CHAPTER xvi.

An Act to authorise Diversions of the Sutherland and Caithness Railway; and for other purposes. A.D. 1875.

[13th May 1875.]

WHEREAS by "The Sutherland and Caithness Railway Act, 1871," (herein-after called "the recited Act,") the Sutherland and Caithness Railway Company were incorporated and authorised to make and maintain a railway from Helmsdale in the county of Sutherland to Wick in the county of Caithness, with a branch from Halkirk to Thurso, both in the county of Caithness: 34 & 35 Vict. c. xcix.

And whereas it is expedient to authorise the said Company to make and maintain the diversion railways in this Act described in substitution for portions of the railways authorised by the recited Act, and to abandon the said portions of their authorised railways:

And whereas plans and sections showing the lines and levels of the diversion 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 principal sheriff clerks of the counties of Sutherland and Caithness, 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:

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Short title.

1. This Act may be cited for all purposes as "The Sutherland and Caithness Railway 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) of "The Railways Clauses Act, 1863," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Company" means the Sutherland and Caithness Railway Company; the expressions "the railway" or "the railways," and "the undertaking," mean respectively the railways and the undertaking of the Company by the recited Act and this Act authorised, so far as not abandoned under the authority of this Act.

Power to make diversion railways according to deposited plans.

4. Subject to the provisions of this Act, the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the diversion railways 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 deposited plans and described in the deposited books of reference as may be required for that purpose.

Description of diversion railways.

5. The diversion railways herein-before referred to and authorised by this Act are,—

A diversion railway (No. 1) four miles and seven chains in length, commencing by a junction with the authorised railway from Helmsdale to Wick firstly described in the recited Act, at or near a point in the parish of Kildonan marked on the plans and sections deposited with reference to the recited Act fourteen miles, and terminating by a junction with the said authorised railway at or near a point in the said parish marked on the said plans and sections eighteen miles one furlong:

A diversion railway (No. 2) three miles four furlongs three chains and eleven yards in length, commencing by a junction with the said authorised railway at or near a point in the parish of Reay marked on the said plans and sections twenty-three miles six chains, and terminating by a junction with the said

authorised railway at or near a point in the said parish marked on the said plans and sections twenty-six miles two furlongs eight chains :

A diversion railway (No. 3) seventeen miles six furlongs and seven chains in length, commencing by a junction with the said authorised railway at or near a point in the parish of Reay marked on the said plans and sections twenty-seven miles four furlongs, and terminating by a junction with the said authorised railway at or near a point in the parish of Halkirk marked on the said plans and sections forty-five miles three chains :

A diversion railway (No. 4) three miles seven furlongs nine chains and five and one half yards in length, commencing by a junction with the said authorised railway at or near a point in the parish of Watten marked on the said plans and sections fifty-one miles three furlongs, and terminating by a junction with the said authorised railway at or near a point in the parish of Wick marked on the said plans and sections fifty-five miles three furlongs :

A diversion railway (No. 5) two miles three furlongs and two chains in length, commencing by a junction with the said authorised railway at or near a point in the parish of Halkirk marked on the said plans and sections forty-four miles seven furlongs eight chains, and terminating by a junction with the authorised branch railway from Halkirk to Thurso, secondly described in the recited Act, at or near a point in the parish of Thurso marked on the said plans and sections two miles five furlongs.

Power to apply moneys.

6. The Company may apply for the purposes of the diversion railways and works authorised by this Act any moneys which by the recited Act they are authorised to raise by shares or by borrowing, as if those railways and works had been authorised by that Act.

Powers for compulsory purchases limited.

7. 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 one year from the passing of this Act.

Power to cross certain roads on the level.

8. Subject to the provisions in "The Railways Clauses Consolidation (Scotland) Act, 1845," and in Part I. (relating to 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 construction of the under-mentioned railways carry the same with a single line only, whilst the railway shall

A.D. 1875. 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,)

Diversion railways.	No. on deposited plan.	Parish.	Description of road.
No. 2	4	Reay - -	Public road.
No. 3	137	Halkirk - -	Public road.
No. 4	10	Watten - -	Public road.
No. 5	18	Halkirk - -	Public road.
	1	Thurso - -	

Provided always, that, notwithstanding the construction of the said diversion railway No. 4 as a single line, the Company may, with the consent of the Board of Trade (which consent the Board of Trade are hereby authorised to give), carry the same with a double line or passing place across and on the level of the said road numbered 10 in the parish of Watten: Provided also, that, unless the Board of Trade shall otherwise determine, the fortieth section of "The Railways Clauses Consolidation (Scotland) Act, 1845," shall not apply to the crossings of roads on a level by this Act authorised; but at the points at which those roads are so crossed on the level the Company shall erect, and at all times maintain, good and sufficient gates across the railway on each side of the roads, and shall employ proper persons to open and shut such gates, and shall use all signals requisite for safety at such crossings; and such gates shall be kept constantly closed across the railway except when engines or carriages passing along the railway shall have occasion to cross such roads; and the person intrusted with the care of such gates shall cause the same to be closed as soon as such engines and carriages shall have passed through the gates, under a penalty not exceeding forty shillings for every default therein.

Diversion railways and works to be Company's undertaking.

9. The diversion railways and works by this Act authorised, and the lands and property from time to time acquired by the Company for the purposes thereof, shall, for the purpose of tolls, rates, and charges, and for all other purposes whatsoever, except as in this Act otherwise expressly provided, be the undertaking and property of the Company, as if the Company had by the recited Act been authorised to make and maintain the said diversion railways and works, and to acquire the said lands and property; and all conveyances of such lands and property, and all other deeds or

agreements relating thereto, which, before the passing of this Act, have been executed, made, or entered into in favour of or by or with the Company, or any person on their behalf, shall be as valid and of as full force and effect as if the same had been executed, made, or entered into in pursuance of the provisions of the recited Act and this Act.

Penalty imposed unless the diversion railways are opened within the time limited.

10. If the Company fail within the period limited by this Act to complete the diversion railways, 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 diversion 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 Company was 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.

11. 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 may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the diversion 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 Company by this Act, and for which injury or loss no compensation or inadequate compensation shall have been paid,

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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 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 works.

12. If the diversion railways are not completed within one year 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 diversion railways, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Company to abandon portions of authorised railways.

13. The Company shall abandon the construction of such portions of the railways authorised by the recited Act as are herein-after mentioned; that is to say,

(1.) Such portions of the railway firstly described in the recited Act as lie respectively between the commencement and the termination of the diversion railways No. 1, No. 2, No. 3, and No. 4 by this Act authorised; and

(2.) So much of the branch railway secondly described in the recited Act as lies between the commencement of the said branch railway and the termination of the diversion railway No. 5 by this Act authorised.

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

14. The abandonment by the Company under the authority of this Act of any portion of any 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 the Company 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 the Company 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 recited Act.

Compensation to be made in respect of portions of railways abandoned.

15. Where before the passing of this Act any contract may have been entered into or notice given by the Company 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, the Company 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 the Company 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.

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

16. Nothing in this Act contained shall exempt the Company or the railway from the provisions of any general Act relating to railways, or the better and more impartial audit of the accounts of railway companies, now in force or which may hereafter pass during this or any future session of Parliament, or from any future revision or alteration, under the authority of Parliament, of the maximum rates of fares and charges, or of the rates for small parcels, authorised by the recited Act and this Act.

Expenses of Act.

17. 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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