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VICTORIÆ REGINÆ.

Cap. clxxxi.

An Act for making a Diversion of Part of the *Sutherland* Railway; for relinquishing a Portion of the said Railway; and for other Purposes.

[16th *July* 1866.]

WHEREAS by "The *Sutherland* Railway Act, 1865," 28 & 29 Vict. c. clxix. (herein-after called "the recited Act,") the *Sutherland* Railway Company were incorporated, and authorized to make and maintain the *Sutherland* Railway as therein described, and to raise One hundred and eighty thousand Pounds by the Creation of Shares, and Sixty thousand Pounds by borrowing on Mortgage: And whereas it is expedient that the said Company should be empowered to make and maintain a Diversion of the Line of the *Sutherland* Railway authorized by the recited Act, and to abandon a Portion of and to make certain Alterations in the said authorized Line of Railway, and that the Periods for the Purchase of Lands and the Completion of the said Railway should, with respect to Parts thereof, be extended, and that the said Company should be authorized to raise additional Capital for the Purposes of their Undertaking: And whereas Plans and Sections describing the Lines and Levels of the intended Diversion and Alterations, and the Lands to be taken for the Purposes thereof, and a Book of Reference to such Plans containing the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers

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of

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of such Lands, have been deposited with the Principal Sheriff Clerk of the County of *Sutherland*, and which are herein-after referred to as the deposited Plans and Sections and the deposited Book of Reference: And whereas the Objects aforesaid 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; (that is to say,)

Short Title.

1. This Act may be cited for all Purposes as "*The Sutherland Railway Act, 1866.*"

8 & 9 Vict.
cc. 19. & 33.,
23 & 24 Vict.
c. 106., and
26 & 27 Vict.
c. 92. incor-
porated.

2. "*The Lands Clauses Consolidation (Scotland) Act, 1845,*" "*The Lands Clauses Consolidation Acts Amendment Act, 1860,*" "*The Railways Clauses Consolidation (Scotland) Act, 1845,*" and Parts First, Second, and Third of "*The Railways Clauses Act, 1863,*" are (except where expressly varied by this Act) incorporated with and form Part of this Act.

8 & 9 Vict.
c. 17. and
26 & 27 Vict.
c. 118. in-
corporated.

3. The Clauses and Provisions of "*The Companies Clauses Consolidation (Scotland) Act, 1845,*" with respect to the Distribution of the Capital of the Company into Shares, and with respect to the Transfer or Transmission of Shares, and with respect to the Payment of Subscriptions and the Means of enforcing the Payment of Calls, and with respect to the Forfeiture of Shares for Nonpayment of Calls, and with respect to the Remedies of Creditors of the Company against the Shareholders, and with respect to the borrowing of Money by the Company on Mortgage or Bond, and with respect to the Conversion of borrowed Money into Capital, and with respect to the Consolidation of the Shares into Stock, and with respect to the General Meetings of the Company and the Exercise of the Right of voting by the Shareholders, and with respect to the Provision to be made for affording Access to the Special Act by all Parties interested, and also Parts First, Second, and Third of "*The Companies Clauses Act, 1863,*" are (except where expressly varied by this Act) incorporated with and form Part of this Act.

Interpreta-
tion of
Terms.

4. In this Act the several Expressions to which Meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective Meanings, unless there be something in the Subject or Context repugnant to such Construction; the Expression "*the Company*" shall mean the *Sutherland Railway Company*; the Expression "*the Diversion*" shall mean the diverted Railway by this Act authorized; the Expression "*the Railway*" or "*the Undertaking*" shall mean the Railway authorized by the recited Act so far as not abandoned under the Authority of this Act, and the Diversion and the Alterations by this Act authorized.

5. Subject

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5. 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 and Alterations hereinafter described, with all proper Stations, 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 Book of Reference as may be required for that Purpose.

Power to make Diversion and Alterations.

6. The Diversion and Alterations herein-before referred to and authorized by this Act are,—

Description of Diversion and Alterations.

A Diversion of the Main Line of the Railway authorized by the recited Act commencing at a Point marked on the Plans and Sections referred to in the recited Act Twenty-four Miles and Five and a Half Furlongs or thereby from the Commencement of the Railway, and in a Field numbered on the last-mentioned Plans 100 in the Parish of *Golspie*, and terminating by a Junction with the said authorized Line at a Point marked on the last-mentioned Plans and Sections Thirty Miles and Four Furlongs or thereby, and in Pasture Land numbered on the said last-mentioned Plans 284 in the Parish of *Golspie* :

An Alteration of the Mode in which the Railway is authorized by the recited Act to cross the public Highway or Road numbered on the said last-mentioned Plans 54 in the Parish of *Golspie* at a Point marked on the said last-mentioned Plans and Sections Twenty-two Miles and Seven Furlongs or thereby :

An Alteration of the Mode in which the Railway is authorized by the recited Act to cross the Road numbered on the said last-mentioned Plans 397 in the Parish of *Rogart*, the said Road not being a public Highway, by constructing the Railway on the Level of such Road.

7. It shall be lawful for the Company, in addition to the said Capital of One hundred and eighty thousand Pounds authorized by the recited Act, to raise any Sum not exceeding Thirty thousand Pounds by the Creation and Issue of new Ordinary Shares in their Undertaking of such Amount as the Company may think fit.

Power to raise additional Capital.

8. 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, until a Sum not being less than One Fifth Part of the Amount of such Share shall have been paid up in respect thereof.

Shares not to issue until One Fifth paid up.

9. One Fifth of the Amount of each Share created under the Authority of this Act shall be the greatest Amount of a Call, and Two Months at least shall be the Interval between successive Calls, and
Three

Calls.

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Three Fifths of the Amount of a Share shall be the utmost aggregate Amount of the Calls made in any Year upon any Share.

Rights of Holders of new Shares or Stock.

10. The Capital to be raised by such new Shares or Stock shall be Part of the general Capital of the Company, and, except as otherwise provided by the Special General Meeting of the Company which shall resolve to create and issue the same, such new Shares or Stock shall confer and impose on the Holders thereof all the Rights and Privileges, Liabilities and Obligations, which the existing Shares or Stock of the Company confer and impose on the Holders thereof; and each Holder of such new Shares or Stock shall be entitled to the same Number of Votes in respect thereof which the Possession of an equal nominal Amount of the Capital authorized by the recited Act would have conferred on him.

Power to borrow on Mortgage.

11. The Company may from Time to Time borrow on Mortgage any Sum not exceeding in the whole Ten thousand Pounds in addition to the Sum of Sixty thousand Pounds authorized to be borrowed under the Authority of the recited Act, making together the Sum of Seventy thousand Pounds; but no Part of such Sum of Ten thousand Pounds shall be borrowed until the whole additional Capital of Thirty thousand Pounds is subscribed for, issued, and accepted, and One Half thereof is paid up, and the Company have proved to the Sheriff who is to certify under the 42nd Section of "The Companies Clauses Consolidation (*Scotland*) Act, 1845," before he so certifies, that the whole of the Capital has been issued and accepted, and that One Half thereof has been paid up, and that not less than One Fifth Part of the Amount of each separate Share 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 Subscribers, or their Executors, Administrators, or Assignees, and that such Subscribers, or their Executors, Administrators, 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.

Arrears may be enforced by Appointment of a Judicial Factor.

12. The Mortgagees of the Company may enforce Payment of Arrears of Principal and Interest due on their Mortgages by the Appointment of a Judicial Factor, and in order to authorize the Appointment of a Judicial Factor the Amount owing to the Mortgagees by whom the Application for a Judicial Factor shall be made shall not be less than One thousand Pounds in the whole.

Existing Mortgages to have Priority.

13. All Mortgages granted by the Company in pursuance of the Powers of the recited Act before the passing of this Act, and which shall

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shall be subsisting at the Time of the passing thereof, shall during the Continuance of such Mortgages have Priority over any Mortgages to be granted by virtue of this Act.

14. The Company may create and issue Debenture Stock.

Debenture
Stock.

15. All Monies raised under this Act, whether by Shares or borrowing, shall be applied for the Purposes of this Act and the recited Act only.

Application
of Monies.

16. 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 Four Years from the passing of this Act.

Powers for
compulsory
Purchases
limited.

17. The Time limited by the recited Act for the compulsory Purchase of Lands with respect to so much thereof as are proposed to be taken under the recited Act for that Portion of the authorized Line which lies between a Point marked on the Plans and Sections referred to in the recited Act Thirty Miles and Four Furlongs or thereabouts, and in Pasture Land numbered on the said Plans 284 in the Parish of *Golspie*, and the Terminus of the authorized Line at *Brora*, is hereby extended to Four Years from the passing of this Act.

Period for
the Compul-
sory Pur-
chase of
certain
Lands to be
taken under
recited Act
extended.

18. The Diversion shall be completed within Five Years from the passing of this Act, and on the Expiration of that Period the Powers by this Act granted to the Company for making the Diversion, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Period for
the Com-
pletion of
Works.

19. The Time limited by the recited Act for the Completion of Works with respect to so much of the authorized Line as lies between the Limits specifically mentioned in Section Seventeen of this Act is hereby extended to Five Years from the passing of this Act, and on the Expiration of that Period the Powers by the recited Act and the Acts incorporated therewith conferred on the Company and hereby extended for executing such last-mentioned Portion of the authorized Line shall cease to be exercised, except as to so much thereof as shall then have been completed.

Period for
the Comple-
tion of cer-
tain Works
authorized
by the
recited Act
extended.

20. The Provisions of Section Thirty-second of the recited Act with respect to the Deposit and Bond for securing the Completion of the Railway by that Act authorized shall be read and have Effect as if the Diversion and Alterations by this Act authorized had originally been Part of the Line of Railway by the recited Act authorized, and as if the Line of Railway by this Act required to be abandoned had

Sect. 32 of
28 & 29 Vict.
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Deposit and
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Diversion,
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rized had
originally
been Part of
Railway.

Span of
Bridges.

not originally been Part of the Line of Railway by the recited Act authorized.

21. The Company may make the Arches of the Bridges for carrying the Railway over the Roads next herein-after mentioned of any Spans not less than the Spans herein-after mentioned in connexion with those Roads respectively; (that is to say,)

No. on deposited Plan.	Parish.	Description of Road.	Span.
95	Golspie - - -	Public Road - - -	15 Feet.
223	Golspie - - -	Public Road - - -	15 Feet.

Company
may abandon
Portion of
authorized
Line.

22. The Company shall abandon the Construction of so much of the Railway authorized by the recited Act as lies between the Commencement and the Termination of the Diversion by this Act authorized.

Compensa-
tion for
Damage to
Land by
Entry, &c.
for Purposes
of Railway
abandoned.

23. The Abandonment by the Company under the Authority of this Act of any Portion of the Railway or Works shall not prejudice or affect the Right of the Owner or Occupier of any Land to receive Compensation in accordance with the Provisions in that Behalf of "The Lands Clauses Consolidation (*Scotland*) Act, 1845," 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 in accordance with the Provisions in that Behalf of "The Railways Clauses Consolidation (*Scotland*) Act, 1845," 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 last-mentioned Act or the recited Act.

Compensa-
tion to be
made in
respect of
Portions of
Railway
abandoned.

24. 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 Railway or Works authorized to be abandoned by this Act, and which shall not be required for the Purposes of any of the Works by this Act authorized, 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

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be determined in manner provided by "The Lands Clauses Consolidation (*Scotland*) Act, 1845," for determining the Amount and Application of Compensation paid for Lands taken under the Provisions thereof.

25. Notwithstanding anything in this Act contained, the Company shall, in making the Diversion between the Points marked respectively on the deposited Plans Three Miles and Five Miles, do so in such Line or Direction within the Limits of Deviation shown on such Plans, and at such Level or Elevation, and either in open Cutting or in Tunnel or covered Way, and shall construct such Fences and Works of any Description in connexion therewith, as shall be required by the Duke of *Sutherland*, his Heirs, Executors, Administrators, or Assigns, or his or their Engineer for the Time being; and the Company shall not purchase, acquire, enter upon, or use, either permanently or temporarily, any of the Lands of the Duke of *Sutherland* which extend between the Points above mentioned as marked on the said Plans without his Consent in Writing; and the level Crossings over the Railway of private Roads and Paths which may occur between the same Points shall be open and available at all Times to the Duke of *Sutherland*, his Heirs, Executors, Administrators, or Assigns, subject only to the necessary and reasonable Control of the Company for securing the Safety of the Public, and the due carrying on of the Railway.

For the
Protection
of the Duke
of Suther-
land's Estate.

26. The Diversion and Alterations by this Act authorized shall form Part of the Undertaking of the Company for all Purposes whatsoever, and the Company may demand and recover for the Use of the Diversion, and the Conveyance of Passengers, Animals, Goods, Articles, Matters, and Things, and Services with respect to Traffic thereon, the same Tolls, Rates, and Charges which the Company are authorized by the recited Act to demand and recover for the Use of the Railway by that Act authorized, and the Conveyance of and Services with respect to Traffic thereon; and, subject to the Provisions of this Act, all the Powers and Provisions of the recited Act with respect to Tolls, Rates, and Charges, and otherwise, shall apply to the Diversion and Alterations by this Act authorized as if the same had formed Part of the Undertaking authorized by the recited Act.

Power to
levy Tolls.

27. Nothing contained in this Act, or in any of the Acts herein referred to, shall authorize the Company to take, use, or in any Manner interfere with any Land or Hereditaments, or any Rights of whatsoever Description, belonging to the Queen's most Excellent Majesty in right of Her Crown (if any such there be), without the Consent in Writing of the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or One of them, on behalf

Saving
Rights of
the Crown.

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behalf of Her Majesty, first had and obtained for that Purpose (which Consent such Commissioners are hereby respectively authorized to give), neither shall anything in the said Act or Acts 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.

Interest not to be paid on Calls paid up.

28. The Company shall not, out of any Money by this Act authorized to be raised by Calls or by borrowing, pay Interest or Dividend to any Shareholder on the Amount of the Calls made in respect of the Shares held by him: Provided always, that this Act shall not 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."

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

29. The Company shall not, out of any Money by this Act authorized 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 authorizing the Company to construct any other Railway, or to execute any other Work or Undertaking.

Railway not exempt from Provisions of present and future General Acts.

30. Nothing herein contained shall be deemed or construed to exempt the Railway by this Act authorized 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 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, authorized by this Act.

Expenses of Act.

31. 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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