CHAPTER cxl.

An Act to authorise the North British Railway Company to make several railways in the counties of Forfar and Lanark, to widen parts of their Glasgow and Coatbridge and Peebles Railways, to acquire additional lands for station purposes, to advance money for the purposes of the Borrowstounness Town and Harbour Act, 1875; to make further provision with respect to the Consolidation of Lien Stocks; and for other purposes. [4th July 1878.] A.D. 1878.

WHEREAS the following works would be of public advantage; (that is to say,)

1. A railway (in this Act called "Railway No. 1"), one furlong seven chains and fifty links in length, commencing in land of the North British Railway Company (in this Act called "the Company") reclaimed from the River Tay, by a junction there with an intended siding or sidings at the Company's Tay Bridge Station at Dundee, and terminating in Dock Street by a junction with the through Harbour Railway or Tramway belonging to the trustees of the harbour of Dundee, forty-five yards or thereabouts south-westward from the northernmost corner of Earl Grey Dock:
2. A railway in the parish of Maryhill and royal burgh of Glasgow, in the county of Lanark, (in this Act called "Railway No. 2,") four furlongs and twenty-five yards in length, from the Port Dundas Branch of the Company to near the spot where the Hamilton Hill toll-bar formerly stood, fifty yards or thereabouts southward from the junction of the Craighall Road with the Possil Road:
3. A railway in the same parish and royal burgh (in this Act called "Railway No. 3"), one furlong six chains and thirteen yards in length, from Railway No. 2 to near the goods shed at the Port Dundas Station of the Company:

A.D. 1878.

4. A widening of the Company's Glasgow and Coatbridge Railway, in the county of Lanark, from a point in the Barony parish of Glasgow seven hundred and nine yards or thereabouts eastward from the passenger booking office at the Company's Parkhead Station to a point in the parish of Shettlestone three hundred and seventy-six yards or thereabouts eastward from the passenger booking office of the Company's Shettlestone Station:

5. A widening of the Company's Peebles Railway from near the Company's Hawthornden Station to near the junction of the said Peebles Railway with the Esk Valley Railway:

And it is expedient that the Company should be authorised to make the said railways and works, and to purchase for station or other purposes connected with their undertaking certain lands in the parish of Borthwick, in the county of Edinburgh, and in the parishes of Springburn and Shettlestone, in the county of Lanark, and in the parishes of Bonhill and New Kilpatrick, in the county of Dumbarton, and in the parishes of Markinch and Collessie, in the county of Fife; and that Railway No. 1 should, when made, form part of the undertaking of the trustees of the harbour of Dundee, and should be used by the said trustees and the Company respectively for harbour and railway traffic:

And whereas plans and sections showing the lines, situations, and levels of the intended railways and works, and plans describing the additional lands required for station and other purposes as aforesaid, and books of reference to such plans containing the names of the owners or reputed owners, lessees or reputed lessees, and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act have been deposited as follows; that is to say, as regards Railway No. 1, which Railway No. 1 is on the said plans described as "the tramway," with the principal sheriff clerk for the county of Forfar, at his offices in Forfar and Dundee respectively; as regards Railways No. 2 and No. 3, the widening of the Glasgow and Coatbridge Railway, and all lands in the county of Lanark, with the principal sheriff clerk for that county, at his offices at Glasgow, Lanark, Hamilton, and Airdrie respectively; as regards the widening of the Peebles Railway, and all lands in the county of Edinburgh, with the principal sheriff clerk for that county, at his office in Edinburgh; as regards all lands in the county of Dumbarton, with the principal sheriff clerk for that county, at his office in Dumbarton; and as regards all lands in the county of Fife, with the principal sheriff clerk for that county, at his offices in Cupar and Dunfermline respectively; which

said documents are in this Act respectively referred to as the deposited plans, sections, and books of reference:

And whereas an agreement (set forth in the schedule to this Act) has been entered into between the Caledonian Railway Company and the Company for (amongst other things) transferring to the Company certain lands which they require for the enlargement of their station at Dundee, and it is expedient that the said agreement should be confirmed:

And whereas by the Borrowstounness Town and Harbour Act, 1875, the trustees thereby constituted (in this Act called "the Bo'ness trustees") were authorised to construct a quay wall, pier, sea wall, dock, or basin, and other works therein described, and to borrow for the purposes of the said dock or basin seventy-five thousand pounds, and for extending and improving the harbour and making the harbour works authorised by the Act one hundred and ten thousand pounds, on the security of the harbour undertaking, and of the rates, tolls, and duties, and other harbour revenues; and certain powers were given to the Company as to laying down lines of railway to connect their railway with the said harbour and dock: 38 & 39 Vict. c. cxxxvii. ss. 27 and 28. s. 42. s. 30.

And whereas the railway of the Company affords the only access by railway to the town and harbour of Borrowstounness, and the Company are interested in the improvement of the said harbour and the construction of the dock and works authorised by the said Act, and it is expedient that they should be empowered to advance money to the Bo'ness trustees for the purposes of the said Act, on the security aforesaid, and to raise the amount of their advances, or any part thereof, by mortgage of the interest or annual payments to be made to them in respect of such advances:

And whereas by the North British Railway (Tay Bridge and Railways) Act, 1870, (in this Act called "the Tay Bridge Act, 1870,") the Company were authorised to make the bridge across the River Tay, and the railways in connexion therewith therein described, and to raise a capital of three hundred and fifty thousand pounds in shares or stock, and to borrow one hundred and sixteen thousand pounds on mortgage for the purposes of the undertaking; and the railways and works authorised by the Act were constituted a separate undertaking, to be called "the Tay Bridge undertaking;" and it was enacted that the separate undertaking should not be deemed part of the undertaking of the Company, so as to be chargeable with or liable for the principal or interest moneys for the time being due on any mortgage of the Company, except mortgages granted under the powers of the Act, or so as to be chargeable with or liable for any other debts, engagements, or liabilities of the Company, except such as the separate undertaking might be 33 & 34 Vict. c. cxxxv. s. 32. s. 35. s. 29.

A.D. 1878.

s. 30.

specially liable for under or by virtue of any agreement entered into between the Company and the subscribers for the separate undertaking; and the Company and the said subscribers were authorised to enter into agreements with respect to the amount of dividends to be assigned to the capital of the separate undertaking, and the mode of securing the same upon the separate undertaking and the revenues thereof, and with respect to the other purposes therein mentioned:

And whereas by an agreement between the Company of the first part, and the subscribers to the Tay Bridge undertaking, dated the second day of June one thousand eight hundred and seventy, the seventh day of January one thousand eight hundred and seventy-one, and on several intermediate days, provision was made for the construction and working of the separate undertaking, and the raising of the capital required for the purposes thereof; and it was, amongst other things, agreed that the undertaking should be completed and opened for traffic by the first day of November one thousand eight hundred and seventy-three, and that the dividends on the separate capital of three hundred and fifty thousand pounds should form a first charge on the revenues of the undertaking, and should be at the rate of five and a quarter per centum per annum from the first day of November one thousand eight hundred and seventy-three, and that for payment of such dividends the said subscribers should have a first and preferable lien over the works comprised in the separate undertaking and the revenues thereof, and that the borrowing power conferred by the Tay Bridge Act, 1870, should not be exercised without the consent of the subscribers:

And whereas the Company have raised the said capital of three hundred and fifty thousand pounds by the creation and issue of shares for that amount in the separate undertaking, with such first and preferable lien as aforesaid, and such shares have since been converted into lien stock, and the power to borrow money on mortgage of the separate undertaking has not been exercised:

32 & 33 Vict. c. lxxxi.

And whereas under powers conferred by the twenty-seventh section of the North British Railway Act, 1869, (in this Act called "the Act of 1869,") the railways and works therein referred to have been formed into a separate undertaking of the Company, called "the Stobcross undertaking," and the capital in such separate undertaking, amounting to the sum of three hundred thousand pounds, is a lien stock of the Company:

33 & 34 Vict. c. civ.

And whereas under or by virtue of the North British Railway (General Powers) Act, 1870, (in this Act called "the General Powers Act, 1870,") and of an agreement between the Company

and the trustees of the Clyde Navigation (in this Act called "the Clyde trustees"), set forth in the Schedule (B.) to the General Powers Act, 1870, and confirmed by section twenty-two of that Act, the Clyde trustees are the holders of one hundred and fifty thousand pounds lien stock in the Stobcross undertaking of the Company, having priority over all other charges on that undertaking; and the Company are empowered, at any time within ten years from the opening of the Stobcross undertaking, to redeem the said lien stock upon the terms in the said agreement mentioned:

And whereas the Stobcross undertaking is now opened for traffic:

And whereas by the General Powers Act, 1870, provisions are enacted for facilitating the consolidation of the several classes of lien stock therein named, and it is expedient that such provisions should be extended and made applicable as well to the lien stock in the Stobcross undertaking as to the lien stock in the Tay Bridge undertaking:

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 North British Railway Act, 1878.

Incorporation of general Acts. 8 & 9 Vict. c. 19. 23 & 24 Vict. c. 106. 8 & 9 Vict. c. 33. 26 & 27 Vict. c. 92. 8 & 9 Vict. c. 17.

2. The Lands Clauses Consolidation (Scotland) Act, 1845, the Lands Clauses Consolidation Acts Amendment Act, 1860, the Railways Clauses Consolidation (Scotland) Act, 1845, Part I. of the Railways Clauses Act, 1863, relating to construction of a railway, and the provisions of the Companies Clauses Consolidation (Scotland) Act, 1845, with respect to the several matters following; (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 nonpayment 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 the borrowed money into capital, the consolidation of the shares into stock, the giving of notices, and the provision to be made for affording access to the special Act; Parts I., II., and III. of the Companies Clauses Act, 1863, relating respectively to cancellation and surrender of shares, to additional capital, and to debenture stock, are (except where expressly varied by or inconsistent with this Act) incorporated with and form part of this Act.

26 & 27 Vict. c. 118.

A.D. 1878.

Interpretation of terms.

3. In this Act—

The expression "the incorporated Acts" shall mean the Acts and parts of Acts incorporated with this Act:

The several words and expressions to which meanings are assigned by the incorporated Acts shall have the same respective meanings:

In the incorporated Acts—

The expression "the special Act" shall mean this Act:

In this Act and the incorporated Acts—

The expression "the Company" or "the promoters of the undertaking," or other like expression, shall mean the North British Railway Company;

unless in any of the cases aforesaid there be something in the subject or context repugnant to such construction.

Power to make railways, &c. according to deposited plans.

4. Subject to the provisions of this Act, the Company may make and maintain, in the line and according to the levels shown on the deposited plans and sections, the railways and works hereinbefore described, with all proper stations, sidings, approaches, works, and conveniences connected therewith respectively, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for those purposes: Provided always, that the provisions of the Lands Clauses Consolidation (Scotland) Act, 1845, with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the entry upon lands by the promoters of the undertaking, shall not be applicable in the case of any lands required for the purposes of Railway No. 2 or Railway No. 3.

8 & 9 Vict. c. 19.

Railway to form part of Company's undertaking.

5. Subject to the provisions herein-after contained for limiting the rates of tolls and charges, the new railways by this Act authorised (except Railway No. 1) shall for the purposes of toll, and in all other respects, form part of the undertaking of the Company.

Provisions as to Railway No. 1.

6. With respect to Railway No. 1, the following provisions shall apply:

1. The railway shall be made by the Company at their own cost, according to a plan to be approved of by the harbour engineer of Dundee and the surveyor of the commissioners of police of the burgh of Dundee, and when so constructed shall form part of the undertaking of the trustees of the harbour of Dundee, and be vested in them as such under their existing Acts, subject to the following provisions:

2. The said trustees and the Company shall respectively have the use of the railway for railway and harbour traffic without payment of toll or charge by the one to the other; the Company, in lieu of dues or rates or any other charge, paying to the magistrates and town council of the royal burgh of Dundee and the commissioners of police, by way of rent for the privilege, in so far as the railway is laid on or over their property, the sum of one pound per annum:

3. The use by the Company of the railway shall be subject to such rules and regulations as the said trustees and commissioners may from time to time prescribe:

4. The railway shall be maintained by the Company to the reasonable satisfaction of the said commissioners of police, and if at any time after the expiration of two years from its being completed the said commissioners shall give to the Company twelve months premonition to remove the railway on the ground that the same is found to be attended with real inconvenience to the public, the Company shall, at or before the expiration of such twelve months, take up and remove the rails:

5. No locomotive or mechanical power, and no other than animal power, shall be used except within the Company's station.

Limiting time for compulsory purchase.

7. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Existing level crossings and dimensions of bridges may be maintained.

8. In executing and maintaining the widening of the Glasgow and Coatbridge Railway and the Peebles Railway respectively, the Company may lay down and maintain an additional line of railway across and on the level of the several roads which the railway to be widened crosses on the level, and may (except as herein-after provided) construct the bridges for effecting such widening of the same height, span, and dimensions as the existing bridges, but no such additional line shall be laid down when a road is already crossed on the level by two or more lines of railway: Provided always, that in the execution of the works for widening the Glasgow and Coatbridge Railway through the estate of Carntyne, the bridges to be formed over the road or avenue near the commencement of the proposed doubling of the line, and over the road No. 5 of the parish of Shettleston on the deposited plans, shall be so formed, and the existing bridges over the said road shall be so altered, that the passages under the bridges shall respectively be of an uniform clear width of forty feet between the walls, and have a clear headway throughout of not less than twelve feet: Provided also, that

A.D. 1878.

the owners of the said estate shall contribute and pay to the Company the sum of four hundred pounds towards the expense of the formation of such bridges.

As to crossing of Caledonian Railway No. 2, authorised by Act of 1876.

39 & 40 Vict. c. lxiv.

9. And whereas by the Caledonian Railway (Additional Powers) Act, 1876, the Caledonian Railway Company are authorised to make a railway (therein called "Railway No. 2") which will pass under the Glasgow and Coatbridge Railway, and provisions are enacted in the said Act with respect to the bridge to be made by the said Company for carrying the Glasgow and Coatbridge Railway, with four lines of rails, over the said Railway No. 2: Be it enacted, that in exercising the powers of this Act for widening the Glasgow and Coatbridge Railway, the Company shall not in any way injure or interfere with the construction, maintenance, or use of the said Railway No. 2, and the Caledonian Railway Company shall not be chargeable with or liable for any additional expense with respect to the said bridge beyond the amount which they would have been liable for under the said Act if this Act had not been passed, but all such additional expense shall be borne by the Company.

Power to take easements, &c. by agreement.

8 & 9 Vict. c. 19.

23 & 24 Vict. c. 106.

10. Persons empowered by the Lands Clauses Consolidation (Scotland) Act, 1845, to sell and convey or release lands may, if they think fit, subject to the provisions of that Act, and of the Lands Clauses Consolidation Acts Amendment Act, 1860, and of this Act, grant to the Company any easement, right, or privilege, not being an easement of water, required for the purposes of this Act, in, over, or affecting any such lands; and the provisions of the said Acts with respect to lands and rentcharges, so far as the same are applicable in this behalf, shall extend and apply to such grants, and to such easements, rights, and privileges as aforesaid respectively.

Company liable to penalty unless line is opened within time limited.

11. If the Company fail within the period limited by this Act to complete the railways, the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited, until the railways are completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the railways or railway not completed; and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act, or by the Solicitor of Her Majesty's Treasury, and in the same manner as the penalty provided in section three of the Railway and Canal Traffic Act, 1854; and every sum of money recovered by way of such penalty as aforesaid shall be paid,

17 & 18 Vict. c. 31.

under the warrant or order of such court or judge as is specified in that section, to an account opened or to be opened, in the name and with the privity of the Queen's Remembrancer of the Court of Exchequer in Scotland, in the bank named in such warrant or order, and shall not be paid thereout except as herein-after provided; but no penalty shall accrue in respect of any time during which it shall appear, by a certificate to be obtained from the Board of Trade, that the Company were prevented from completing or opening the railway by unforeseen accident or circumstances beyond their control; provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Application of penalty.

12. Every sum of money so recovered by way of penalty 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 railways not completed, or any of them, or any portion thereof respectively, or who may have been 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 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 Exchequer in Scotland may seem fit; and if no such compensation shall be payable, or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum or sums of money recovered by way of penalty, 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 Exchequer 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 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.

Period for completion of works.

13. If the new railways and works by this Act authorised and herein-before described are not completed within five years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Company for making and com-

A.D. 1878.

pleting the new railways and works, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as are then completed.

Tolls.

14. The Company may demand and take, in respect of the new railways by this Act authorised (including Railway No. 1, for all traffic except traffic of the harbour trustees), such tolls and charges as they think fit, not exceeding the rates of tolls and charges authorised to be taken on the Border Union line of the North British Railway under the Border Union (North British) Railways Act, 1859, as modified by the second and third sections of the Schedule (B.) to the North British and Edinburgh and Glasgow Railway Companies Amalgamation Act, 1865, and in estimating the amount of toll or charge in respect of any traffic conveyed partly on the new railways by this Act authorised (including Railway No. 1) and partly on any other railways of the Company, the new railways by this Act authorised and such other railways shall be deemed one railway.

22 & 23 Vict. c. xliii.

28 & 29 Vict. c. cccviii.

Power to purchase lands for station purposes, &c.

15. Subject to the provisions in this Act contained, the Company may enter upon, take, and use all or any of the lands in the parish of Borthwick, in the county of Edinburgh, in the parish of Springburn and royal burgh of Glasgow, and in the parish of Shettlestone, in the county of Lanark, in the parishes of Bonhill and New Kilpatrick, in the county of Dumbarton, and in the parishes of Markinch and Collessie, in the county of Fife, which are delineated on the deposited plans and described in the deposited books of reference.

Confirming agreement with Caledonian Railway Company.

16. The agreement between the Caledonian Railway Company and the Company, dated the twenty-first and twenty-second days of March one thousand eight hundred and seventy-eight, relating to certain lands at Dundee, which is set forth in the schedule to this Act, is hereby confirmed, and shall be obligatory on the said Companies respectively.

Power to make advances on mortgage to the Bo'ness trustees.

17. The Company may from time to time advance to the Bo'ness trustees, on the securities mentioned in section forty-two of the Bo'ness Harbour Act, 1875, any sum or sums that the Company think fit, not exceeding in the whole the amount of one hundred and eighty-five thousand pounds, and all moneys so advanced shall be applied by the said trustees in the construction of the dock and works authorised by that Act.

Power to apply existing capital to purposes of this Act.

18. The Company may raise and apply to the purposes of this Act any money which they are authorised to raise by any other Act, and which may not be required for purposes to which by that Act it is authorised to be applied.

A.D. 1878.

Power for Company to raise capital by shares or stock.

26 & 27 Vict. c. 118.

19. The Company may, subject to the provisions of Part II. of the Companies Clauses Act, 1863, raise, by the creation and issue, at their option, of ordinary shares or stock or new preference shares or stock, or wholly or partially by one or more of those modes respectively, any additional capital not exceeding in the whole the several amounts following; (that is to say,) with respect to any advances made by them under this Act to the Bo'ness trustees the amount of one hundred and eighty-five thousand pounds, and with respect to the other purposes of this Act the amount of two hundred and forty thousand pounds.

Shares or stock to form part of Company's general capital.

20. All shares or stock to be created by the Company under the authority of this Act shall, subject to the provisions of this Act, form part of the general capital of the Company.

Shares not to issue until one-fifth part paid up.

21. It shall not be lawful for the Company to issue any share to be created under the powers of this Act, nor shall any such share vest in the person accepting the same unless and until a sum not being less than one-fifth part of the amount of such share shall have been paid up in respect thereof.

Calls.

22. Twenty per centum on the amount of any share shall be the largest amount of any call which may be made thereon, and there shall be an interval of not less than three months between any two successive calls, and the Company shall not call up more than three fourths of a share in any year.

Power to borrow on mortgage.

23. The Company, in addition to any sums which they are authorised to borrow under other Acts of Parliament, may from time to time borrow on mortgage, in respect of the additional capital of two hundred and forty thousand pounds by this Act authorised to be raised by shares or stock, any sums not exceeding in the whole eighty thousand pounds, but no part thereof shall be borrowed until the whole capital of two hundred and forty thousand pounds is issued and accepted, and one half thereof is paid up, and the Company have proved to the sheriff who is to certify under the forty-second section of the Companies Clauses Consolidation (Scotland) Act, 1845, before he so certifies, that the whole of such capital has been issued and accepted, and that one half thereof has been paid up, and that not less than one-fifth part of the amount of each separate share, or the whole amount in the case of stock, has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide, and is held by the persons or corporations to whom the same was issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, their executors, administrators, successors, or assigns, are legally liable for the same; and upon production

8 & 9 Vict. c. 17.

A.D. 1878.

to such sheriff of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proofs aforesaid have been given, which certificate shall be sufficient evidence thereof.

Provisions of 40 & 41 Vict. cc. lviii. and lxi. as to appointment of a receiver or judicial factor repealed.

24. The provisions of the North British Railway (Additional Works and Powers) Act, 1877, and of the North British Railway (Station Enlargement and Railways) Act, 1877, and of the North British Railway (Amalgamations) Act, 1877, authorising the appointment of a receiver or 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 receiver or 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.

As to appointment of a receiver or judicial factor.

25. 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 receiver or judicial factor. In order to authorise the appointment of a receiver or judicial factor in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver or judicial factor is made shall not be less than ten thousand pounds in the whole.

Existing mortgages to have priority.

26. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing hereof, shall, during the continuance of such mortgages, and as regards the undertaking comprised in and assigned by such mortgages, and subject to the provisions of the Acts under which such mortgages were respectively granted, have priority over all mortgages to be granted by virtue of this Act; but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Debenture stock.

26 & 27 Vict. c. 118.

27. The Company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863; but, notwithstanding anything therein contained, the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Power to raise the loan to Bo'ness

28. Instead of raising the sum of one hundred and eighty-five thousand pounds by this Act authorised to be advanced on loan to the Bo'ness trustees by the creation of shares or stock, the Com-

pany may, if they think fit, raise the said sum by mortgage or bond on or over the interest or other annual payments to be made to the Company in respect of all or any of their advances, but no such mortgage or bond shall be a charge on the general undertaking of the Company.

trustees by mortgage of the receipts.

29. All moneys raised under this Act, whether by shares, or stock, or debenture stock, or borrowing, shall be applied for the purposes of this Act only.

Application of money raised under Act.

30. The provisions contained in the General Powers Act, 1870, for facilitating the consolidation of the several classes of lien stock therein named shall extend and be applicable to the lien stock in the Stobcross undertaking, and to lien stock in the Tay Bridge undertaking, in like manner in all respects as if those provisions had specifically referred and applied to such lien stocks as well as to the several classes of lien stock named in the said Act: Provided always, that so long as the lien stock held by the Clyde trustees in the Stobcross undertaking continues unredeemed, nothing in this Act shall prejudice or affect the priority of that lien stock over the other lien stock in the same undertaking; but the Company may raise any amount they may require for the redemption of that stock by the creation and issue of lien stock in the Stobcross undertaking to an amount not exceeding one hundred and fifty thousand pounds, which shall rank pari passu as regards payment of dividend, and have equal right and privileges as regards lien, and in all other respects with the other lien stock in the Stobcross undertaking not held by the Clyde trustees.

Extending to lien stock provisions of former Act for consolidation of lien stocks.

31. The Company shall not, out of any money by this or any other Act authorised to be raised, pay interest or dividend 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.

Interest not to be paid on calls paid up.

8 & 9 Vict. c. 37.

32. The Company shall not, out of any money by this or any other Act authorised to be raised, pay or deposit any sum which, by any standing order of either House of Parliament now or hereafter in force, may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway, or to execute any other work or undertaking.

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

33. Nothing in this Act contained shall exempt the railways by this Act authorised to be made from the provisions of any general

Railways not exempt from provisions of

A.D. 1878.

present and future general Railway Acts.

Act relating to railways, or the better and more impartial audit of the accounts of railway companies, now in force or which may hereafter pass during this or any future session of Parliament, or from any future revision or alteration, under the authority of Parliament, of the maximum rates of fares and charges, or of the rates for small parcels, authorised by this Act.

Expenses of Act.

34. 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.

SCHEDULE to which the foregoing Act refers.

AGREEMENT between the Caledonian Railway Company (herein-after called the Caledonian Company) of the first part, and the North British Railway Company (herein-after called the North British Company) of the second part.

WHEREAS the said parties have respectively introduced into Parliament, in the present session, Bills by which each of them seeks to acquire for station purposes the same lands at Dundee; and it has been agreed between them that, so far as they are respectively concerned, the Caledonian Company shall have right to acquire the said lands in the manner and subject to the provisions herein-after contained; and that, in lieu of the claims of the North British Company to the said lands under the Bill introduced by them as aforesaid, and under the agreements herein-after mentioned, the Caledonian Company shall convey to them for station purposes certain other lands near thereto, now belonging to the Caledonian Company, and afford them the access and facilities herein-after mentioned: Now, therefore, these presents witness that it has been agreed between the said parties as follows; videlicet,

First.—The Caledonian Company adopt and shall fulfil and relieve the North British Company of all the obligations of the last-named Company under an agreement, dated the twenty-seventh day of March eighteen hundred and seventy-seven, entered into between John McFarlane, solicitor, Dundee, of the first part, and George Bradley Wieland, secretary and on behalf of the North British Company, of the second part, with respect to the acquisition by the North British Company of certain portions of the first-mentioned lands and other matters relative thereto, in the same manner as if the name of the Caledonian Company had been inserted in the said agreement instead of the name of the North British Company; and the Caledonian Company shall be entitled to all the rights of the North British Company under the said agreement. The Caledonian Company likewise adopt the agreement between David Martin's trustees and the North British Company for the purchase by the North British Company of that part of the said first-mentioned lands called Dalgleish's property, and shall be entitled to the rights and subject to the obligations of the North British Company under that agreement.

Second.—The Caledonian Company may, at their own cost, acquire, and, subject to the provision herein-after contained, retain for their own use, any lands which they may take or may be bound to take under the said agreement between John McFarlane and George Bradley Wieland, and the said lands purchased by the North British Company from David Martin's trustees, and any other lands at Dundee which they may take, under the powers of the Bill introduced by them as aforesaid, within three years after the date hereof.

Third.—The Caledonian Company shall convey to the North British Company the land coloured yellow on the plan signed as relative hereto, extending to but

A.D. 1878

not exceeding five and a half acres, in consideration of a price per acre calculated at the average rate per acre which the Caledonian Company shall pay for the whole of the lands which they shall acquire under Article Second hereof, including the cost of acquiring the same. As soon as the Caledonian Company shall have acquired not less than five and a half acres of such last-mentioned lands, which they shall be bound to do within two years after the date hereof, the North British Company shall pay to them on account of such price a rate per acre equal to the average rate per acre paid by the Caledonian Company for the lands then acquired by them, including as aforesaid, and on payment of that sum the said conveyance to the North British Company shall be delivered. On the expiration of three years after the date hereof the North British Company shall pay to the Caledonian Company any balance then appearing due of the said price calculated as aforesaid, or, as the case may be, the Caledonian Company shall repay to the North British Company any excess of the sum previously paid by them above the amount of the price calculated as aforesaid as then appearing. If any part of the lands acquired by the Caledonian Company as aforesaid shall be acquired in consideration of a feu duty instead of a gross sum, a corresponding proportion of the price payable by the North British Company as aforesaid shall, unless the parties otherwise agree, be converted into a feu duty, at the rate of four and a half per cent. on such price.

Fourth.—The North British Company may, if they think fit, construct within ten years after the date hereof a viaduct on pillars over the railways and lands of the Caledonian Company, in the line shown on the said plan, between the points marked thereon B. and C., as part of an access between the North British Company's lands on the south side of the Caledonian Company's railways and the Magdalene Yard Road. Such viaduct may be of any width between the parapets not exceeding twenty-five feet; and the dimensions and position of the pillars, and the clear height, spans, and mode of construction of the viaduct, shall be determined by the engineers of the said companies for the time being, or, if they differ, by an engineer to be agreed upon by them, or, failing such agreement, to be appointed by the Board of Trade; provided always, that none of the spans need exceed thirty-five feet. The pillars of the said viaduct shall be placed on the lands of the Caledonian Company, without charge for such lands. If required by the North British Company, within three years after the date hereof, the Caledonian Company shall acquire the land necessary for enabling the North British Company to continue the said access of the same width from the said point marked B. to the point marked A. on the said plan, and shall convey such land to the North British Company, on payment of the same rate per acre as the North British Company are to pay for the other lands to be conveyed to them under Article Third hereof.

Fifth.—The Caledonian Company shall convey to the North British Company, without price, the small strip of land, coloured green on the said plan, lying between the Caledonian Company's Dundee and Perth Railway and the North British Company's Tay Bridge Railway, No. 2, to enable the North British Company to lay down an additional line of rails on the last-mentioned railway, provided that the northmost rail of the North British Company shall not be nearer than eight feet at any point to the southmost rail of the Caledonian Company.

Sixth.—The Caledonian Company shall, during the two years next following the date hereof, afford all reasonable facilities to the North British Company for enabling the last-named Company to fill up the land to be conveyed to them under the provisions of Article Third hereof.

Seventh.—The lands referred to in Articles Second and Third hereof, when acquired by the said Companies respectively as aforesaid, shall in all respects be deemed to be parts of the stations of such respective Companies to which they adjoin, and be subject to the reciprocal rights and obligations of the said Companies with respect to such stations.

Eighth.—This agreement is made subject to such alterations as Parliament may think fit to make therein; but if the Committee on the Bill by which it is proposed that this agreement shall be confirmed shall make any material alteration therein, it shall be competent for either party to withdraw from the same.

In witness whereof, these presents, printed (except this testing clause) on this and the two preceding pages, are, along with the relative plan, executed in duplicate as follows; that is to say, they are subscribed by Hugh Brown and John Cowan, Esquires, two of the directors of the Caledonian Company, for and on behalf of that Company, at London, on the twenty-first day of March one thousand eight hundred and seventy-eight, before these witnesses, James Kerr, writer in Glasgow, solicitor to the Caledonian Company, and William More, his clerk; and they are subscribed by John Stirling, Esq., of Kippendavie, and the Right Honourable William Patrick Adam, of Blair Adam, M.P., two of the directors of the North British Company, for and on behalf of that Company, at London, on the twenty-second day of the last-mentioned month and year, before these witnesses, Adam Johnstone, solicitor, and John Walker, general manager, both to the North British Company; declaring that this testing clause, from and after the words "In witness whereof," is written and inserted by George Jackson, writer in Glasgow.

JAMES KERR, Witness.
WILLIAM MORE, Witness.
AD. JOHNSTONE, Witness.
J. WALKER, Witness.

HUGH BROWN, Director.
JOHN COWAN, Director.
JOHN STIRLING.
W. P. ADAM, Director.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1878.