



CHAPTER cxxiv.

An Act to authorise the Highland Railway Company to construct a railway from Keith to Buckie; and for other purposes. A.D. 1882.
[12th July 1882.]

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 a railway from Keith to Buckie, in the county of Banff:

And whereas it is expedient that the Company should be authorised to raise additional capital for the purposes of this Act:

And whereas plans and sections showing the lines and levels of the railway 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 clerk for the county of Banff, 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 Highland Railway Act, 1882.

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.

[Local.-124.]

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Short title.

Incorporation of general Acts.
8 & 9 Vict. c. 19.
23 & 24 Vict. c. 106.
8 & 9 Vict. c. 33.
26 & 27 Vict. c. 92.

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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 railway by this Act authorised; the expression "the undertaking" means the undertaking of the Company.

Power to make railway.

4. 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 (on the deposited plans and sections referred to as Railway No. 1) thirteen miles three furlongs in length, commencing in the parish of Keith, by a junction with the existing railway of the Company from Keith to Inverness, near the Keith Station, and terminating at Portessie near Buckie in the parish of Rathven.

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

5. 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.

6. The Company may apply to the purposes of this Act 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.
26 & 27 Vict.
c. 118.

7. 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 one 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):

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8 & 9 Vict.
c. 17.

- 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 nonpayment 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.

8. 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.

Shares not to be issued till one-fifth part thereof shall have been paid.

9. 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.

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

10. 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

Dividends on new shares or stock.

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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.

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

11. 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.

12. 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.

13. The Company may in respect of the additional capital of one 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 thirty-three thousand six 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 *bonâ fide*, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors or assignees; 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 assignees 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. A.D. 1882.

14. 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 money or interest, or principal money 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. For appointment of a judicial factor.

15. 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.

16. 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 after the passing of this Act created and issued by the Company, shall rank *pari passu* with the interest of all mortgages at any time after the passing of this Act, granted by the Company, and shall have priority over all principal moneys secured by such mortgages. Debenture stock.

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

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Lands for extraordinary purposes.

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

Period for compulsory purchase of lands.

19. 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.

Inclinations of roads.

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

No. on deposited Plan.	Parish.	Description of Road.	Intended Inclination.
79	Rathven	Public road - -	1 in 7 on one side of the bridge, and level on the other.
145	Rathven	Public road - -	1 in 14 on one side of the bridge, and level on the other.
196	Rathven	Public road - -	1 in 12 on one side of the bridge, and level on the other.
239	Rathven	Public road - -	1 in 8 on one side of the bridge, and level on the other.
384	Rathven	Public road - -	1 in 14 on one side of the bridge, and level on the other.

Penalty imposed unless railway opened within the time limited.

17 & 18 Vict. c. 31.

21. 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 public traffic, or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the railway not so completed; 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 3 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

were prevented from completing or opening such railway 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.

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22. 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 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 so 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 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.

Application of penalty.

23. If the railway is not completed within five years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Company for making and completing the railway, or otherwise in relation thereto, shall cease to be exercised except as to so much thereof as is then completed.

Period for completion of railway.

24. 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.

Tolls.

25. The book, tables, or other document in use for the time being, containing the general classification of goods carried by goods

Classification table to be open to in-

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 Inspection, and
 copies to be
 sold.

Accounts to
 be rendered
 as to
 terminal
 charge.

Penalty.

36 & 37 Vict.
 c. 48.

Interest not
 to be paid on
 calls paid up.

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

Provision as
 to general
 railway
 Acts.

or merchandise train on the railways of the Company shall, during all reasonable hours, be open to the inspection of any person without the payment of any fee, at every station at which goods or merchandise are received for transmission; and such book, tables, or other document, as annually revised, shall be kept on sale at the principal office of the Company at a price not exceeding one shilling. The Company shall, within one week after application in writing made to the secretary of the Company by any person interested in the carriage of any goods which have been or are intended to be carried over the railway, render an account to the person so applying, in which the charge made or claimed by the Company for the carriage of such goods shall be divided, and the charge for conveyance over the railway shall be distinguished from the terminal charges, if any; and if any terminal charge is included in such account, the nature and detail of the terminal expenses in respect of which it is made shall be specified. If the Company fail to comply with the provisions of this section they shall for each offence and, in the case of a continuing offence, for every day during which the offence continues, be liable to a penalty not exceeding five pounds, which penalty shall be recovered and applied in the same manner as penalties imposed by the Regulation of Railways Act, 1873, section 14.

26. The Company shall not out of any money by this Act authorised to be raised, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him; but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him, beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation (Scotland) Act, 1845.

27. 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.

28. 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. A.D. 1882.
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29. 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. Expenses of
Act.

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