CHAPTER v.

An Act to confer further powers upon the Cockermouth Keswick and Penrith Railway Company and for other purposes. [1st June 1894.]

A.D. 1894.

WHEREAS by the Cockermouth Keswick and Penrith Railway Act 1861 the Cockermouth Keswick and Penrith Railway Company (herein-after called "the Company") were incorporated and authorised to construct a railway to connect Cockermouth with Penrith both in the county of Cumberland: 24 & 25 Vict. c. cciii.

And whereas by the Cockermouth Keswick and Penrith Railway Act 1863 further powers were conferred upon the Company in relation to their undertaking: 26 & 27 Vict. c. cviii.

And whereas by the Cockermouth Keswick and Penrith Railway (Additional Capital) Certificate 1865 the Cockermouth Keswick and Penrith Railway (Additional Capital) Certificate 1867 and the Cockermouth Keswick and Penrith Railway (Additional Capital) Certificate 1876 respectively the powers of the Company for raising additional capital were extended and enlarged: Board of Trade Certificates 1865 1867 and 1876.

And whereas the said railway was constructed as a single line only but it having become necessary for the proper conduct of traffic on the said railway that a portion thereof should be widened the Company have acquired by agreement the whole of the land therefor and have partly constructed the said widening and it is expedient that the same be confirmed and that the Company be authorised to complete and maintain the same:

And whereas it is expedient that the Company should be authorised to acquire additional lands for the general purposes of their undertaking and to retain and hold certain lands they have already acquired for those purposes:

And whereas it is expedient for the purposes aforesaid and for the general purposes of their undertaking that the Company be authorised to raise additional capital:

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And whereas it is expedient to extend the time prescribed for the sale of lands acquired by the Company under the powers of the Acts relating to the Company which lands have not yet been applied to the purposes of the undertaking of the Company:

And whereas great risk to the safety of the traffic on the railway stations works lands and property of the Company is caused by persons trespassing thereon and interfering with the signals and other works and property of the Company and accidents have been occasioned and persons have been killed or seriously injured by reason of such trespassing and it is expedient that more effectual remedies should be provided for the prevention thereof:

And whereas it is expedient that the other provisions herein-after contained should be made:

And whereas plans and sections showing the lines and levels of the widening and works 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 under the powers of this Act were duly deposited with the clerk of the peace for the county of Cumberland 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 (that is to say):—

Short title.

1. This Act may be cited as the Cockermouth Keswick and Penrith Railway Act 1894.

Incorporation of general Acts.

2. The Lands Clauses Acts the Railways Clauses Consolidation Act 1845 and Part I (Construction of a Railway) of the Railways Clauses Act 1863 are except where varied by or inconsistent with this Act incorporated with and form part of this Act.

Extending certain provisions of the Companies Clauses Consolidation Acts.

3. Subject to the provisions of this Act the provisions of the Companies Clauses Consolidation 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 borrowed money into capital;
The consolidation of shares into stock;
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:

And Parts I II and III of the Companies Clauses Act 1863 relating respectively to the cancellation and surrender of shares to additional capital and to debenture stock shall be applicable to the capital and moneys hereby authorised to be raised by shares or stock or mortgage and to the proprietors thereof.

Interpretation.

4. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction:

"The railway" means the widening by this Act authorised;

"Superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partly incorporated herewith shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Power to Company to widen and improve portion of their railway.

5. Subject to the provisions of this Act the Company may in the lines according to the levels and in the manner shown on the deposited plans and sections widen and improve and maintain the portion of their railway herein-after mentioned and lay down additional lines thereon or in connexion therewith and for the purposes of such widening and improvement the Company (in addition to any other lands which they are by this Act authorised to acquire retain and hold) may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited books of reference relating thereto as may be required for the purposes aforesaid and may retain and hold such of those lands as they have already acquired and the said widening and improvement shall for all purposes including the power to levy tolls rates and charges be deemed part of the Cockermouth Keswick and Penrith Railway.

The portion of the railway of the Company herein-before referred to and authorised to be widened and improved by this Act is the following (that is to say):—

The Cockermouth Keswick and Penrith Railway in the parishes and townships of Crosthwaite Greystoke St. John's Castlerigg

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and Wythburn Threlkeld Matterdale Mungrisedale and Hutton Soil or some or one of them all in the county of Cumberland commencing in the township of St. John's Castlerigg and Wythburn in the parish of Crosthwaite at a point near the bridge carrying the said railway over the public road leading from Threlkeld to Wythburn and terminating in the township of Hutton Soil in the parish of Greystoke at a point near the bridge carrying the public road leading from Keswick and Penrith to Patterdale over the said railway.

The construction of so much of the said widening as the Company have already made is hereby sanctioned and confirmed.

Limiting quantity of commonable lands to be taken.

6. The Company shall not under the powers of this Act purchase or acquire a greater quantity of Threlkeld Common than two roods sixteen perches nor of Guard House Rigg Common than three roods twenty-four perches.

Power to Company to purchase additional lands.

7. Subject to the provisions of this Act the Company in addition to the other lands which they are by this Act authorised to acquire may enter upon and take compulsorily or by agreement and may hold for the improvement and enlargement of their railway stations and works and for the construction of new stations engine sheds and other works buildings and sidings and other the purposes of their undertaking the lands in the county of Cumberland herein-after described which are delineated upon the deposited plans and described in the deposited books of reference and they may hold such of the said lands as have already been purchased by or for them :—

(*a.*) Certain lands situate in the township of Underskiddaw ;

(*b.*) Certain lands in the township of Newbiggen ;

(*c.*) Certain lands in the township of St. John's Castlerigg and Wythburn and in the township of Threlkeld.

Power to take easements &c. by agreement.

8. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which other than parties to the agreement have an interest) 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 rentcharges 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.

Period for compulsory purchase of lands.

9. The powers 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.

Lands for extra-ordinary purposes.

10. The quantity of land to be taken by the Company by agreement under the powers of this Act for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 shall not exceed five acres but nothing in that Act or in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them upon any land so taken.

Extending time for sale of certain superfluous lands.

11. The Company may notwithstanding anything to the contrary in the Lands Clauses Consolidation Act 1845 or in any Act relating to the Company with which that Act is incorporated retain and hold any lands acquired by them and which have not yet been applied to the purposes for which they were acquired or sold or disposed of for the periods following (that is to say) As regards such of the lands as are situate near to or adjoining any railway or station of the Company or as they may be of opinion that they may require for the purposes of stations sidings or other conveniences for the period of ten years from the passing of this Act and as regards the other of the said lands for the period of two years from the passing of this Act:

But the Company shall at the expiration of such respective periods of ten years and two years proceed bonâ fide to the sale and disposal of all such parts of those lands respectively as shall not then have been applied to or are not then required for the purposes aforesaid.

Restriction on taking houses of labouring class.

12.—(1.) The Company shall not under the powers of this Act purchase or acquire in any city borough or other urban sanitary district or any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

(2.) For the purposes of this section the expression "labouring class" includes mechanics artizans 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.

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For better prevention of trespass on Company's railway.

13. Any person who shall trespass upon the railways of the Company shall without having received any personal or other warning than herein-after mentioned forfeit and pay by way of penalty any sum not exceeding forty shillings for every such offence and the provisions of the Railways Clauses Consolidation Act 1845 with respect to the recovery of damages not specially provided for and of penalties and to the determination of any other matters referred to justices shall apply to this enactment Provided that no person shall be subject to any penalty under this enactment unless it shall be proved to the satisfaction of the justices before whom complaint is laid that by notices painted on boards or printed on paper and pasted on boards or enamelled on metal or otherwise as the Company may think fit clearly exhibited public warning has been given to persons not to trespass upon the railways and that one or more of such notices has been affixed at the station on that railway and at the public road level crossing (if any) near to the spot where such trespass is alleged to have been committed and such warning shall be renewed as often as the same shall be obliterated or destroyed and no penalty shall be recoverable unless such warning is so placed and renewed Provided also that no person lawfully crossing any such railway at any level crossing thereof shall be liable to any such penalty as aforesaid And provided lastly that this enactment shall not interfere with but shall be subject to any future general enactment on the subject of trespassing on railways.

Power to raise additional capital.

14. The Company from time to time may for the purposes of this Act and for the general purposes of their undertaking raise by the creation and issue of shares or stock such additional capital as they shall think necessary not exceeding fifty-one thousand pounds exclusive of the moneys which they are or may be authorised to raise by any other Act or Acts of Parliament and the Company may create and issue such shares or stock either wholly or partly as ordinary or wholly or partly as preferential shares or stock as they may think fit.

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

15. The Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds nor shall any such 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.

Qualifications of new shares or stock.

16. Except as by or under the powers of this Act otherwise provided the new ordinary shares or stock issued under the powers of this Act shall in proportion to the aggregate amount thereof from time to time held by the same person at the same time entitle the

respective holders thereof to the same dividends and profits and confer on them the like qualifications and the like right of voting as the like amount of existing ordinary shares or stock of the Company.

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

17. Except as otherwise provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares or stock issued under the powers of this Act to which a preferential dividend shall be assigned.

Power to borrow on mortgage.

18. The Company may in respect of the additional capital of fifty-one thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of their undertaking any sum not exceeding in the whole seventeen thousand pounds Provided that in respect of each twenty-five thousand five hundred pounds of such additional capital issued and accepted and one-half whereof shall have been paid up the Company may borrow a sum or sums not exceeding in the whole eight thousand five hundred pounds but no part of either of the before-mentioned sums of eight thousand five hundred pounds shall be borrowed until shares for so much of the said portion of the additional capital in respect of which the borrowing powers are to be exercised 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 justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for the whole of such portion of additional capital have been issued and accepted and that one-half of such portion has been paid up and that not less than one-fifth part of the amount of each separate share in such portion of 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 such portion of the said additional capital as is to be raised by means of stock is fully paid up and the Company have proved to such justice as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted and 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 so far as the said 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 justice 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.

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Former mortgages to have priority.

19. The 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 time of the passing of this Act shall during the continuance of such mortgages and bonds but 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 and 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.

Power to apply corporate funds to purposes of Act.

20. The Company may apply to the purposes of this Act to which capital is properly applicable any of the moneys which they now have in their hands or which they have power to raise 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.

Debenture stock.

21. 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.

Application of moneys.

22. All moneys raised by the Company 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 Company being in each case purposes to which capital is properly applicable.

Receipt in case of persons not sui juris.

23. If any money is payable to a holder of shares or stock in or of a mortgage or debenture stock of the Company being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Interest not to be paid on calls paid up.

24. 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 Act 1845.

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

25. 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.

26. 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.

Costs of Act.

27. 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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