



CHAPTER clii.

An Act to confer further powers on the Highland Railway Company and for other purposes. [6th July 1895.]

A.D. 1895.

WHEREAS it is expedient that the time limited by the Highland Railway Act 1893 for the compulsory purchase of lands in the county of Inverness authorised to be acquired by the Highland Railway (Further Powers) Act 1890 should be further extended :

And whereas it is expedient that the Highland Railway Company (in this Act called "the Company") should be authorised to acquire additional lands and raise additional capital for the purposes of this Act and for the general purposes of their undertaking :

And whereas it is expedient that the further powers herein-after mentioned should be conferred on the Company :

And whereas plans of the lands which may be taken under the powers of 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 such lands were duly deposited with the principal sheriff clerk for the county of Inverness and are herein-after respectively referred to as the deposited plans 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 1895.

Short title.

2. The Lands Clauses Acts and Part II. (relating to extension of time) of the Railways Clauses Act 1863 except where any of those

Incorporation of Acts.

[Price 6d.]

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A.D. 1895. Acts or parts of Acts are expressly varied by this Act are 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 such construction. The expression "the Company" means the Highland Railway Company the expression "the undertaking" means the undertaking of the Company the expression "the Act of 1893" means the Highland Railway Act 1893.

Power to Company to acquire lands for general purposes.

4. Subject to the provisions of this Act the Company may from time to time enter upon take use and appropriate for the general purposes of their undertaking all or any of the lands herein-after mentioned delineated on the deposited plans and described in the deposited books of reference (that is to say):—

Certain lands and buildings adjacent to the Inverness Station of the Company forming part of the farm of Seafield belonging or reputed to belong to the Directors of the Royal Academy and Governors of the Inverness Educational Trust situate in the united parish of Inverness and Bona and royal burgh and county of Inverness comprising an area of thirty-one acres or thereabouts;

Certain lands adjacent to the Inverness Station near Carleton Villa in the united parish of Inverness and Bona in the county of Inverness comprising an area of one acre and eleven poles or thereabouts.

Period for compulsory purchase of lands.

5. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Power to Company to acquire by agreement lands of Seafield.

6. The Company may purchase by agreement and hold the portion of the lands of Seafield lying between the railway of the Company and the lands of Millburn and Seabank and the Longman Road in the united parish of Inverness and Bona belonging or reputed to belong to the Directors of the Royal Academy and Governors of the Inverness Educational Trust, and they may hold and use the same for such purposes of their undertaking as they deem expedient and the said Directors of the Royal Academy and Governors of the Inverness Educational Trust may sell and convey the same to the Company.

Power to Company to hold lands of Millburn.

7. And whereas the Company have acquired by agreement certain lands known as Millburn in the united parish of Inverness and Bona near their Inverness Station which they deemed it

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expedient they should acquire for purposes connected with their undertaking but the whole of which may not be immediately so required. Therefore notwithstanding anything in the Lands Clauses Acts the Company may hold in their own name the lands so acquired for such period and use the same for such purposes as they deem expedient.

8. Nothing in the two immediately preceding sections shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any lands so taken.

Provisions for prevention of nuisance.

9. The Company may from time to time grant building feuing or other leases of the lands they are authorised to acquire under the two sections of this Act the marginal notes of which are "Power to Company to acquire by agreement lands of Seafield" and "Power to Company to hold lands of Millburn" for such terms of years and for payment of such rents or feu duties and upon such other terms and conditions as they may think proper and in that case they shall at or before the expiration of the term of ten years from the respective dates of such building feuing or other leases sell and absolutely dispose of the reversionary interest in the lands so leased or feued.

Provisions as to certain superfluous lands.

10. Subject to the provisions of this Act the Company may remove the bridge leading from the public road from Inverness to Nairn to the estate of Millburn called Welsh's Bridge which passes over the existing railway of the Company at a point one hundred and forty-seven yards or thereabouts measuring in a westerly direction along that railway from the west end of the house known as Carleton Villa and they may stop up the approaches thereto and they may also shut up a level crossing on the existing railway of the Company situate at the east end of Carleton Villa. They may also appropriate the site and soil of such bridge and level crossing so far as the same are bounded on both sides by lands of the Company.

Power to remove Welsh's Bridge and stop up level crossing &c.

11. The time limited by the Act of 1893 for the compulsory purchase of lands in the county of Inverness authorised by the Highland Railway (Further Powers) Act 1890 and referred to in section 5 of that Act is hereby further extended for and during a period of two years from the fourth day of July one thousand eight hundred and ninety-five and at the expiration of that period the powers for compulsory purchase shall cease.

Extension of time for purchase of lands under Highland Railway (Further Powers) Act 1890.

12. The Company may apply to the purposes of this Act to which capital is properly applicable any moneys which they now

Power to apply corporate funds

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to purposes
of Act.

Power to the
Company to
raise addi-
tional capital.

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.

13. 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 three 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 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 the cancellation and surrender of shares)
Part II. (relating to additional capital) Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by any subsequent Acts are incorporated with this Act and shall 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
till one-fifth
part thereof
shall have
been paid.

14. 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 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.

Receipt in
case of
persons not
sui juris.

15. If any money is payable to a shareholder or mortgagee or debenture stockholder being a minor idiot or lunatic the receipt of his tutor or curator or curator bonis shall be a sufficient discharge to the Company.

16. 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.

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

17. 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 up 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.

Dividends on new shares or stock.

18. 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.

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

19. 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.

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

20. The Company may in respect of the additional capital of three 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 thousand 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 section 42 of the Companies Clauses Consolidation (Scotland) Act 1845 before he so certifies that shares for the whole

Power to borrow.

A.D. 1895. 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 judicial factor.

21. 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 interest or principal 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.

Debenture stock.

22. 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.

Existing mortgages to have priority.

23. 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.

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24. All moneys raised under this Act whether by shares stock debenture stock or borrowing shall be applied for the purposes of this Act and for the general purposes of the undertaking of the Company being in all cases purposes to which capital is properly applicable.

Application of moneys.

25. The Company shall not under the powers of this Act or under the powers of the former Act extended by this Act purchase or acquire ten or more houses which on the fifteenth day of December last before the passing of this Act or of the former Act by which such purchase or acquisition was originally authorised as the case may be were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Secretary for Scotland ten or more houses which were not so occupied on the respective fifteenth days of December aforesaid but have been or shall be subsequently so occupied.

Restriction on taking houses of labouring class.

For the purposes of this section the expression "labouring class" means and includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

26. 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.

Interest on calls not to be paid out of capital.

27. The Company shall not out of any money which they are by this Act authorised to raise 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

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

A.D. 1895. — 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.

Saving under
Crown Lands
Act 1866.

28. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved by sections 21 and 22 of the Crown Lands Act 1866 and belonging to or exercisable on behalf of Her Majesty Her heirs or successors.

Provision as
to general
Railway
Acts.

29. Nothing in this Act contained shall exempt the Company or their 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.

Costs of Act.

30. 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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