



CHAP. xli.

An Act for making a Railway from the Hawthornden station of the Peebles Railway to Penicuik in the county of Edinburgh ; and for other purposes. [20th June 1870.] A.D. 1870.

WHEREAS the making of a railway from the Hawthornden station of the Peebles Railway to the town of Penicuik in the county of Edinburgh would be of great public and local advantage :

And whereas the several persons herein-after named, with others, are willing, at their own expense, to construct the proposed railway if authorised by Parliament so to do, and it is expedient that they should be incorporated into a company for the purposes of this Act :

And whereas plans and sections showing the situation, lines, and levels of the proposed railway, and the lands and property proposed to be taken for the purposes thereof, and a book of reference to such plans, containing the names of the owners or reputed owners, lessees or reputed lessees, and of the occupiers of such lands and property respectively, have been deposited with the sheriff clerk of the county of Edinburgh (which plans, sections, and book of reference are herein-after referred to as the deposited plans, sections, and book of reference) :

And whereas it is expedient that such arrangements should be authorised with the North British Railway Company as are herein-after expressed :

And whereas the purposes 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 :

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1. This Act may be cited for all purposes as "The Penicuik Railway Act, 1870."

Short title.

Provisions of general Acts herein named incorporated.

2. "The Companies Clauses Consolidation (Scotland) Act, 1845," "The Lands Clauses Consolidation (Scotland) Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," and "The Railways Clauses Consolidation (Scotland) Act, 1845," and Parts I. and III. of "The Companies Clauses Act, 1863," as amended by the Companies Act, 1869, and Part I., excepting sections 13 to 19, both inclusive, and Part III. of "The Railways Clauses Act, 1863," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Company" means the Company incorporated by this Act; the expressions "the railway" and "the undertaking" mean respectively the railway and undertaking by this Act authorised.

Company incorporated.

4. John Cowan, Charles Cowan, Charles William Cowan, James Birrell, Thomas McDougal, junior, Edward Sambourne McDougal, Hugh Sommerville, Robert Balfour Wardlaw Ramsay, Archibald Hood, and Henry Widnell, and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a company for the purpose of making and maintaining the railway, and for other the purposes of this Act, and for those purposes shall be incorporated by the name of "The Penicuik Railway Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

Power to make railway according to deposited plans.

5. 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 railway herein-after described, with all proper stations, approaches, works, and conveniences connected therewith, and may enter upon, take, and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for that purpose.

The railway herein-before referred to and authorised by this Act is,—

A railway, four miles three furlongs and three chains or thereabouts in length, commencing in the parish of Lasswade and

county of Edinburgh by a junction with the Peebles Railway (which is under lease to the North British Railway Company) at the south-westward end of the passenger platform of the Hawthornden station of the said Peebles Railway, and terminating at or near the village of Penicuik at a point in the parish of Penicuik and county of Edinburgh situated thirty-five yards or thereby northwards of the arch which carries the Peebles and Penicuik turnpike road over the river North Esk near to the mill called Bank Mill, in the occupation of Alexander Cowan and Sons, paper manufacturers. A.D. 1870.

6. The capital of the Company shall be fifty-four thousand pounds in five thousand four hundred shares of ten pounds each. Capital.

7. The Company shall not issue any share created under the authority of this Act, 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. Shares not to issue until one fifth paid up.

8. One fifth of the amount of a share shall be the greatest amount of a call, and two months at least shall be the interval between successive calls, and four fifths of the amount of a share shall be the utmost aggregate amount of calls made in any year upon any share. Calls.

9. The Company may from time to time borrow on mortgage any sum not exceeding in the whole eighteen thousand pounds, but no part thereof shall be borrowed until the whole capital of fifty-four thousand pounds is subscribed for, 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 subscribed for, issued, and accepted, and that one half thereof has been paid up, and that not less than one fifth part of the amount of each separate share in such capital 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 subscribers or their assigns, and that such subscribers or their 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 shall be sufficient evidence thereof. Power to borrow on mortgage.

10. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on Arrears may be enforced.

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by appointment of a judicial factor.

their mortgages by the appointment of a judicial factor; and in order to authorise the appointment of a judicial factor in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than two thousand pounds in the whole.

Debenture stock.

11. The Company may create and issue debenture stock.

Application of moneys.

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

First ordinary meeting.

13. The first ordinary meeting of the Company shall be held within six months after the passing of this Act.

Number of directors.

14. The number of directors shall be seven, but the Company may from time to time reduce the number, provided that the number be not less than five.

Qualification of directors.

15. The qualification of a director shall be the possession in his own right of not less than fifty shares.

Quorum.

16. The quorum of a meeting of directors shall be five, unless the number of directors shall be reduced to five, and then the quorum shall be three.

First directors.

17. John Cowan, Charles Cowan, Thomas McDougal, junior, Hugh Sommerville, Robert Balfour Wardlaw Ramsay, Archibald Hood, and Henry Widnell shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act, or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions in the "Companies Clauses Consolidation (Scotland) Act, 1845," contained; and the several persons elected at any such meeting, being neither removed nor disqualified nor having resigned, shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Election of directors.

Lands for extraordinary purposes.

18. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in "The Railways Clauses Consolidation (Scotland) Act, 1845," shall not exceed one acre.

19. 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 two years from the passing of this Act. A.D. 1870.

Powers for compulsory purchases limited.

20. Subject to the provisions in "The Railways Clauses Consolidation (Scotland) Act, 1845," and in Part I. (relating to the construction of a railway) of "The Railways Clauses Act, 1863," contained, in reference to the crossing of roads on the level, the Company may divert the road herein-after mentioned in manner shown on the deposited plans, and may, in the construction of the railway, carry the same with a single line of railway only whilst the railway shall consist of a single line, and afterwards with a double line of railway only, across and on the level of the said road; (that is to say,)

Power to cross a certain road on the level.

No. on deposited plan.	Parish.	Description of road.
3. 3.	Lasswade.	Statute labour road.

21. The Company shall, not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers, make known their intention to take the same by placards, handbills, or other general notice placed in public view upon or within a reasonable distance from such houses, and the Company shall not take any such houses until they have obtained the certificate of a justice of the peace that it has been proved to his satisfaction that the Company have made known their intention to take the same in manner herein-before required.

Notice to be given of taking houses of labouring classes.

22. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the 9th and 10th years of Her present Majesty, cap. 20, a sum of two thousand five hundred pounds, being five per cent. upon the amount of the estimate in respect of the railway authorised by this Act, has been deposited with the Court of Exchequer in Scotland in respect of the application to Parliament for this Act: Be it enacted, that, notwithstanding anything contained in the said recited Act, the said sum of two thousand five hundred pounds so deposited as aforesaid in respect of the application for this Act shall not be paid or transferred to or on the application of the person or persons, or the majority of the persons, named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them, unless the said Company shall, previously to the expiration of the period limited by this Act for

Deposit money not to be repaid until line opened, or half the capital paid up and expended.

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Application
of deposit.

23. The said sum 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 said 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 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 Session in Scotland may seem fit; and if no such compensation shall be payable, or if a portion of the said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, or such portion thereof as may not be required as aforesaid, shall be paid to or on the application of the person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivors or survivor of them: Provided that until the said sum 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, named in such warrant or order as aforesaid, or the survivors or survivor of them.

24. The railway shall be completed within three years from the passing of this Act, and if the railway shall not be completed within that period, then on the expiration thereof the powers by this Act granted to the Company for making and completing the railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

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 Period for completion of works.

25. The Company may demand and take in respect of the use of the railway any tolls not exceeding the following; (that is to say,)

Tolls for passengers.

In respect of passengers and animals conveyed on the railway :

For every person conveyed in or upon any carriage any sum not exceeding twopence per mile; and if conveyed in or upon any carriage belonging to or provided by the Company, an additional sum not exceeding one penny per mile :

For every horse, mule, ass, or other beast of draught or burden, and for every ox, cow, bull, or head of neat cattle conveyed in or upon any carriage, not exceeding twopence per mile; and if conveyed in or upon any carriage belonging to or provided by the Company, an additional sum not exceeding one penny per mile :

Tolls for animals.

For every calf, sheep, pig, lamb, or other small animal conveyed in or upon any carriage, not exceeding one penny per mile; and if conveyed in or upon any carriage belonging to or provided by the Company, an additional sum not exceeding one halfpenny per mile.

In respect of goods conveyed on the railway :

For all coals, coke, culm, charcoal and cinders, all stones for building, pitching, and paving, bricks, tiles, slates, clay, sand, chalk, salt, slag, ironstone, iron ore, pig iron, bar iron, rod iron, hoop iron, and all other similar descriptions of wrought iron and iron castings not manufactured into utensils or other articles of merchandise, per ton per mile not exceeding twopence halfpenny; and if conveyed in carriages belonging to or provided by the Company, an additional sum per ton per mile not exceeding one penny :

Tolls for goods.

For all dung, compost, and all sorts of manure, lime, limestone, and undressed materials for the repair of public roads or highways, per ton per mile not exceeding twopence; and if conveyed in carriages belonging to or provided by the Company, an additional sum per ton per mile not exceeding one penny :

For all sugar, grain, corn, flour, hides, dyewoods, earthenware, timber, staves, deals, metals (except iron), nails, anvils, vices, and chains, per ton per mile not exceeding threepence; and if conveyed in carriages belonging to or provided by the

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Company, an additional sum per ton per mile not exceeding one penny halfpenny :

For all cotton and wools, drugs, fish, manufactured goods, and all other wares, merchandise, articles, matters, and things, per ton per mile not exceeding fourpence ; and if conveyed in carriages belonging to or provided by the Company, an additional sum per ton per mile not exceeding twopence :

For every carriage, of whatever description, not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton, carried or conveyed on a truck or platform, per mile not exceeding sixpence :

And a like sum of sixpence per mile for every additional quarter of a ton, or fractional part of a quarter of a ton, which any such carriage may weigh ; and if conveyed on a truck or platform belonging to or provided by the Company, an additional sum per mile not exceeding sixpence.

Tolls for propelling power.

26. The tolls which the Company may demand for the use of engines for propelling carriages on the railway shall not exceed one penny per mile for each passenger or animal, or for each ton of goods, in addition to the several other tolls or sums by this Act authorised to be taken.

Regulations as to tolls.

27. The following provisions and regulations shall apply to the fixing of all tolls and charges payable under this Act ; (that is to say,)

Short distances.

For all passengers, animals, or goods conveyed on the railway for a less distance than four miles, the Company may demand tolls and charges as for four entire miles, and, in addition to the prescribed tolls for conveyance, a reasonable charge for the expense of loading and unloading :

Fractional parts of a mile.

For a fraction of a mile beyond four miles, or beyond any greater number of miles, the Company may demand tolls and charges on animals and goods for such fraction in proportion to the number of quarters of a mile contained therein, and if there be a fraction of a quarter of a mile such fraction shall be deemed a quarter of a mile ; and in respect of passengers, every fraction of a mile beyond an integral number of miles shall be deemed a mile :

Fractional parts of a ton.

For a fraction of a ton the Company may demand tolls according to the number of quarters of a ton in such fraction, and if there be a fraction of a quarter of a ton such fraction shall be deemed a quarter of a ton :

General weight.

With respect to all articles, except stone and timber, the weight shall be determined according to the usual avoirdupois weight :

With respect to stone and timber, fourteen cubic feet of stone, forty cubic feet of oak, mahogany, teak, beech, or ash, and fifty cubic feet of any other timber, shall be deemed one ton weight, and so in proportion for any smaller quantity.

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Weight of stone and timber.

28. With respect to small parcels not exceeding five hundred pounds in weight, and single articles of great weight, notwithstanding anything in this Act, the Company may demand and take any tolls not exceeding the following; (that is to say,)

Tolls for small parcels and articles of great weight.

For the carriage of small parcels on the railway :

For any parcel not exceeding seven pounds in weight, threepence :

For any parcel not exceeding fourteen pounds in weight, fivepence :

For any parcel not exceeding twenty-eight pounds in weight, sevenpence :

For any parcel not exceeding fifty-six pounds in weight, ninepence :

And for parcels exceeding fifty-six pounds in weight, but not exceeding five hundred pounds in weight, the Company may demand any sum which they think fit :

Provided that articles sent in large aggregate quantities, although made up in separate parcels, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but that term shall apply only to single parcels in separate packages.

For the carriage of single articles of great weight on the railway :

For the carriage of any one boiler, cylinder, or single piece of machinery, or single piece of timber or stone, or other single article, the weight of which, including the carriage, shall exceed four tons, but shall not exceed eight tons, the Company may demand any sum not exceeding one shilling per ton per mile :

For the carriage of any single piece of machinery, or single piece of timber or stone, or other single article, the weight of which, including the carriage, shall exceed eight tons, the Company may demand such sum as they think fit.

29. The maximum rate of charge to be made by the Company for the conveyance of passengers upon the railway, including the tolls for the use of the railway, and for carriages and locomotive power, and every other expense incidental to such conveyance, shall not exceed the following; (that is to say,)

Maximum rates for passengers.

For every passenger conveyed in a first-class carriage, the sum of threepence per mile :

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For every passenger conveyed in a second-class carriage, the sum of twopence per mile :

For every passenger conveyed in a third-class carriage, the sum of one penny halfpenny per mile.

Maximum rates for animals and goods.

30. The maximum rate of charge to be made by the Company for the conveyance of animals and goods (except such small parcels and single articles of great weight as aforesaid) on the railway, including the tolls for the use of the railway, and for waggons or trucks and locomotive power, and for every other expense incidental to the conveyance (except a reasonable charge for loading and unloading goods at any terminal station in respect of such goods, and for delivery and collection, and any other service incidental to the business or duty of a carrier, where any such service is performed by the Company), shall not exceed the following sums ; (that is to say,)

For every horse, mule, ass, or other beast of draught or burden, the sum of fourpence per mile :

For cattle, the sum of twopence per head per mile :

For calves, pigs, sheep, and small animals, the sum of three farthings each per mile :

For all coal, coke, and all other articles herein-before classed therewith, the sum of twopence per ton per mile :

For dung, and all other articles herein-before classed therewith, the sum of one penny halfpenny per ton per mile :

For sugar, grain, and all other articles herein-before classed therewith, the sum of threepence per ton per mile :

For cotton, and all other articles herein-before classed therewith, the sum of fourpence per ton per mile :

And for every carriage, of whatever description, not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton, carried or conveyed on a truck or platform, sevenpence per mile.

Passengers luggage.

31. Every passenger travelling upon the railway may take with him his ordinary luggage, not exceeding one hundred and twenty pounds in weight for first-class passengers, one hundred pounds in weight for second-class passengers, and sixty pounds in weight for third-class passengers, without any charge being made for the carriage thereof.

Terminal stations.

32. No station shall be considered a terminal station in regard to any goods conveyed on the railway, unless such goods have been received thereat direct from the consignor, or are directed to be delivered thereat to the consignee.

Foregoing charges not to apply to special trains.

33. The restrictions as to the charges to be made for passengers shall not extend to any special train run upon the railway, in respect of which the Company may make such charges as they think fit, but

shall apply only to the ordinary and express trains appointed from time to time by the Company for the conveyance of passengers and goods upon the railway. A.D. 1870.

34. Nothing in this Act shall prevent the Company from taking any increased charges over and above the charges by this Act limited for the conveyance of animals or goods of any description by agreement with the owners or persons in charge thereof, either by reason of any special service performed by the Company in relation thereto, or in respect to the conveyance of animals or goods (other than small parcels) by passenger trains. Company may take increased charges by agreement.

35. The Company on the one part, and the North British Railway Company on the other part, may from time to time enter into any contracts and arrangements with respect to the following purposes, or any of them, and any incidental matters; (that is to say,) Working and traffic arrangements between the Company and the North British Railway Company.

The management, use, working, and maintenance by the North British Railway Company of the railway and of the works connected therewith, or any of them, or any part thereof:

The supply of any rolling or working stock, and of officers and servants for the conduct of the traffic on the railway:

The payments to be made and the conditions to be performed with respect to the matters aforesaid:

The interchange, accommodation, conveyance, and delivery of traffic coming from or destined for the undertakings of the contracting Companies, and the fixing and division between the said Companies of the receipts arising from such traffic.

36. During the continuance of any agreement to be entered into under the provisions of this Act for the use of the railway by the North British Railway Company, the railways of the Company and of the North British Railway Company shall, for the purposes of 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 railway and partly on the railway of the North British Railway Company, or the railways belonging or leased to, worked, or used by that Company, 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 railway and partly on the railways belonging to, worked, or used by the North British Railway Company. Tolls on traffic conveyed partly on the railway and partly on the railways of North British Railway Company, &c.

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Saving
rights of
Her Ma-
jesty's Prin-
cipal Secre-
tary of
State for the
War Depart-
ment.

37. And whereas it is necessary that the fortifications and works belonging to Her Majesty, and under the charge of Her Majesty's Principal Secretary of State for the War Department, should be preserved intact and free from all obstruction: Be it therefore enacted, that nothing in this Act contained shall authorise the Company to enter upon, use, or interfere with any land, soil, or water, or any right in respect thereof, or to take away, lessen, prejudice, or alter any of the rights, privileges, or powers vested in or exercised by the said Principal Secretary for the time being without his previous consent signified in writing under his hand, and which consent the said Principal Secretary for the time being is hereby authorised to give, subject to such special or other conditions as he shall see fit to impose on the said Company.

Interest not
to be paid
on calls paid
up.

38. The Company shall not, out of any money by this Act authorised to be raised by calls or by borrowing, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always, that this Act shall not 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.

39. 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.

40. Nothing herein contained shall be deemed or construed to exempt the railway by this Act authorised to be made 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.

Expenses of
Act.

41. 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.