CHAPTER xcix.

A.D. 1875.

An Act for enabling the Caledonian and the Glasgow and South-western Railway Companies to make certain railways in the County of Lanark, and to abandon others in that county, and in the County of Ayr, in connexion with their Glasgow and Kilmarnock Joint Line; for extending the period for completing another portion of railway connected with that line; and for other purposes. [29th June 1875.]

WHEREAS the line of railway from Glasgow by Crofthead to Kilmarnock (herein-after called "the joint line") belongs, under the provisions of the Caledonian and Glasgow and South-western Railways (Kilmarnock Joint Line) Act, 1869, (herein-after called "The Joint Line Act, 1869,") to the Caledonian Railway Company (herein-after called "the Caledonian Company") and the Glasgow and South-western Railway Company (herein-after called "the South-western Company") jointly and equally, subject (as respects certain portions thereof) to the rights of the Glasgow, Barrhead, and Neilston Direct Railway Company, as owners and lessors of the Glasgow, Barrhead, and Neilston Direct Railway and branches, under a lease to the Caledonian Company for a term of nine hundred and ninety-nine years from and after the twenty-seventh day of September one thousand eight hundred and forty-nine:

32 & 33 Vict. c. xcviii.

And whereas by the Glasgow and Kilmarnock Joint Line and Caledonian Railway Act, 1872, (herein-after called "The Joint Line and Caledonian Act, 1872,") the Caledonian Company and the South-western Company (herein-after called "the two Companies") were authorised to make and maintain the railways, in the parishes of Govan and Gorbals and county of Lanark, called respectively in that Act Railway No. 1, Railway No. 3, Railway No. 4, and Railway No. 6:

35 & 36 Vict. c. cxxxviii.

A.D. 1875.

And whereas it is expedient that the two Companies should be authorised to make and maintain deviations of the said Railway No. 1, Railway No. 4, and Railway No. 6, and of that portion of the said Railway No. 3 which extends between the commencement thereof, as described in the last-mentioned Act, and the western side of Cathcart Street, all in the said parish of Govan and county of Lanark, and to abandon the said authorised railways and portion of railway for which such deviations are substituted, and to stop up and appropriate the site of the portion of the Butterbiggins Road extending from Victoria Road to the western side of the joint line; and that the time limited by the said Act for completing and opening the remainder of the said Railway No. 3 should be extended:

And whereas it has been agreed between the Caledonian Company and the South-western Company that the Caledonian Company should abandon certain rights of accommodation in and user of certain works of the two Companies connected with the joint line to which the Caledonian Company are entitled in virtue of the Joint Line Act, 1869, and of an agreement between the Caledonian Company, the South-western Company, and the Glasgow and Kilmarnock Joint Line Committee, appointed under the provisions of that Act (herein-after called "the Joint Line Committee"), which agreement was scheduled to and confirmed by the Joint Line and Caledonian Act, 1872:

35 & 36 Vict. c. xii.

And whereas by the Glasgow and Kilmarnock Joint Line (Extension of Time) Act, 1872, (herein-after called "the Joint Line Act, 1872,") the two Companies were authorised to make and maintain a branch railway in the parishes of Kilmaurs and Kilmarnock and county of Ayr; and it is expedient that the same should be abandoned, but without prejudice to the two Companies holding, for siding and other purposes connected with the joint line, any part of the lands acquired for the said branch railway:

And whereas plans and sections showing the lines and levels of the railways authorised by this Act, and the lands required or which may be taken for the purposes or under the powers of this Act, and a book of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the said lands, were duly deposited with the principal sheriff clerk for the county of Lanark, and are herein-after respectively referred to as the deposited plans, sections, and book 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:

Short title.

1. This Act may be cited as "The Glasgow and Kilmarnock Joint Line Act, 1875."

Provisions of certain general Acts incorporated.

2. 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 of a railway) and Part II. (relating to extension of time) 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; and in the Acts wholly or partially incorporated with this Act, as applied to this Act, the expression "the special Act" means this Act; the expressions "the railway" and "the undertaking" mean respectively the railways and the undertaking by this Act authorised; and the expression "the Company" means the two Companies.

Power to make railways according to deposited plans.

4. Subject to the provisions of this Act, the two Companies may make and maintain, in the lines and according to the levels shown on the deposited plans and sections, the railways herein-after described, and all proper stations, sidings, approaches, works, and conveniences in connexion therewith respectively, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited book of reference as may be required for those purposes. The railways herein-before referred to and authorised by this Act are,—

A railway (herein-after called "Line No. 1"), three furlongs nine chains and twelve yards, or thereabouts, in length, being a deviation of the railway called Railway No. 1 in and authorised by the Joint Line and Caledonian Act, 1872, and of part of the railway called Railway No. 3 in and authorised by that Act; which Line No. 1 will commence by a junction with the joint line at or near the eastern side of the bridge which carries Victoria Road over the joint line, and will terminate at or near the western side of Cathcart Street by a junction with

A.D. 1875.

the said authorised Railway No. 3 now in course of construction; and

A railway (herein-after called "Line No. 2"), three furlongs two chains and three yards, or thereabouts, in length, being a deviation of the railways called Railway No. 4 and Railway No. 6 in and authorised by the Joint Line and Caledonian Act, 1872; which Line No. 2 will commence by a junction with Line No. 1 about seventy yards, measuring in a north-easterly direction, from the commencement of Line No. 1, and will terminate at or near the north-west corner of the passenger station house of the joint line at the Glasgow South Side Station.

Companies may apply to purposes of this Act funds not required for other purposes.

5. Each of the two Companies may apply towards the purposes authorised by this Act any capital or funds belonging to or authorised to be raised by them, and which may not be required for the purposes for which the same were authorised to be raised or directed to be applied.

Lands to be acquired by agreement.

6. The quantity of land to be acquired by agreement by the two Companies for the purposes of this Act shall not exceed half an acre in addition to the lands which they are by this Act authorised to take compulsorily, and which they are by any other Acts authorised, jointly or separately, to take compulsorily or acquire by agreement.

Powers for compulsory purchases limited.

7. The powers of the two Companies 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.

Powers of lateral and vertical deviation.

8. The two Companies, notwithstanding the provisions of the Railways Clauses Consolidation (Scotland) Act, 1845, incorporated with this Act, may deviate from the lines of the railways by this Act authorised as delineated on the deposited plans to any extent within the limits of deviation shown on those plans, and may deviate from the levels of the said railways as delineated on the deposited sections to any extent not exceeding five feet.

Height and span of certain bridges.

9. The bridges for carrying Line No. 1 and Line No. 2 over the railway numbered on the deposited plans 10 in the parish of Govan, and over the railway authorised by and called Railway No. 1 in the Caledonian Railway (Gordon Street, Glasgow Station) Act, 1873, shall have a clear headway throughout of not less than fourteen feet and a clear span of not less than twenty-eight feet; and the said bridges for carrying Line No. 1 and Line No. 2 over the said authorised Railway No. 1 shall be constructed by the

Caledonian Company as works in connexion with that authorised railway.

Power to stop up a certain portion of road.

10. Notwithstanding the provisions of the Railways Clauses Consolidation (Scotland) Act, 1845, incorporated with this Act, the two Companies may permanently stop up that portion of the road or street called the Butterbiggins Road which extends from Victoria Road to the western side of the joint line, and is numbered on the deposited plans 130 in the parish of Govan, without substituting another road or street therefor, and may appropriate the site thereof to the purposes of the joint line.

Restricting power to take houses occupied by labouring classes.

11. The two Companies shall not under the powers of this Act take compulsorily in any city, town, or parish fifteen or more houses occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers.

Penalty imposed unless railways are opened within period limited.

12. If the two Companies fail, within the period limited by this Act, to complete the railways authorised to be made by this Act, they shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the said railways are completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the works; and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act, or by the Solicitor of Her Majesty's Treasury, and in the same manner as the penalty provided in section three of the Railway and Canal Traffic Act, 1854; and every sum of money recovered by way of such penalty as aforesaid shall be paid, under the warrant or order of such court or judge as is specified in that section, to an account opened or to be opened in the name and with the privity of the Queen's Remembrancer of the Court of Exchequer in Scotland, in the bank and to the credit specified in such warrant or order, and shall not be paid thereout except as herein-after provided; but no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the two Companies were prevented from completing or opening such lines by unforeseen accident or circumstances beyond their control; provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Application of penalty.

13. Every sum of money so recovered by way of penalty as aforesaid shall be applicable, and after due notice in the Edinburgh Gazette shall be applied, towards compensating any landowners or

A.D. 1875.

other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said railways 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 two Companies by this Act, and for which injury or loss no compensation or inadequate compensation shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Exchequer in Scotland may seem fit; and if no such compensation shall be payable, or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum or sums of money recovered by way of penalty, or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty, and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Court of Exchequer in Scotland thinks fit to order on the application of the Solicitor of Her Majesty's Treasury, and shall be carried to and form part of the consolidated fund of the United Kingdom, or, in the discretion of the Court, if the said Companies or either of them are or is insolvent and have or has been ordered to be wound up, or if receivers or a receiver have or has been appointed, shall wholly or in part be paid or transferred to such receivers or receiver, or to the liquidator or liquidators of such Companies or Company, or be otherwise applied as part of the assets of such Companies or Company for the benefit of the creditors thereof.

Period for completion of works.

14. If the railways by this Act authorised are not completed within three years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the two Companies for making and completing the said railways, or otherwise in relation thereto, shall cease to be exercised except as to so much thereof as is then completed.

Abandonment of certain authorised railways and portion of railway.

15. The two Companies shall abandon the railways and portion of railway herein-after specified, and the subsidiary works connected therewith respectively; (that is to say,)

(1.) The said authorised railways, called respectively Railway No. 1, Railway No. 4, and Railway No. 6, in the Joint Line and Caledonian Act, 1872, and that portion of the said authorised railway therein called Railway No. 3 which extends between the commencement thereof as described in that Act and the western side of Cathcart Street; and

(2.) The said branch railway authorised by the Joint Line Act, 1872; but without prejudice to the two Companies holding, for siding and other purposes connected with the joint line, any part of the land acquired for that branch railway:

and section twenty-seven of the Joint Line and Caledonian Act, 1872, and section ten of the Joint Line Act, 1872, so far as those sections respectively relate to the authorised railways and portion of railway herein-before required to be abandoned, are hereby repealed.

Compensation for damage to and by entry, &c. for purposes of railways abandoned.

16. The abandonment by the two Companies under the authority of this Act of any railway or portion of railway or works shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of such Companies on such land for the purpose of surveying and taking levels, or probing or boring to ascertain the nature of the soil, or setting out of the line of railway; and shall not prejudice or affect the right of the owner or occupier of any land which may have been temporarily occupied by such Companies to receive compensation for such temporary occupation, or for any loss, damage, or injury which may have been sustained by such owner or occupier by reason thereof or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation (Scotland) Act, 1845, or the Joint Line and Caledonian Act, 1872, or the Joint Line Act, 1872.

Compensation to be made in respect of railways abandoned.

17. Where before the passing of this Act any contract may have been entered into or notice given by the two Companies for the purchasing of any land for the purposes of or in relation to any portions of the railways or works authorised to be abandoned by this Act, such Companies shall be released from all liability to purchase or to complete the purchase of any such lands; but notwithstanding full compensation shall be made by such Companies to the owners and occupiers or other persons interested in such lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice, and the amount and application of the compensation shall be determined in manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, as amended by any subsequent Act, for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Extending time for completing a certain por-

18. The powers granted and the period limited by the Joint Line and Caledonian Act, 1872, for the completion and opening for public traffic of that portion of the railway thereby authorised, and therein

A.D. 1875.

Extension of railway.

called Railway No. 3, which is not by this Act required to be abandoned as aforesaid, are hereby continued and extended until the expiration of two years after the twenty-fifth day of July one thousand eight hundred and seventy-five, and the said powers may be exercised by the two Companies at any time previously to the expiration of that period; and sections 26, 27, 28, and 29 of that Act, so far as the same relate to the said portion of railway, shall be read and construed as if the period therein referred to as the period for the completion and opening of that portion of railway did not expire until two years after the twenty-fifth day of July one thousand eight hundred and seventy-five.

Lines Nos. 1 and 2 to belong equally to the two Companies and to form part of the joint line as respects tolls and otherwise, subject to certain separate rights on the part of those Companies respectively.

19. The cost of constructing Line No. 1 and Line No. 2 and the works connected therewith shall be borne by the two Companies equally; and those lines and works shall belong jointly and equally to the two Companies, and shall for all purposes form part of the joint line, and be constructed, maintained, and managed by the Joint Line Committee, subject to the regulations in the fifty-fourth section of the Joint Line Act, 1869, prescribed; and the two Companies may demand and take in respect of the use of the said lines and of carriages and engines thereon, and in respect of accommodation and services provided by them in connexion therewith, any tolls, rates, and charges not exceeding those which they are by that Act authorised to demand and take in respect of the use of the joint line and of carriages and engines thereon, and in respect of accommodation and services provided by them in connexion therewith; and only one short-distance charge shall be made for the conveyance of any traffic partly on any of the said lines by this Act authorised and partly on other portions of the joint line: Provided always, that the Caledonian Company and the South-western Company respectively shall have the same separate rights of user and other rights and privileges over and in respect of the said lines by this Act authorised which they now possess or are entitled to over and in respect of the joint line: Provided also, that the portion of Line No. 1 which will intervene between its junction with the portion of railway the period for completing which is by this Act extended and its junction with a railway called Railway No. 1 in a Bill pending in Parliament in the present session under the short title of the Caledonian Railway (Additional Powers) Bill, shall for all purposes be held as substituted for the portion of the authorised Railway No. 3 abandoned by this Act, and shall together with the portion of that railway the period for completing which is by this Act extended be subject to all the provisions applicable to the whole of the said authorised Railway No. 3 under the Joint

Line and Caledonian Act, 1872, and the agreement confirmed thereby.

Certain rights of accommodation and user by Caledonian Company repealed.

20. The Caledonian Company shall not, under the provisions contained in the twelfth section of the Joint Line Act, 1869, and in the thirtieth section of the Joint Line and Caledonian Act, 1872, and in article fifth of the said agreement confirmed by the last-mentioned Act, be entitled to have their goods traffic, other than that using the joint line, accommodated in the present goods station on the portion of the South Side Station vested under the provisions of the said twelfth section in the two Companies, or in any goods station that may be hereafter erected on that vested portion, nor to use any part of that vested portion for working that traffic into or out of the South Side Station; and the Caledonian Company shall not use the South Side Station for any goods traffic passing over the railway from their Polloc and Govan Railway to the joint line authorised by the Caledonian Railway (Additional Powers) Act, 1874.

Power to Companies to enter into agreements.

21. The Caledonian Company and the South-western Company may make and carry into effect agreements with each other with respect to all or any of the purposes of this Act, and with respect to the use of the several lines and works by this Act authorised, or any of them, and the conduct and management of the traffic thereon, and with respect to the tolls, rates, and charges to be levied in respect of such lines and works, but not so as to increase any maximum tolls, rates, or charges authorised by any Act of Parliament in respect of such lines and works.

Railway not exempt from provisions of present and future general Acts.

22. Nothing in this Act contained shall exempt either of the two Companies or the railways 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.

23. 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 two Companies in equal proportions.

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