CHAPTER xxxix.

An Act to empower the North British Railway Company to improve their Harbour at Methil in the County of Fife and to construct a new Dock there and other works in connexion therewith and for other purposes. A.D. 1891.

[11th June 1891.]

WHEREAS under the provisions of the North British Railway Act 1889 the North British Railway Company (in this Act called "the Company") acquired and now own and work in connexion with their undertaking the harbour and dock of Methil in the county of Fife:

And whereas it is expedient that the Company should be authorised to extend enlarge and improve the said harbour and dock and to construct the dock quays and other works by this Act authorised:

And whereas plans and sections showing the lines and levels of the works by this Act authorised and the lands required or which may be taken for the purposes or under the powers of this Act and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of those lands were duly deposited with the principal sheriff clerk for the county of Fife and are in this Act respectively referred to as the deposited plans sections and books of reference:

And whereas it is expedient that the Company should be authorised to raise further capital for the purposes of this Act:

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

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

1. This Act may be cited for all purposes as the North British Railway (Methil Harbour) Act 1891. Short title.

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Incorporation of general Acts.

2. The Lands Clauses Acts the Railways Clauses Consolidation (Scotland) Act 1845 Part I of the Railways Clauses Act 1863 relating to construction of a railway the Harbours Docks and Piers Clauses Act 1847 (except sections sixteen to nineteen both inclusive unless and until the Board of Trade shall require a lifeboat and a tide or weather gauge or either of them to be kept) 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 the non-payment of calls the remedies of creditors of the Company against the shareholders the borrowing of money by the Company on mortgage or bond the conversion of 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 and 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.

Interpretation.

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:

The expression "the Company" or "the promoters of the undertaking" shall mean the North British Railway Company:

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

Extending harbour limits.

4. The limits of Methil Harbour as defined by the Methil Harbour Order 1883 are hereby extended and the limits to which the said Order and this Act shall extend and within which the Company shall have authority shall comprise the works by the said Order and this Act authorised and shall include the area below high-water mark within a radius of six hundred yards from the southernmost point of the pier or breakwater authorised by this Act.

Power to construct new dock

5. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the

deposited plans and sections the works herein-after described and may exercise the other powers herein-after mentioned 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 (that is to say) :— A.D. 1891. and other works.

The works herein-before referred to and authorised by this Act are—

(1) A wet dock six and a half acres in extent or thereabouts to be situate immediately to the southward of the existing wet dock at Methil :

(2) An entrance to the said wet dock fifty feet or thereabouts in width situate eighty yards or thereabouts westward from the pier head of the present east pier :

(3) A quay (No. 1) commencing at the west side of the said entrance passing along the south west and north sides of the said proposed wet dock and terminating at the west side of the entrance to the said existing wet dock :

(4) A quay (No. 2) commencing at the east side of the said entrance to the existing wet dock passing along the north east and south sides of the said proposed wet dock and terminating at the east side of the said proposed entrance :

(5) A pier or breakwater being an extension of the existing east pier commencing at the pier head of the said existing east pier and extending southwards and terminating at a point three hundred and thirty yards or thereabouts southwards of the said pier head of the existing east pier :

(6) A sea wall (No. 1) commencing in the bed or shore of the Firth of Forth at or near high-water mark of ordinary spring tides at a point three hundred and twenty yards or thereabouts south-westward of the west end of the present west sea wall at Methil and terminating at a point one hundred and seventy yards or thereabouts south-westward of the said pier head of the existing east pier :

(7) A sea wall (No. 2) commencing by a junction with sea wall No. 1 at a point one hundred and fifty yards or thereabouts westward of the point herein-before described as the point of termination of sea wall No. 1 and terminating at the before-mentioned entrance to the proposed wet dock :

(8) An entrance channel commencing at the entrance to the wet dock herein-before described extending seaward and terminating at a point three hundred and thirty yards or thereabouts southward of the pier head of the existing east pier :

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(9) A deviation of a portion of the railway of the Company between Methil and Leven commencing at a point sixty yards or thereabouts south-eastward from the station house at Methil passenger station and terminating at a point forty-five yards or thereabouts north-westward from the south-west corner of the existing dock at Methil:

The dock and other works in connexion therewith shall for the purposes of rates and other charges and for other purposes form part of the Methil Harbour as defined in and authorised by the Methil Harbour Order 1883 transferred to and vested in the Company under the provisions of the North British Railway Act 1889 and now forming part of the undertaking of the Company and the deviation of the portion of the railway herein-before described shall for the purpose of tolls rates duties and other charges and for other purposes form part of the undertaking of the Company.

Power to deviate.

6. The Company may deviate laterally from the lines of the works authorised by this Act to the extent marked on the deposited plans and may deviate vertically from the levels defined on the deposited sections to any extent not exceeding five feet Provided that no deviation either lateral or vertical below high-water mark shall be made without the consent in writing of the Board of Trade.

Period for compulsory purchase of lands.

7. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Company to provide and maintain office for use of Customs.

8. The Company shall to the satisfaction of the Commissioners of Customs provide and at all times repair and maintain free of rent or charge a suitable and convenient office within the harbour limits as a Custom House for the use of the collector and other officers of Her Majesty's Customs.

Period for completion of works.

9. If the dock and other works by this Act authorised to be constructed are not completed within seven 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 completing the same or otherwise in relation thereto shall cease except as to so much thereof respectively as shall then be completed.

Power to take servitudes &c. by agreement.

10. Persons empowered by the Lands Clauses Acts to sell and convey lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any servitude right or

privilege not being a servitude of water required for the purposes of this Act in over through or affecting any such lands and the provisions of the said Acts with respect to lands and feu-duties or ground annuals as far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively.

Restrictions on displacing persons of labouring class.

11. (1) The Company shall not under the powers of this Act purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1867 ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until—

(A) They shall have obtained the approval of the Secretary for Scotland to a scheme for providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of December last or for such number of persons as the Secretary for Scotland shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such persons and to all the circumstances of the case ; and

(B) They shall have given security to the satisfaction of the Secretary for Scotland for the carrying out of the scheme.

(2) The approval of the Secretary for Scotland to any scheme under this section may be given either absolutely or conditionally and after the Secretary for Scotland has approved of any such scheme he may from time to time approve either absolutely or conditionally of any modifications in the scheme.

(3) Every scheme under this section shall contain provisions prescribing the time within which it shall be carried out and shall require the new dwellings proposed to be provided under the scheme to be completed fit for occupation before the persons residing in the houses in respect of which the scheme is made are displaced :

Provided that the Secretary for Scotland may dispense with the last-mentioned requirement subject to such conditions (if any) as he may see fit.

(4) Any provisions of any scheme under this section or any conditions subject to which the Secretary for Scotland may have approved of any such scheme or of any modifications of any such scheme or subject to which he may have dispensed with the above-

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mentioned requirement shall be enforceable by an order of the Court of Session to be obtained by the Secretary for Scotland.

(5) If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary for Scotland by action in the Court of Session and shall be carried to and form part of the Consolidated Fund of the United Kingdom:

Provided that the court may if it think fit reduce such penalty.

(6) For the purpose of carrying out any scheme under this section the Company may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require and for the purpose of any such purchase section ninety of the Public Health (Scotland) Act 1867 shall be incorporated with this Act and shall apply to the purchase of lands by the Company for the purposes of any scheme under this section in the same manner in all respects as if the Company were a local authority within the meaning of that Act and the scheme were one of the purposes of that Act.

(7) The Company may on any lands belonging to them or purchased or acquired under this section or under any Provisional Order issued in pursuance of this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell demise let or otherwise dispose of such dwellings and any lands purchased or acquired as aforesaid and may apply for the purposes of this section to which capital is properly applicable or any of such purposes any moneys which they may be authorised to raise or apply for the purposes of their undertaking:

Provided that all lands on which any buildings have been erected or provided by the Company in pursuance of any scheme under this section shall for the period of twenty-five years from the date of the scheme be appropriated solely for the purpose of such dwellings and every conveyance demise or lease of such lands and buildings by the Company shall contain proper covenants for securing that the buildings on such lands shall during such period of twenty-five years be used exclusively for the purpose of such dwellings:

Provided also that the Secretary for Scotland may at any time dispense with all or any of the requirements of this sub-section subject to such conditions (if any) as he may see fit.

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(8) The Secretary for Scotland may direct any inquiries to be held which he may deem necessary in relation to any scheme under this section and for giving effect to any of the provisions of this section and he and any person appointed by him to hold inquiry shall have and may exercise for any purpose in connexion with any scheme under this section all or any of the powers vested in them respectively under the Public Health (Scotland) Act 1867 in the same manner in every respect as if the preparation and carrying into effect of such scheme were one of the general purposes of that Act.

(9) The Company shall pay to the Secretary for Scotland a sum to be fixed by him in respect of the preparation and issue of any Provisional Order in pursuance of this section and any expenses incurred by him in relation to any inquiries under this section including the expenses of any witnesses summoned by the person appointed to hold any such inquiry and a sum to be fixed by the Secretary for Scotland not exceeding three guineas a day for the services of the person so appointed.

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

Lights on works.

12. The Company shall on or near the works below high-water mark hereby authorised during the whole time of the constructing altering or extending the same exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) as the Board of Trade from time to time require or approve:

If the Company fail to comply in any respect with the provisions of this section they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds.

Company to exhibit lights.

13. The Company shall at the outer extremity of their works below high water exhibit and keep burning from sunset to sunrise such lights (if any) as the Commissioners of Northern Lighthouses shall from time to time direct:

If the Company fail to comply in any respect with the provisions of the present section they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds.

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Works below high-water mark not to be commenced without consent of Board of Trade.

14. The Company shall not under the powers of this Act construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of such approval being signified as last aforesaid and where any such work may have been constructed the Company shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals If any such work be commenced or completed contrary to the provisions of this Act the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the cost and charge of the Company and the amount of such costs and charges shall be a debt due from the Company to the Crown and shall be recoverable accordingly with costs.

Survey of works by Board of Trade.

15. If at any time the Board of Trade deems it expedient for the purposes of this Act to order a survey and examination of a work constructed by the Company under the powers of this Act on in over through or across tidal lands or tidal water or of the intended site of any such work the Company shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Company to the Crown and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company.

Abatement of work abandoned or decayed.

16. If a work constructed by the Company under the powers of this Act on in over through or across tidal lands or a tidal water is abandoned or suffered to fall into decay the Board of Trade may abate and remove the work or any part of it and restore the site thereof to its former condition at the expense of the Company and the amount of such expense shall be a debt due from the Company to the Crown and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company.

Provision against danger to navigation.

17. In case of injury to or destruction or decay of the pier sea walls or other works hereby authorised or any part thereof the Company shall lay down such buoys exhibit such lights or take such other means for preventing so far as may be danger to navigation as shall from time to time be directed by the Commissioners of Northern Lighthouses and shall apply to those commissioners for

directions as to the means to be taken and the Company shall be liable to a penalty not exceeding ten pounds for every month during which they omit so to apply or refuse or neglect to obey any direction given in reference to the means to be taken.

Company not to construct works on lands over which Crown has fishery rights without consent of Commissioners of Woods.

18. It shall not be lawful for the Company to construct under the powers of this Act any work on any land over which a right of salmon fishing belongs to Her Majesty without the previous consent in writing of the Commissioners of Woods and such consent may be given on payment of such compensation as may be agreed upon for any injury which the works by this Act authorised may be reasonably expected to occasion to any such right of salmon fishing as in this section mentioned And in case the amount of such compensation as aforesaid shall not be agreed upon the same shall be settled by two referees one being appointed by the Commissioners of Woods and one being appointed by the Company or by an umpire to be appointed by the said referees and the charges and expenses of such referees or their umpire shall be paid as such referees or their umpire shall direct.

Saving rights under Crown Lands Act 1866.

19. This Act shall not be taken as a consent to the surrender of any rights interests powers authorities or privileges transferred to the management of the Board of Trade by the Crown Lands Act 1866 nor shall any works under this Act be commenced within limits affected by any such rights interests powers authorities or privileges without the assent of the Board of Trade having been first obtained.

Power to apply existing authorised capital.

20. The Company may raise and apply to the purposes of this Act to which capital is properly applicable 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.

Power for Company to raise capital by shares or stock.

21. 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 new ordinary shares or stock or new preference shares or stock or new preference shares or stock convertible into ordinary preference stock and ordinary stock or wholly or partially by one or more of those modes respectively any additional capital not exceeding in the whole one hundred and fifty thousand pounds but the Company shall not issue any share of less nominal value than ten pounds nor shall any share vest in the person accepting the same unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

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Extending provisions of Act of 1888 to preference stock convertible into ordinary stock.

22. All preference shares or stock convertible into ordinary preference stock and ordinary stock created and issued under the provisions of this Act or any Act or Acts relating to the Company may by agreement with the holders thereof be converted on the same terms and subject to the like conditions as all preference shares or stock convertible into ordinary preference stock and ordinary stock authorised to be created and issued under the North British Railway Act 1888.

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

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

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

Dividends on new shares or stock.

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

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

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

New shares or stock raised under this Act and any other Act of past or present sessions may be of same class.

26. Subject to the provisions of any Act already passed by which the Company are authorised to raise capital by new shares or stock and to the provisions of this Act and any other Act passed in the present session of Parliament whether before or after the passing of this Act by which the Company may be authorised to raise capital by new shares or stock the Company may if they think fit raise by the creation and issue of new shares or stock of one and the same class all or any part of the aggregate capital which they are by such other Act and this Act respectively authorised to raise by the creation and issue of new shares or stock.

Calls.

27. Twenty per centum on the amount of any share shall be the greatest 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.

28. The Company may in respect of the additional capital of one hundred and fifty thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole fifty thousand pounds but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted and one half of such capital is paid up and the Company have proved to the sheriff who is to certify under the forty-second section of the Companies Clauses Consolidation (Scotland) Act 1845 before he so certifies that shares for the whole of such capital have been issued and accepted and that one half of such capital has been paid up and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one half of so much of the said additional capital as is to be raised by means of stock is fully paid up and the Company have proved to such sheriff as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted and to the extent aforesaid paid up bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also so far as the said additional capital is raised by shares that such persons or corporations or their executors administrators successors or assigns are legally liable for the same and upon production to such sheriff of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

Provisions of Act of 1890 as to appointment of a receiver or judicial factor repealed.

29. The provisions of the North British Railway Act 1890 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.

For appointment of a receiver or judicial factor.

30. 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

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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.

31. 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.

32. And whereas the Company have not yet exercised their power of consolidating debenture stocks under the North British Railway Act 1890 as extended by the North British Railway (General Powers) Act 1891 the Company may create and issue debenture stock subject to the provisions of Part III of the Companies Clauses Act 1863 and such debenture stock shall rank pari passu with any debenture stock which may be consolidated under the powers of the said Act of 1890 as extended by the said Act of 1891.

Application of money raised under Act.

33. All moneys raised under this Act whether by shares or stock or debenture stock or by borrowing shall be applied only for the purposes of this Act or to purposes to which capital is properly applicable.

Interest not to be paid on calls paid up.

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

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

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

Provision as to general railway Acts.

36. Nothing in this Act contained shall exempt the Company or the railway from the provisions of any general 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.

Costs of Act.

37. 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.

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