode of carrying out this Agreement, the same, except when otherwise provided by this Agreement, shall be, as they are hereby, referred to arbitration in manner provided by, and as if the same had been specially referred under the provisions of "The Railway Companies Arbitration Act, 1859."

Twenty-first. Both parties bind and oblige themselves respectively to each other that they shall implement and fulfil this Agreement under the liquidate and agreed on penalty of five thousand pounds sterling, which sum shall be payable as ascertained and liquidated damages consequent on the breach thereof, and not by way of penalty, with interest thereon at the rate of five per cent. from the date of said breach having been committed.

Lastly. That application shall be made to Parliament in the Session of 1873 to have this Agreement confirmed, and both parties consent to the registration hereof for preservation and execution.

In witness whereof these Presents printed upon this and the seven preceding pages, along with a duplicate hereof, are subscribed by John Berry, Esquire, of Tayfield, Newport, Fife, William Heriot Maitland Dougall, Esquire, of Scotscraig, Ferryport-on-Craig, Harry Walker, Esquire, of Westwood, Newport, Fife, and Peter Christie, Esquire, Mains of Scotscraig, near Ferryport-on-Craig, being the directors of the Newport Railway Company, and sealed with the common seal of the said Company, all in presence of and by authority of an extraordinary general meeting of the shareholders of the said Company, duly called and held at Newport on the thirtieth day of August in the year eighteen hundred and seventy-two, before these witnesses, William Gibb Proudfoot, reporter to the Dundee Advertiser Newspaper, residing in Dundee, and Robert Buttercase Kay, clerk to Messieurs Pattullo and Thornton, solicitors in Dundee; and are also subscribed by William Muir, Esquire, merchant, Leith, and Francis Maxwell, Esquire, St. Vincent Place, Glasgow, two of the directors, and John Walker, secretary of the said North British Railway Company, and sealed with the corporate seal of said Company, all at Edinburgh, upon the twelfth day of September in the year last mentioned, before these witnesses, James Fergusson and James Morrison Molle, both clerks in the head office, Edinburgh, of the said North British Railway Company, declaring that this testing clause, from and after the words "In witness whereof" is

written and inserted by James Monro, clerk to Adam Johnstone, solicitor to the said North British Railway Company, Edinburgh. A.D. 1873.

W. G. Proudfoot, witness.
R. B. Kay, witness.

John Berry, director.
W. H. Maitland Dougall, director.
H. Walker, director.
Peter Christie, director.

Seal of the Newport Railway Company.

J. Fergusson, witness.
J. M. Molle, witness.

William Muir, director.
Francis Maxwell, director.
J. Walker, Sey.

Seal of the North British Railway Company.

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1873.