



CHAPTER lxxxii.

An Act to authorise the construction and maintenance of a railway from near the Beattock Station of the Caledonian Railway to Moffat; and for other purposes.

A.D. 1881.

[27th June 1881.]

WHEREAS the construction of the railway herein-after described and by this Act authorised would be of public and local advantage:

And whereas the persons in this Act named with others are willing, at their own expense, to execute the undertaking, and it is expedient that they should be incorporated into a Company for that purpose:

And whereas plans and sections of the railway, showing the lines and levels thereof, and also books of reference to the plans, containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required, or which may be taken for the purposes or under the powers of this Act, were duly deposited with the principal sheriff clerk of the county of Dumfries, at his office at Dumfries, and are herein-after respectively referred to as the deposited plans, sections, and books of reference:

And whereas the objects 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:—

1. This Act may be cited as the Moffat Railway Act, 1881.

Short title.

2. The Companies Clauses Consolidation (Scotland) Act, 1845, Part I. (relating to cancellation and surrender of shares), and Part III. (relating to debenture stock) of the Companies Clauses Act, 1863, as amended by the Companies Clauses Act, 1869, the Lands Clauses Consolidation (Scotland) Act, 1845, the Lands Clauses Consolidation Acts Amendment Act, 1860, the Railways Clauses Consolidation (Scotland) Act, 1845, and Part I. (relating to construction

Incorporation of general Acts.
8 & 9 Vict. c. 17.
26 & 27 Vict. c. 118.
32 & 33 Vict. c. 48.
8 & 9 Vict. c. 19.
23 & 24 Vict. c. 106.
8 & 9 Vict. c. 33.

A.D. 1881. of a railway) and Part III. (relating to working agreements) of the
26 & 27 Vict. c. 92. Railways Clauses Act, 1863, are (except where expressly varied by
this Act) incorporated with and form part of this Act.

Interpreta- 3. In this Act the several words and expressions to which meanings
tion of terms. 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 expression "the railway," means the railway by this Act
authorised.

Incorpora- 4. John James Hope Johnstone, James Johnstone, John Ander-
tion of Com- son Johnstone, Samuel McMillan, James Sinclair, Thomas Welsh,
pany. George Williamson, and all other persons and corporations who have
already subscribed to, or shall hereafter become proprietors in, the
undertaking, and their executors, administrators, successors, and
assigns, respectively, shall be and are hereby 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 and are
hereby incorporated by the name of "the Moffat Railway Company,"
and by that name shall be a body corporate, with perpetual suc-
cession 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 5. Subject to the provisions of this Act, the Company may
make rail- make and maintain, in the lines and according to the levels shown
way. on the deposited plans and sections, the railway herein-after
described, with all proper stations, junctions, sidings, 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 books of reference, as may be re-
quired for those purposes. The railway herein-before referred to and
authorised by this Act will be situate in the county of Dumfries,
and is:—

A railway, 1 mile 5 furlongs and 3 chains in length, commencing
in the parish of Kirkpatrick-Juxta, at or near the south-east-
ward corner of the bridge carrying the public road leading from
Beattock to Kinnelhead over the Caledonian Railway, and
terminating in the parish of Moffat, at or near the gasworks of
the town of Moffat, in the field called "Ladyknowe," which
field is numbered 766 on the published ordnance map of the
said parish of Moffat.

Company not 6. Excepting so far as may be necessary to enable the Company
to take lands to construct the railway to the south side of the road embankment
of, or inter- slope, numbered on the deposited plans 37, in the parish of Kirk-
fere with

patrick-Juxta, nothing in this Act contained shall be held to authorise the Company without the previous consent in writing of the Caledonian Railway Company under their common seal, to enter upon, take, or use, either temporarily or permanently, any lands belonging to the Caledonian Railway Company, nor shall the Company without the like consent make any junction or otherwise alter, vary, or interfere with, or use the lines of that Company or their station, goods sheds, switches, turntables, sidings, signals, or other works or conveniences.

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lines and
works of
Caledonian
Railway
Company.

7. The capital of the Company shall be sixteen thousand pounds, in one thousand six hundred shares, of ten pounds each.

Capital.

8. The Company shall not issue any share created under the authority of this Act, nor shall any such share vest in the person or corporation accepting the same, unless and until a sum, not being less than one fifth of the amount of such share is paid in respect thereof.

Shares not
to be issued
until one
fifth paid.

9. 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 three fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Calls.

10. If any money is payable to a shareholder being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate, or of his tutor, or curator, or curator bonis, shall be a sufficient discharge to the Company.

Receipt
clause in
case of per-
sons not sui
juris.

11. Subject to the provisions of this Act, the Company, with the authority of three fourths of the votes of the shareholders, present in person or by proxy at a general meeting of the Company, specially convened for the purpose, may from time to time divide any share in their capital into half-shares, of which one shall be called "preferred half-share," and the other shall be called "deferred half-share;" but the Company shall not so divide any share under the authority of this Act, unless and until not less than sixty per centum upon such share has been paid up, and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half-share (being the whole amount payable thereon), and the residue to the credit of the preferred half-share.

Power to
divide
shares.

12. The dividend which would from time to time be payable on any divided share if the same had continued an entire share, shall be applied in payment of dividends on the two half-shares in manner following (that is to say):—First, in payment of dividend after such rate, not exceeding six pounds per centum per annum, as

Dividends on
half-shares.

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Dividend on preferred half-shares to be paid out of the profits of the year only.

13. Each preferred half-share shall be entitled out of the profits of each year to the dividend which may have been attached to it by the Company as aforesaid, in priority to the deferred half-share bearing the same number; but if in any year ending the thirty-first day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half-share for that year, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the Company.

Half-shares to be registered and certificates issued.

14. Forthwith, after the creation of any half-shares, the same shall be registered by the directors, and each half-share shall bear the same number as the number of the entire share certificate in respect of which it was issued, and the directors shall issue certificates of the half-shares accordingly, and shall cause an entry to be made in the register of the entire shares of the conversion thereof; but the directors shall not be bound to issue a certificate of any half-share until the certificate of the existing entire share shall be delivered to them to be cancelled, unless it be shown to their satisfaction that such certificate is destroyed or lost, and on any certificate being so delivered up, the directors shall cancel it.

Terms of issue to be stated on certificates.

15. The terms and conditions on which any preferred half-share or deferred half-share created under this Act is issued, shall be stated on the certificate of each such half-share.

Forfeiture of preferred shares.

16. The provisions of the Companies Clauses Consolidation (Scotland) Act, 1845, with respect to the forfeiture of shares for nonpayment of calls, shall apply to all preferred half-shares created under the authority of this Act, and every such preferred half-share shall, for that purpose, be considered an entire share distinct from the corresponding deferred half-share, and until any forfeited preferred half-share shall be sold by the directors, all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards payment of any expenses attending the declaration of forfeiture thereof, and of the arrears of calls for the time being due thereon with interest.

Preferred shares not to be cancelled or surrendered.

17. No preferred half-share, created under the authority of this Act, shall be cancelled or be surrendered to the Company.

18. The several half-shares under this Act shall be half-shares in the capital of the Company; and every two half-shares (whether preferred or deferred, or one of each), held by the same person, shall confer such right of voting at meetings of the Company, and (subject to the provisions herein-before contained) shall confer and have all such other rights, qualifications, privileges, liabilities, and incidents, as attach and are incident to an entire share.

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Half-shares
to be half-
shares in
capital.

19. The Company may, from time to time, borrow on mortgage any sum not exceeding in the whole five thousand three hundred and thirty pounds; but no part thereof shall be borrowed until the whole capital of sixteen 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 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 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 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.

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

Appointment
of a judicial
factor.

21. 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 created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Debenture
stock.

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

Application
of moneys.

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First and subsequent ordinary meetings.

23. The first ordinary meeting of the Company shall be held within six months after the passing of this Act; and the subsequent ordinary meetings of the Company shall be held twice in every year, in the months of March or April, and September or October, and all meetings of the Company, whether ordinary or extraordinary, shall be held in Moffat, or in such other place as the directors may from time to time appoint.

Quorum of meetings.

24. The quorum of every general meeting of the Company shall be ten shareholders, holding in the aggregate not less than five thousand pounds in the capital of the Company.

Number of directors.

25. The number of directors shall be five, but the Company may reduce the number, provided that the number be not less than three.

Qualification of directors.

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

Quorum of directors.

27. The quorum of a meeting of directors shall be three, unless the number of directors is reduced to less than four, and then, and so long as the number shall continue to be less than four, the quorum shall be two.

First directors.

28. John James Hope Johnstone, John Anderson Johnstone, Samuel McMillan, Thomas Welsh and George Williamson 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 of the Companies Clauses Consolidation (Scotland) Act, 1845, and the several persons elected at any such meeting, being neither removed nor disqualified, nor having died or resigned, shall continue to be directors until others are elected in their stead, in manner provided by the same Act.

Election of directors.

Domicile of the Company.

29. The domicile of the Company, with reference to all judicial proceedings or actions at law, shall be held to be in Moffat.

Lands for extraordinary purposes.

30. 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 half an acre. A.D. 1881.

31. 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, servitude, 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, or feu duties, so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements, servitudes, rights, and privileges as aforesaid respectively.

Power to take easements, &c. by agreement.

32. 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.

Period for compulsory purchase of lands.

33. The memorandum of agreement entered into between the trustees appointed and acting under the provisions of the Act passed in the thirty-eighth year of the reign of His Majesty King George the Third, chapter 21, intituled “ An Act for making and maintaining “ a road from near Dinwoodie Green, in the county of Dumfries, to “ or near Elvan Foot, in the county of Lanark,” and the several Acts continuing and amending that Act, on the first part, and John James Hope Johnstone, of Annandale, and others, promoters of the railway, on the second part, of date the fifteenth, twentieth and twenty-fifth days of April, one thousand eight hundred and eighty-one, which is set forth in the schedule to this Act, is hereby sanctioned and confirmed, and the provisions therein contained shall be as obligatory upon the Company as if the same had been embodied in this Act, and therein declared applicable to the Company.

Confirmation of agreement with Evan Water Road Trustees.

34. In altering, for the purposes of this Act, the road next herein-after mentioned, the Company may make the same of any inclinations not steeper than the inclinations herein-after mentioned in connexion therewith respectively (that is to say):—

Inclinations of certain road.

No. on deposited Plan.	Parish.	Description of Road.	Intended Inclination.
14	Kirkpatrick-juxta.	Turnpike	1 in 30 on both sides.

35. Whereas pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth year of the reign of Her

Deposit money not to be repaid

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—
except so far
as railway is
opened.

present Majesty, chapter twenty, a sum of seven hundred and ten pounds being five per centum 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, which sum is referred to in this Act as the "deposit fund": Be it enacted that, notwithstanding anything contained in the said recited Act, the deposit fund 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 (which persons, survivors or survivor, are or is in this Act referred to as "the depositors"), unless the Company shall, previously to the expiration of the period limited by this Act for the completion of the railway, open the same for the public conveyance of passengers: Provided that if within such period as aforesaid the Company open any portion of the railway for the public conveyance of passengers, then, on production of a certificate of the Board of Trade, specifying the length of the portion of the railway opened as aforesaid, and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the railway so opened bears to the entire length of the railway, the court shall on the application of the depositors, or the majority of them, order the portion of the deposit fund specified in the certificate to be paid or transferred to them, or as they shall direct; and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the above-mentioned Act to the contrary notwithstanding.

Application
of deposit.

36. If the Company do not, previously to the expiration of the period limited for the completion of the railway, complete and open the same for the public conveyance of passengers, then, and in every such case, the deposit fund, or so much thereof as shall not have been paid to the depositors, shall be applicable, and, after due notice in the "Edinburgh Gazette" shall be applied, towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the railway, or any portion thereof, or who 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, has 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 is payable, or if a portion of

the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation, then the deposit fund, 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 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 judicial factor has been appointed shall wholly or in part be paid or transferred to such judicial factor 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: Provided that until the deposit fund has been repaid to the depositors, or has 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 depositors.

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37. If the railway is 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 completing the railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Period for completion of works.

38. In the event of the Company introducing into Parliament in the next session a Bill authorising them to construct a short line of railway from the commencement of their railway, as by this Act authorised, along the eastern side of the Caledonian Railway, to or near to the north-eastern end of the passenger station of the Caledonian Railway Company at Beattock, together with a bay or dock on the eastern side of the eastern platform of that station, in such situation (but so as not to interfere with the existing platform and approaches to the said passenger station), and subject to such provisions with respect to the user and management thereof as shall be agreed upon between the Company and the Caledonian Railway Company, or in the event of difference, as shall be determined by an engineer, to be appointed by the Board of Trade (whose expenses shall be paid by the Company); and imposing upon the Company the obligation of paying to the Caledonian Railway Company the expense to which that company may be put in altering or re-constructing their station, goods sheds, switches, turntables, sidings, signals, signal cabins, and other works, in order to allow of the formation of the railway and bay or dock to be constructed by the Company as aforesaid or necessary in consequence thereof (including

Caledonian Company not to oppose a Bill authorising a certain short railway and station dock.

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Tolls. **39.** The Company may demand and take, in respect of the use of the railway, any tolls not exceeding the following, that is to say :—

Passengers. In respect of passengers and animals conveyed on the railway :—
For every person twopence halfpenny per mile, and if conveyed upon a carriage belonging to or provided by the Company, an additional sum of one penny per mile ;

Class 1. For every horse, mule, ass, or other beast of draught or burden, threepence per mile ; and if conveyed in or upon a carriage belonging to or provided by the Company, an additional sum of twopence per mile ;

Class 2. For every ox, cow, bull, or head of neat cattle, twopence per mile ; and if conveyed in or upon a carriage belonging to or provided by the Company an additional sum of twopence per mile ;

Class 3. For every calf, pig, sheep, lamb, or other small animal, one penny per mile ; and if conveyed in or upon a carriage belonging to or provided by the Company an additional sum of one halfpenny per mile.

Goods. In respect of goods conveyed on the railway :—

Class 4. For all coal, dung, compost, manure (except guano and artificial manures), lime, limestone, and undressed materials for the repair of public roads or highways, per ton per mile twopence, and if conveyed in or upon a carriage belonging to or provided by the Company an additional sum per ton per mile of one penny ;}

Class 5. For all coke, culm, charcoal, cinders, stones for building, pitching and paving, bricks, tiles, slates, clay, sand, 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 twopence halfpenny, and if conveyed in or upon a carriage belonging to or provided by the Company an additional sum per ton per mile of one penny ;

Class 6. For all sugar, grain, corn, flour, hides, dyewood, earthenware, guano, artificial manures, timber, staves, deals, and metals (except iron), nails, anvils, vices, and chains, per ton per mile threepence halfpenny, and if conveyed in or upon a carriage belonging to or provided by the Company an additional sum per ton per mile of one penny; A.D. 1881.

Class 7. For all cotton and other wools, drugs, manufactured goods, fish, and all other wares, merchandise, articles, matters, and things (except small parcels and single articles of great weight as herein-after defined), per ton per mile fourpence, and if conveyed in or upon a carriage belonging to or provided by the Company an additional sum per ton per mile of one penny halfpenny;

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), conveyed on a truck or platform belonging to or provided by the Company sixpence per mile, and one penny halfpenny per mile for every additional quarter of a ton or fractional part of a quarter of a ton which any such carriage may weigh.

40. The toll 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. Tolls for propelling power.

41. The following provisions and regulations shall apply to the fixing of all tolls and charges payable under this Act, that is to say:— Regulations as to tolls.

For all passengers, animals, or goods conveyed on the railway the Company may demand tolls and charges as for three miles; Short distances.

For a fraction of a ton the Company may demand tolls and charges 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; Fractional parts of a ton.

With respect to all articles, except stone and timber, the weight shall be determined according to the usual avoirdupois weight; General 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. Weight of stone and timber.

42. 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.

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For the carriage of small parcels on the railway :

For any parcel not exceeding seven pounds in weight threepence ;

For any parcel exceeding seven pounds, but not exceeding fourteen pounds in weight, fivepence ;

For any parcel exceeding fourteen pounds, but not exceeding twenty-eight pounds in weight, sevenpence ;

For any parcel exceeding twenty-eight pounds, but not exceeding fifty-six pounds in weight, ninepence ;

And for any parcel exceeding fifty-six pounds such sum as the Company 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 any 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 such sum as they think fit, not exceeding sixpence per ton per mile ;

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

Maximum
rates for
passengers.

43. The maximum rate of charge to be made by the Company for the conveyance of passengers on 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) :—

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

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 per mile.

Maximum
rates for
animals and
goods.

44. 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) :—

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- For every animal in Class 1, fourpence per mile ;
- For every animal in Class 2, threepence per mile ;
- For every animal in Class 3, one penny halfpenny per mile ;
- For everything in Class 4, one penny halfpenny per ton per mile ;
- For everything in Class 5, twopence per ton per mile ;
- For everything in Class 6, threepence per ton per mile ;
- For everything in Class 7, 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, sixpence per mile, and if weighing more than one ton, one penny halfpenny per mile for every quarter of a ton, or fractional part of a quarter of a ton.

45. Every person 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.

Passengers luggage.

46. 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.

Terminal station.

47. 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 on the railway.

Foregoing charges not to apply to special trains.

48. 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 of the conveyance of animals or goods (other than small parcels) by passenger trains.

Company may take increased charges by agreement.

49. The Company may demand and take, for the use of any weighing machines erected by them, of and from the owner or

Charges for weighing machines.

A.D. 1881. — person having charge of any goods, articles, or things weighed by means of the same, such reasonable charges as may from time to time be fixed by the Company.

Interest not
to be paid on
calls paid up.

50. The Company shall not, out of any money by this 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.

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

51. 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.

52. 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.

Expenses of
Act.

53. 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.

The SCHEDULE referred to in the foregoing Act.

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MEMORANDUM OF AGREEMENT between THE TRUSTEES appointed and acting under the provisions of the Act passed in the thirty-eighth year of the reign of His Majesty King George III., chapter twenty-one, intituled "An Act for making and maintaining a road from near Dinwoodie Green, in the county of Dumfries, to or near Elvan Foot, in the county of Lanark," and the several Acts continuing and amending that Act, commonly known by the name of THE EVAN WATER ROAD TRUSTEES, or of THE GLASGOW AND CARLISLE ROAD TRUSTEES, on the first part; and JOHN JAMES HOPE JOHNSTONE, Esquire, of Annandale, JOHN ANDERSON JOHNSTONE, Esquire, of Snar, residing at Archbank, SAMUEL McMILLAN, Esquire, Banker, residing in Moffat, THOMAS WELSH, Esquire, of Earlishaugh, residing at Ericstane, and GEORGE WILLIAMSON, Esquire, of Strangcleuch, residing in Moffat, promoters and proposed first directors of a railway between Beattock and Moffat, to be incorporated under the name of the Moffat Railway, on the second part.

WHEREAS the second party and others are promoters of a Bill to authorise the construction and maintenance of a railway from near the Beattock Station of the Caledonian Railway to Moffat, and for other purposes, and are by the said Bill proposed to be the first directors of a company thereby intended to be incorporated by the name of the Moffat Railway Company, which Bill having been passed by the examiner for the House of Commons on the standing orders, and the first and second reading will fall shortly to be considered by a Committee of that Honourable House, and whereas the first party petitioned against the said Bill, and whereas there have been submitted to the second parties by the first parties, through their clerk, William Henry Hill, writer, Glasgow, provisions which they deemed necessary in connexion with the proposed interference by the contemplated railway with the first parties road, as specified and described in the book of reference (No. 26) and relative plans deposited in terms of the said standing orders: And whereas with a view to the avoidance of expense, the said parties have agreed and the said second party hereby bind and oblige themselves that the provisions following shall be either inserted in an enactment that may follow in the said Bill or shall be binding on the Company to be formed under the same, in respect whereof the said first party hereby agree to withdraw their opposition to the said Bill, videlicet:—

First. That the present line of road shall be preserved without curves.

Second. That the existing width of road, or at least not less than forty feet of clear width shall be preserved between the parapets of the bridge for carrying

A.D. 1881. the road over the railway and throughout the extent of the interference with the road.

Third. That the levels of the road, so far as interfered with, shall not be of greater steepness than one in fifty, nor the road in any part raised more than three feet six inches above its present level, notwithstanding any powers of deviation competent to the Company.

Fourth. That the junction or ends of the new or interfered with portion of road shall be made to run sweetly into the levels of the existing road.

Fifth. That the roadway so far as interfered with shall be bottomed and metalled in a sufficient and proper manner and no way inferior to the existing roadway, and shall be maintained in good order and repair to the satisfaction of the road trustees or their surveyor for twelve months after the completion of the alterations.

Sixth. That the parapets of the bridge shall not be less than five feet in height.

Seventh. That the railway cutting so far as in proximity to the road shall be properly and permanently fenced by the Company with a blind fence or screen of sufficient height.

Eighth. That the bridge and relative works shall be constructed in other respects in strict accordance with plans to be submitted by the Company, and approved of by the road trustees, and to the satisfaction of the trustees, and in the event of dispute to David Stevenson, Esquire, C.E., Edinburgh, whose fees shall be entirely borne by the second party, and failing the said David Stevenson, then to Sir Alexander Jardine, of Applegirth, Baronet.

Ninth. That the works, so far as connected with the road, shall be continuously and expeditiously proceeded with from the date of the first interference with the road.

Tenth. That before any interference is made with the existing road a safe and suitable service road shall be made or provided by the Promoters, which shall be maintained open and in proper order and condition till the completion of all works interfering with the existing road.

Eleventh. That the Company shall become expressly bound to relieve the road trustees of all questions and liability any way arising by or through the works, or the actings of any parties employed by them as contractors, or otherwise.

Twelfth. That the sum of one hundred pounds shall be deposited with the treasurer of the road trustees one month before any interference with the existing road, which the trustees shall be entitled to apply in meeting any deficiencies on the part of the Company, or their contractors, in connexion with the premises, or in connexion with any liability for damages or expenses incurred in any way by or through the operations or defaults of the Company or their contractors.

Thirteenth. It is hereby declared that this agreement is made subject to such alterations as Parliament may think fit to make thereon in the said Bill.

In witness whereof these presents written on this and the two preceding pages of stamped paper, by James Edgar, clerk to Thomas Tait, solicitor in Moffat, are subscribed by us, the said John James Hope Johnstone, John Anderson Johnstone, Thomas Welsh, Samuel McMillan and George Williamson, at Moffat, on the fifteenth day of April, eighteen hundred and eighty-one,

before these witnesses James Johnstone, Farmer Hunterheck, Moffat, and the said Thomas Tait, and by us, Thomas Tennent of Priestgill, John Marshall, of Chapelton, John Clark Forrest, Provost of Hamilton, James Buchanan Mirrlees, Lord Dean of Guild of Glasgow, Thomas Watson, youngest baillie of said city, being a quorum of the said parties of the second part, as follows:—by us, the said Thomas Tennent, John Marshall and John Clark Forrest, at Glasgow, on the twentieth day of April and year last mentioned, before these witnesses, William Henry Hill, writer, Glasgow, and James Doig Ramsay, his clerk, by me, the said James B. Mirrlees, at Glasgow, on the twenty-fifth day of the month and year last mentioned, before these witnesses, Daniel Stewart and David McNair, both clerks to Mirrlees, Tait and Watson, Engineers, Glasgow, and by me, the said Thomas Watson, at Glasgow, on said day of the month and year last mentioned, before the said William H. Hill and James Doig Ramsay.

A.D. 1881.

JAMES JOHNSTONE, Witness.
THOMAS TAIT, Witness.

J. J. HOPE JOHNSTONE.
THO. WELCH.
JOHN A. JOHNSTONE.
S. McMILLAN.
GEORGE WILLIAMSON.
THOMAS TENNENT.
JNO. MARSHALL.
J. CLARK FORREST.

WILLIAM H. HILL, Witness.
J. D. RAMSAY, Witness.

DANIEL STEWART, Witness.
DAVID MCNAIR, Witness.
WILLIAM H. HILL, Witness.
J. D. RAMSAY, Witness.

} J. B. MIRRLEES, D.G.
} THOS. WATSON.

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