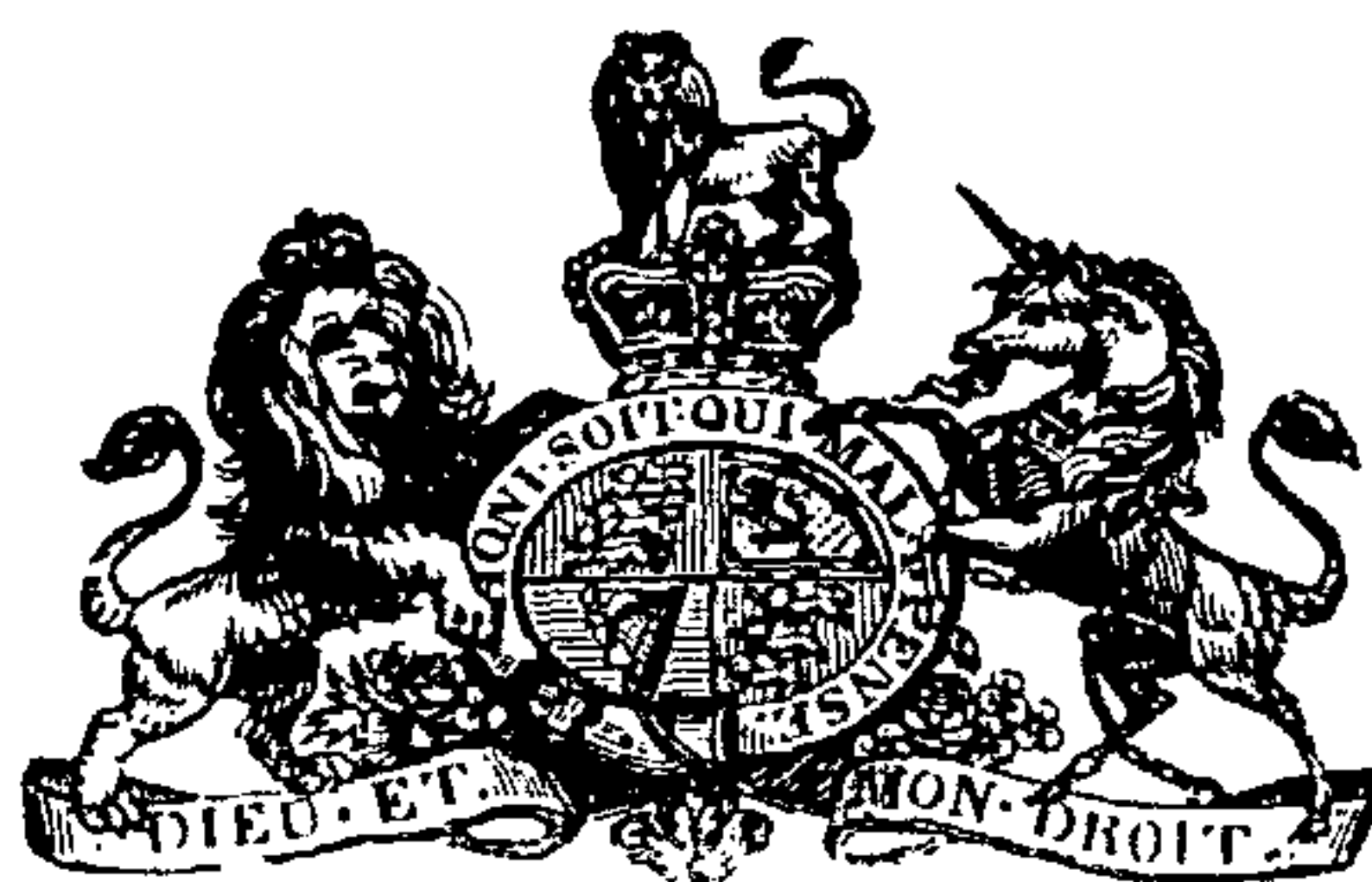


[53 & 54 VICT.]

Garve and Ullapool Railway [Ch. ccxxxiii.]
Act, 1890.



CHAPTER ccxxxiii.

An Act to authorise the Construction of a Railway from A.D. 1890.
Garve to Ullapool and for other purposes.

[14th August 1890.]

WHEREAS the construction of a line of railway from Garve to Ullapool in the county of Ross and Cromarty herein-after described would be of public and local advantage :

And whereas the several persons herein-after named with others are willing to carry the undertaking into execution on being incorporated into a company for the purpose :

And whereas it is expedient that the Company and the Highland Railway Company be empowered to enter into and carry into effect working and other agreements as herein-after provided :

And whereas plans and sections showing the lines and levels of the railway authorised by this Act and also books of reference to such 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 respective principal sheriff clerks for the county of Ross and Cromarty and are herein-after respectively referred to as the deposited plans sections and books of reference :

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 :—

1. This Act may be cited as the Garve and Ullapool Railway Short title.
Act 1890.

2. The Companies Clauses Consolidation (Scotland) Act 1845 Incorporation of
Part I. (relating to cancellation and surrender of shares) and Part general Acts.
[Price 1s. 3d.] A I

A.D. 1890. III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 the Lands Clauses Acts the Railways Clauses Consolidation (Scotland) Act 1845 and Part I. (relating to construction of a railway) and Part III. (relating to working agreements) of the Railways Clauses Act 1863 are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation.

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 word "schoolmasters" means session clerks the expressions "the railway" and "the undertaking" mean respectively the railway and the undertaking authorised by this Act.

Company incorporated.

4. Mary Jane Lady Matheson of Achany and the Lews Donald Matheson John Arthur Fowler Major Duncan Matheson Major James Flower Houstoun and all other persons 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 Garve and Ullapool 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.

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 railway herein-after described with all proper stations sidings approaches works and conveniences connected therewith 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 that purpose. The railway herein-before referred to and authorised by this Act is—

A railway thirty-three miles five furlongs four chains and fifty links in length commencing at or near the Garve Station of the Highland Railway (Dingwall and Skye section) and terminating at or near the north end of the steamboat-pier near the junction of Quay Street with Shore Street Ullapool.

6. The capital of the Company shall be two hundred and forty thousand pounds in twenty-four thousand shares of ten pounds each. Capital.

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

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 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.

9. If any money is payable to a shareholder mortgagee or debenture stockholder 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 in case of persons not sui juris.

10. The Company may from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole eighty thousand pounds and of that sum they may borrow not exceeding forty thousand pounds in respect of each one hundred and twenty thousand pounds of their share capital but no part of such sums of forty thousand pounds shall be borrowed until shares for the portion of capital of one hundred and twenty thousand pounds in respect of which it is to be borrowed are issued and accepted and one half of such portion of 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 portion of capital have been issued and accepted and that one half of such portion of capital has been paid up and that not less than one fifth part of the amount of each separate share in such portion of 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 to whom the same was issued or their executors administrators successors or assigns and that such persons 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.

- A.D. 1890. **11.** The mortgagees of the undertaking 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 eight thousand pounds in the whole.
- For appointment of a judicial factor.
- Debenture stock. **12.** 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 and of all mortgages at any time created and issued or granted by the Company under this or any subsequent Act shall subject to the provisions of any subsequent Act rank *pari passu* (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages and notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.
- Application of moneys. **13.** All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only to the purposes of this Act to which capital is properly applicable.
- First ordinary meeting. **14.** The first ordinary meeting of the Company shall be held within six months after the passing of this Act and the subsequent ordinary meetings in the month of May in each year or in such other month as may from time to time be appointed for that purpose by order of an extraordinary general meeting.
- Number of directors. **15.** The number of directors shall be five but the Company may from time to time reduce the number provided that the number be not less than three.
- Qualification of directors. **16.** The qualification of a director shall be the possession in his own right of not less than fifty shares.
- Quorum. **17.** The quorum of a meeting of directors shall be three.
- First directors. **18.** Donald Matheson John Arthur Fowler Major Duncan Matheson Major James Flower Houstoun and one person to be nominated by them or the majority of them and consenting to such nomination 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 nominated as aforesaid 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 or nominated
as aforesaid being if they continue 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 re-
ducing 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.

A.D. 1890.
Election of
directors.

19. The Company may take by agreement for the extraordinary
purposes mentioned in the Railways Clauses Consolidation (Scotland)
Act 1845 any quantity of land not exceeding ten acres but nothing
in this Act shall exempt the Company from any indictment action
or other proceeding for nuisance in the event of any nuisance being
caused by them upon any land taken under the powers of this
section.

Lands for
extra-
ordinary
purposes.

20. 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.

Period for
compulsory
purchase
of lands.

21. Subject to the provisions in the Railways Clauses Consolida-
tion (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 in the con-
struction of the railway carry the same with a single line only whilst
such railway shall consist of a single line and afterwards with a
double line only across and on the level of the roads next herein-
after mentioned (that is to say) :—

Power to
cross certain
roads on the
level.

No. on deposited Plans.	Parish.	Description of Road.
239	Lochbroom - - -	Public Road
395	Lochbroom - - -	Public Road
434	Lochbroom - - -	Public Road

A.D. 1890. Provided always that the said road numbered 239 shall be deviated so as to cross the railway at right angles and the said roads numbered 395 and 434 respectively shall be diverted so as to make the crossings square or nearly so.

Inclination
of a certain
road.

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

No. on deposited Plans.	Parish.	Description of Road.	Intended Inclination.
48	Contin - - -	Public Road - - -	1 in 16

For the
protection
of the
estate of
Alexander
George
Pirie.

23. The following provisions shall have full force and effect for the protection of the estate and demesne of Leckmelm in the county of Ross belonging or reputed to belong to Alexander George Pirie who and whose heirs and assigns are herein-after referred to under the expression "the owner":—

(1.) Where the line will pass through the said estate it shall be constructed only in the line and at the level shown on the plan and section signed by John Arthur Fowler on behalf of the Company and by Benjamin Hall Blyth on behalf of the owner: Provided that if in the construction of the said portion of railway it should appear that the railway cannot be constructed exactly according to the line or levels shown on the said plan and section it shall be constructed in some other line as near as possible thereto both in line and levels the precise line and level being fixed to the reasonable satisfaction of the said Benjamin Hall Blyth on behalf of the owner:

Provided that any such substituted line shall not increase the cost more than absolutely necessary over and above what the cost would have been if the line could have been constructed exactly in accordance with the line and level shown on the said signed plan:

(2.) Where the railway will pass through the said estate the fencing on both sides of the railway shall be erected of a character similar to that at present erected on the estate to the reasonable satisfaction of the said Benjamin Hall Blyth and all such works as are necessary for the accommodation of the said estate shall be executed to the like satisfaction:

A.D. 1890.

(3.) Where the railway will pass through woods or plantations no more timber or trees shall be cut than shall be absolutely necessary for the construction and working of the railway and the best practicable arrangements shall be made to the like satisfaction by stone dykes or otherwise to diminish the risk of firing in the said woods or plantations:

(4.) The quarry on the north side of the Leckmelm Burn in the property numbered 405 and 407 or one of them on the deposited plans in the parish of Loch Broom shall not be interfered with in any way without the consent of the owner unless it be necessary to use any part of the site thereof for construction of the railway and any stone which may be excavated for the construction of the railway shall be used only for building in connexion with the railway work on the estate:

The Company shall not construct any public station on any part of the said estate but they shall construct on some part of the estate in such position as may be reasonably required by the said Benjamin Hall Blyth a platform on the railway and siding therefrom for the exclusive use and accommodation of the owner at which no train shall be stopped otherwise than with the consent of the owner and if and when reasonably required for the purposes of the estate any train shall be stopped at the said platform by a signal:

The owner shall give and obtain the necessary consents to the deviation and works before provided for.

24. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts 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 ground annuals 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.

25. The Company shall not under the powers of this Act without the consent of the Secretary for Scotland 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:

Restriction on taking houses of labouring class.

A.D. 1890.

For the purpose of this section the expression "labouring class" means and 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.

Deposit
money not
to be repaid
except so far
as railway
is opened.

26. Whereas pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her present Majesty chapter twenty a sum of nine thousand seven hundred and eighty pounds being five per centum upon the amount of the estimate in respect of the railway has been deposited with the Queen's and Lord Treasurer's Remembrancer on behalf of 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 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 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 the 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.

27. If the Company do not previously to the expiration of the period limited for the completion of the railway complete the same and open it 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 to the 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 on 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.

A.D. 1890.

28. 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 except as to so much thereof as is then completed.

Period for completion of railway.

29. 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.

In respect of passengers and animals conveyed on the railway:—

For every person twopence per mile and if conveyed in or upon a carriage belonging to or provided by the Company an additional sum of one penny per mile;

For passengers.

A.D. 1890.

For animals.

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

Class 3. For every calf or pig one penny halfpenny per mile and for every 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 three halfpence per mile;

For goods.

In respect of goods conveyed on the railway:—

Class 4. For all dung compost manure (except guano and artificial manures) lime limestone and all undressed material for the repairs of public roads or highways per ton per mile one penny 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 5. For all coal 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 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 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;

Class 7. For all cotton and other wools drugs manufactured goods fish and 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 twopence:

In respect of carriages conveyed on the railway :—

A.D. 1890.

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 if 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.

For
carriages.

30. The tolls which the Company may demand and take 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.

31. 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
and charges.

For all passengers animals or goods conveyed on the railway for a less distance than three miles the Company may demand tolls and charges as for three miles ;

Short
distances.

For a fraction of a mile beyond three miles or beyond any greater number of miles the Company may demand tolls and charges as for one mile ;

Fractional
parts of a
mile.

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 imperial 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.

32. With respect to small parcels not exceeding five hundred pounds in weight and single articles of great weight or length notwithstanding anything contained 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 or
length.

For the carriage of small parcels on the railway :—

For any parcel not exceeding seven pounds in weight three-pence ;

A.D. 1890.

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 in weight such sum as the Company think fit :

Provided always 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 only apply 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 one ton but shall not exceed four tons the Company may demand such sum as they think fit not exceeding fourpence per ton per mile and if such weight shall exceed four tons but shall not exceed eight tons the Company may demand such sum as they think fit not exceeding eightpence per ton per mile and if such weight shall exceed eight tons the Company may demand such sum as they think fit ;

For any single consignment of timber stone machinery or other single article which on account of the length thereof may require more than one carriage the Company may demand such sum as they think fit.

Maximum
rates for
passengers.

33. The maximum rates 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 sums (that is to say) :—

For every passenger conveyed in a first-class carriage threepence per mile ;

For every passenger conveyed in a second-class carriage twopence per mile ;

For every passenger conveyed in a third-class carriage one penny per mile.

Maximum
rates for
animals and
goods.

34. The maximum rates of charge to be made by the Company for the conveyance of animals goods and minerals (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 animal in Class 1 fivepence per mile ;

For every animal in Class 2 threepence per mile ;

For every animal in Class 3 twopence per mile except for lambs or other small animals which shall not exceed three farthings per mile ;

For everything in Class 4 twopence per ton per mile ;

For everything in Class 5 twopence farthing per ton per mile ;

For everything in Class 6 threepence per ton per mile except for guano and artificial manures which shall not exceed twopence halfpenny 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 not weighing more than one ton carried or conveyed on a truck or platform per mile sixpence and if weighing more than one ton one penny halfpenny per mile for every additional quarter of a ton or fractional part of a quarter of a ton which such carriage may weigh :

Provided that when a separate waggon or truck shall be retained by one person for the conveyance only of cattle or sheep belonging to him or under his charge the aggregate of the tolls to be paid for such waggon or truck capable of containing six cattle or twenty-five sheep and not containing more than that number shall not exceed ninepence per mile.

35. 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. Passengers luggage.

36. No station shall be considered a terminal station in regard to any goods conveyed on the railway unless such goods have been Terminal station.

A.D. 1890. received thereat direct from the consignor or are directed to be delivered thereat or therefrom to the consignee.

Foregoing charges not to apply to special trains.

37. 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 said railway.

Company make take increased charges by agreement.

38. 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.

Application of provisions of Railway and Canal Traffic Act 1888 as to revision of rates.

39. Section twenty-four of the Railway and Canal Traffic Act 1888 and any enactment which may be passed in the present or any future session of Parliament extending or modifying that enactment shall with any necessary modifications apply to the Company in all respects as if it were one of the companies to which the provisions of the said enactment in terms applied. Provided that the time within which the revised schedule of maximum rates and charges prescribed by the said section shall be submitted to the Board of Trade shall be three years from the date of the passing of this Act or such further time as the Board of Trade may permit.

Working and traffic arrangements with Highland Railway Company.

40. The Company on the one hand and the Highland Railway Company on the other hand (herein-after called "the contracting companies") may subject to the provisions of Part III. of the Railways Clauses Act 1863 as amended or varied by the Railway and Canal Traffic Acts 1873 and 1888 from time to time enter into agreements with respect to the following purposes or any of them (that is to say):—

The working use management and maintenance by the Highland Railway Company of the undertaking of the Company or any part thereof;

The management regulation interchange collection transmission and delivery of traffic upon or coming from or destined for the undertakings of the contracting companies or either of them or any part thereof respectively;

The supply and maintenance during the continuance of any agreement for the use and working of the undertaking by the

Highland Railway Company of engines stock plant and machinery necessary for the purposes thereof and the employment of officers and servants for the conduct of traffic;

A.D. 1890.

The fixing collection payment appropriation apportionment and distribution of the tolls rates charges receipts and revenues arising from the respective undertakings of the contracting companies or either of them or any part thereof respectively;

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

41. During the continuance of any agreement to be entered into under the provisions of this Act for the working or use of the railway by the Highland Railway Company the railway of the Company and of the Highland Railway Company shall for the purposes of short distance tolls and charges be considered as one railway and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railway and partly on the railway of the Highland Railway Company for a less distance than three miles tolls and charges may only be charged as for three miles and in respect of passengers for every mile or fraction of a mile beyond three 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 three 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 of the Company and partly on the railway of the Highland Railway Company.

Tolls on traffic conveyed partly on the railway and partly on railway of Highland Company.

42. Nothing in any agreement made under the authority of this Act or in this Act shall affect the rights of the Postmaster General under the Telegraph Act 1878 to place and maintain telegraphic lines in under upon along over or across the railway or works comprised in the undertaking of the Company and from time to time to alter such telegraphic lines and to enter upon the land and works comprised in such undertaking for the purposes in the Telegraph Act 1878 specified and the Postmaster General shall after the making of any such agreement be at liberty to exercise all the rights aforesaid notwithstanding that the undertaking of the Company or any part thereof is worked by the Highland Railway Company.

Saving rights of Postmaster General under Telegraph Act 1878.

43. Notwithstanding anything in this Act or in any Act or Acts incorporated therewith contained it shall be lawful for the Company out of any money by this Act authorised to be raised to pay interest at such rate not exceeding three pounds ten shillings per centum

Power to pay interest out of capital during construction.

A.D. 1890. per annum as the directors may determine to any shareholder on the amount from time to time paid up on the shares held by him from the respective times of such payments until the expiration of the time limited by this Act for the completion of the works by this Act authorised or such less period as the directors may determine but subject always to the conditions herein-after stated (that is to say) :—

- (A) No such interest shall begin to accrue until the Company shall have obtained a certificate from the Board of Trade that two thirds at least of the share capital authorised by this Act in respect of which such interest may be paid has been actually issued and accepted and is held by shareholders who or whose executors administrators or assigns are legally liable for the same ;
- (B) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear ;
- (C) The aggregate amount to be so paid for interest shall not exceed fifteen thousand pounds and the amount so paid shall not be deemed share capital in respect of which the borrowing powers of the Company may be exercised but such borrowing powers shall be reduced to the extent of one third of the amount paid for interest as aforesaid ;
- (D) Notice that the Company has power so to pay interest out of capital shall be given in every prospectus advertisement or other document of the Company inviting subscriptions for shares and in every certificate of shares ;
- (E) The half-yearly accounts of the Company shall show the amount of capital on which and the rate at which interest has been paid in pursuance of this section :

Save as herein-before set forth 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.

Works below
high-water
mark not
to be com-
menced
without
consent of

44. The Company shall not 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.

A.D. 1890.

Board of
Trade.

45. 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 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.

Survey of
works by
Board of
Trade.

46. If a work constructed by the Company 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.

Abatement
of work
abandoned
or decayed.

47. Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the Queen's Majesty Her heirs or successors.

Saving
rights of
the Crown
in the fore-
shore.

[Ch. ccxxxiii.] *Garve and Ullapool Railway* [53 & 54 VICT.]
Act, 1890.

A.D. 1890.

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

48. 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.

49. Nothing in this Act contained shall exempt the Company or their 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.

50. 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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