CHAPTER clxxxiii.

An Act to authorise the Highland Railway Company to construct new railways; and for other purposes. A.D. 1884.

[28th July 1884.]

WHEREAS it is expedient and will be for public and local advantage that the Highland Railway Company (in this Act called the Company) should be authorised to construct the new railways in this Act mentioned, and to raise additional capital for the purposes thereof:

And whereas plans and sections showing the lines and levels of the railways authorised by this Act, and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of 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 counties of Inverness, Nairn, Cromarty, and Ross, and are herein-after respectively referred to as the deposited plans, sections and books of reference:

And whereas during the progress through Parliament of the Bill for this Act, it was ascertained that a portion of Railway No. 1 would be improved, and the distance between Inverness and Aviemore shortened, by deviating the portion of Railway No. 1 herein-after described:

And whereas plans and sections (herein-after referred to as the amended plans and sections), showing the lines and levels of the proposed deviation of Railway No. 1, and also books of reference to those 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 of the said deviation railway, were deposited in the month of February, 1884, with the principal sheriff clerk for the county of Inverness:

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

A.D. 1884.

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 Highland Railway (New Lines) Act, 1884.

Incorporation of Acts.

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) 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 or inconsistent with such construction; the expression "the Company" means the Highland Railway Company; the expression "the railway" means the railways by this Act authorised; the expression "the undertaking" means the undertaking of the Company; and the word "person" includes corporation.

As to deposit of plans in February, 1884.

4. The plans and other documents deposited as aforesaid in the month of February with the principal sheriff clerk for the county of Inverness, shall be kept by him as documents deposited under the standing orders of Parliament for the purposes of this Act, and shall, for the purposes of this Act and for all other purposes, be deemed to form part of the deposited plans.

Power to make railways.

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 as varied by the amended plans and sections, the railways herein-after described, with all proper stations, sidings, approaches, works and conveniences connected therewith respectively, and may enter upon, take and use such of the lands delineated on the deposited and amended plans and described in the books of reference deposited with respect to such plans respectively, as may be required for that purpose. The railways herein-before referred to and authorised by this Act are—

(1.) A Railway No. 1, thirty-four miles five furlongs and eight chains in length, commencing in the united parish of Inverness and Bona, and county of Inverness, by a junction with the

Highland Railway at or near the mile post denoting one hundred and forty-one and three quarter miles from Perth, being also two and a quarter miles east from the Inverness Railway Station, and terminating in the united parish of Duthil and Rothiemurchus, and county of Inverness, by a junction with the Highland Railway, at or near a point four hundred and thirty yards or thereabouts, measuring in a northerly direction along that railway, from the railway clock at the Aviemore Railway Station: Provided that the Company shall construct and maintain so much of Railway No. 1 as lies between a point in the united parish of Moy and Dalarossie, marked and measured on the deposited plans of that railway as fourteen miles two furlongs and six chains from the point of commencement thereof, and a point in the same parish marked and measured on those plans twenty-three miles seven furlongs and four chains from the said commencement, in the line and according to the levels shown on the amended plans and sections, instead of in, and in substitution for, the line shown on the deposited plans between those points;

(2.) A Railway No. 2, two miles four furlongs in length, wholly situate in the parish of Fodderty and county of Cromarty, commencing by a junction with the Dingwall and Skye section of the Highland Railway at a point eight yards or thereabouts, measuring in an easterly direction from the mile post on the said Dingwall and Skye section, denoting two and a quarter miles west from the Dingwall Railway Station, and terminating in a field at Strathpeffer, occupied by Donald Fraser, at a point therein forty-two yards or thereabouts, measuring in a northerly direction from the north corner of Ardival Farmhouse.

For the protection of the Culloden Estate.

6. For the protection of the Culloden Estate the following provisions shall have effect :—

(1.) The Company may and shall construct and maintain so much of Railway No. 1 as lies between a point in the parish of Inverness and Bona, marked and measured on the deposited plans of that railway as one furlong from the commencement thereof, and a point in the same parish, marked and measured on those plans one mile seven furlongs from the said commencement, in the line and according to the levels shown on a plan and section signed by the Right Honourable the Earl of Redesdale, the Chairman of Committees of the House of Lords, and deposited in the office of the Clerk of the

A.D. 1884.

Parliaments (a copy of which plan and section has also been deposited with the principal sheriff clerk for the county of Inverness), instead of, and in substitution for the line shown on the deposited plans and sections between those points;

(2.) The plan and section deposited as aforesaid with the principal sheriff clerk for the county of Inverness shall be kept by him as documents deposited under the standing orders of Parliament for the purposes of this Act, and shall for all purposes be deemed to form part of the deposited plans.

Power to take easements, &c., by agreement.

7. 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, 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 feu duties and ground annuals, so far as the same are applicable in this behalf, shall extend and apply to such grants and to such easements, rights and privileges as aforesaid respectively.

Power to apply corporate funds to purposes of Act.

8. The Company may apply to the purposes of this Act to which capital is properly applicable any moneys which they now have in their hands, or which they have power to raise by shares or mortgage by virtue of any Acts relating to the Company, and which may not be required for the purposes to which they are by any such Acts made specially applicable.

Power for the Company to raise additional capital.

9. The Company may, subject to the provisions of Part II. of the Companies Clauses Act, 1863, raise any additional capital, not exceeding in the whole four hundred thousand pounds, by the issue, at their option, of new ordinary shares or stock, or new preference shares or stock, or wholly or partially by any one or more of those modes respectively, and the clauses and provisions of the Companies Clauses Consolidation (Scotland) Act, 1845, with respect to the following matters (that is to say):—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;

The forfeiture of shares for non-payment of calls;

The remedies of creditors of the Company against the shareholders;

The borrowing of money by the Company on mortgage or bond;
The conversion of the borrowed money into capital;
The consolidation of the shares into stock;
The general meetings of the Company and the exercise of the right of voting by the shareholders;
The making of dividends;
The giving of notices; and
The provision to be made for affording access to the special Act by all parties interested;

Part I. (relating to cancellation and surrender of shares), Part II. (relating to additional capital), Part III. (relating to debenture stock), of the Companies Clauses Act, 1863, shall, subject to the provisions of this Act, extend and apply to the Company and to the additional capital which they are by this Act authorised to raise.

Shares not to be issued until one-fifth paid.

10. The Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds, nor shall any 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 shall have been paid in respect thereof.

New shares or stock to be subject to the same incidents as other shares or stock.

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

Dividends on shares or stock.

12. Every person who becomes entitled to new shares or stock shall, in respect of the same, be a holder of shares or stock in the Company, and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount, from time to time, called and paid on such new shares, or to the whole amount of such stock, as the case may be: Provided always that the special general meeting of the Company authorising the creation and issue of such new shares or stock, may attach thereto, or to any portion thereof respectively, such terms and conditions as may be determined by resolution passed at such meeting: Provided also that the terms and conditions on which such shares or stock respectively are issued, shall be stated on the certificates thereof.

A.D. 1884.

New shares issued under this Act and any other Acts of past sessions may be of same class.

13. Subject to the provisions of any Act already passed, by which the Company are authorised to raise capital by new shares or stock, and to the provisions of this Act, the Company may, if they think fit, raise by the creation and issue of new shares or stock of one and the same class, all or any part of the aggregate capital which they are by such other Act, and this Act respectively, authorised to raise by the creation and issue of new shares or stock.

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

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

Power to borrow.

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

For appointment of a

16. Every provision in any Act passed before the present session of Parliament whereby the Company is authorised to raise money

by borrowing for the purposes of their undertaking, with respect to the appointment of a judicial factor, for enforcing payment by the Company of arrears of principal or interest, or principal and interest, shall be, and the same is hereby repealed, but without prejudice to any appointment which has been made, or to the continuance of any proceedings which have been commenced prior to the passing of this Act under such provision. 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 ten thousand pounds in the whole.

judicial factor.

17. All mortgages and bonds granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing hereof, shall, during the continuance of such mortgages and bonds, and subject to the provisions of the Acts under which such mortgages and bonds were respectively granted, have priority over any mortgages granted by virtue of this Act, but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Existing mortgages to have priority

18. 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.

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

Application of moneys.

20. The quantity of land to be taken by the Company, by agreement for the purposes of this Act, for the extraordinary purposes mentioned in the Railways Clauses Consolidation (Scotland) Act, 1845, shall not exceed ten acres.

Lands for extraordinary purposes.

21. 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.

22. In altering, for the purposes of this Act, the roads next herein-after mentioned, the Company may make the same of any

Inclinations of certain roads.

A.D. 1884.

inclinations not steeper than the inclinations herein-after mentioned in connexion therewith respectively (that is to say):—

No. on deposited Plan of Railway No. 1.	Parish.	Description of Road.	Intended Inclination.
60	Croy and Dalcross	Public - -	1 in 14 on one side of the bridge and 1 in 25 on the other.
23 on the amended plans.	Moy and Dalarossie.	Turnpike -	1 in 29.

Penalty imposed unless the line is opened within the time limited.

23. If the Company fail within the period limited by this Act to complete the railway, the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railway is completed and opened for the public conveyance of passengers, or until the sum received in respect of such penalty amounts 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 Company was prevented from completing or opening such line 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.

24. 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 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 sum or sums of money so recovered by way of penalty as aforesaid has 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 said 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 said 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.

Period for completion of railway.

25. 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.

Tolls.

26. With respect to tolls, rates and charges, and for all other purposes whatsoever, the railway shall, subject to the provisions of this Act, be part of the undertaking of the Company.

Transmission of traffic between the railways of the Company and the Great North of Scotland Railway.

27. Whereas the railways of the Company and of the Great North of Scotland Railway Company (herein-after called "the Great North Company"), together form continuous routes between various places, and junctions exist at various points between the railways of the two companies, and it is expedient that further provision should be made with regard to the interchange of traffic at the said junctions and the transmission of traffic between and over the respective undertakings: Therefore each of the two companies shall, from time to time, afford to the other of them all proper and sufficient facilities for the reception, accommodation, forwarding, interchange and delivery of traffic of every description passing or intended or directed to pass between any point on or beyond the

A.D. 1884.

railway of the Company and any point on or beyond the railway of the Great North Company, and such traffic (subject to the directions of any consignor) may be delivered by the Company to the Great North Company or by the Great North Company to the Company for exchange at any junction between their respective systems, and such facilities shall include through rates and fares, and through booking by tickets and invoices, and, so far as may be reasonably required, through carriages, waggons and trucks, and conveniently timed and arranged trains, whether ordinary or special, as the case may require, by any junction, and each Company shall, from time to time, duly receive and transmit on or over their railways and deliver all such traffic passing or intended or directed to pass, to the railway of the other of them effectually, regularly and expeditiously, and in all respects on an equality with their own proper traffic, or as if it were traffic which they were desirous of cultivating to the utmost, and each shall afford to the other in respect of such traffic all such arrangements and facilities as may be reasonably required.

Additional facilities for Great North traffic at Inverness Station.

28.—(1.) The Company shall at all times afford to and for the Great North Company all needful accommodations, conveniences and facilities at the station of the Company at Inverness for and in respect of all traffic destined for or arriving from the railways of the Great North Company, including, so far as reasonably may be required, the carrying forward of through waggons and carriages, in connexion with the trains of the Great North Company, and convenient timing, number and speed of trains; and the Company shall be bound, so far as reasonably may be, to place all such traffic upon terms of absolute equality with their own proper traffic;

Highland Company to provide accommodation, &c., for Great North agents and clerks at Inverness Station.

(2.) The Great North Company may, at their own cost, employ such carting and other agents and booking clerks at the station of the Company at Inverness as they may think proper for the purpose of booking, invoicing, collecting, delivering and carting traffic, and the Company shall, at the cost of the Great North Company, provide all necessary accommodation for such agents and clerks at that station: Provided always that such agents and clerks shall be subject to the regulations of the Company from time to time in force at that station;

(3.) The payment for the accommodation and conveniences at Inverness Station provided by the Company under this section shall be determined by agreement, or in case of difference by arbitration in manner herein-after mentioned;

(4.) The Great North Company shall, in respect of cartage performed by them at the said station, when the rate charged for such

traffic includes cartage, be entitled to an amount per ton equal to the average actual cost per ton of cartage performed by the Company or their agents at such station.

Arbitrator to be nominated by Board of Trade.

29. Any difference which may from time to time arise between the Company and the Great North Company with reference or in any way relating to any of the matters referred to in the two immediately preceding sections shall be from time to time determined by the arbitration of a single arbitrator, to be nominated (unless otherwise agreed between the two companies) by the Board of Trade, on the application of either company.

Interest not to be paid on calls paid up.

30. 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.

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

31. 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.

32. 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 or 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.

Expenses of Act.

33. 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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