CHAPTER ccxix.

An Act to empower the West Highland Railway Company to extend their Railway from Fort William to Ballachulish and for other purposes. [7th August 1896.]

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WHEREAS it is expedient that the West Highland Railway Company (in this Act called "the Company") be empowered to construct the railway by this Act authorised to acquire for purposes connected with their undertaking the additional lands herein-after described and to exercise the other powers in this Act mentioned:

And whereas it is expedient that the agreement between the North British Railway Company and the Company set forth in the Third Schedule to the North British Railway Act 1893 should be extended and applied to the railway by this Act authorised and to the additional share and loan capital which the Company are by this Act and by the West Highland Railway Act 1895 (in this Act called "the Act of 1895") empowered to raise:

And whereas plans and sections showing the lines and levels of the railway by this Act authorised and the lands which may be taken compulsorily for the purposes or under the powers of this Act and a book 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 clerks of the counties of Inverness Argyll and Perth respectively and are herein-after respectively referred to as the deposited plans sections and book 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

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and Commons in this present Parliament assembled and by the authority of the same as follows:—

Short title.

1. This Act may be cited as the West Highland Railway Act 1896.

Incorporation of Acts.

2. The Lands Clauses Acts the Railways Clauses Consolidation (Scotland) Act 1845 and Part I (relating to construction of a railway) and Part III (relating to working agreements) of the Railways Clauses Act 1863 are except where expressly varied by this Act 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 and the expressions "the railway" "the undertaking" mean respectively the railway by this Act authorised and the undertaking of the Company.

Power to make a 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 junctions sidings roads approaches bridges viaducts walls embankments sheds and other buildings works and conveniences connected therewith and the supply of water thereto 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 those purposes The railway herein-before referred to and authorised by this Act is—

A railway (No. 1) twelve miles one furlong and one chain in length wholly situate in the parish of Kilmallie commencing by a junction with the West Highland Railway at the point where it crosses the line of the south side of Fort William Public Pier forty-seven yards or thereabouts measuring in a westerly direction from the south-west corner of the Chevalier Hotel and terminating at a point ninety-three yards or thereabouts measuring in a northerly direction from the south-west corner of Loch Leven Temperance Hotel.

Power to acquire additional lands.

5. Subject to the provisions of this Act and in addition to the other lands which they are by this Act authorised to acquire the Company may from time to time enter upon take use and appropriate to purposes connected with their undertaking all or any part of the lands distinguished on the deposited plans and in the deposited book of reference by the numbers 1 2 3 and 4 in the parish of Killin

in the county of Perth and adjacent to the junction of the existing railway of the Company with the railway of the Caledonian Railway Company at Crianlarich Provided that the Company shall not without the previous consent of the Callander and Oban Railway Company under their seal take acquire or use any land or property of the Callander and Oban Railway Company or any right therein other than an easement or right of making maintaining and using upon over or across the said lands numbered 1 2 3 and 4 in the said parish of Killin as aforesaid the junction at Crianlarich between the railway of the Company and the railway of the Callander and Oban Railway Company authorised by the West Highland Railway Act 1889 in accordance with the terms of an award made by Sir Douglas Galton K.C.B. and dated the twenty-fifth day of January one thousand eight hundred and ninety-four in reference to such junction.

For the protection of the Postmaster-General.

6. For the protection of the Postmaster-General the following provisions shall have effect:—

(1) The Company shall before in any manner removing altering or interfering with any telegraphic line of the Postmaster-General provide in substitution therefor to the satisfaction of the Postmaster-General such substituted telegraphic line whether overhead underground or laid in a subway as the Postmaster-General may specify and require and shall secure to the Postmaster-General the use in perpetuity of such substituted telegraphic line and the use for the purpose of maintaining such line and laying maintaining and using additional telegraphic lines of any land or subway on or in which the said substituted telegraphic line is laid:

(2) The provisions of the seventh section of the Telegraph Act 1878 shall apply to any removal or alteration of or interference with the Postmaster-General's telegraphic lines under the foregoing provisions and to the provision of substituted telegraphic lines as aforesaid with these modifications (that is to say):—

(*a*) Two months previous notice shall be given of any work affecting a telegraphic line of the Postmaster-General;

(*b*) The Postmaster-General may at any time before the expiration of one month after such notice is given give to the Company the counter notice referred to in such section and may in such counter notice specify the character of the substituted telegraphic line which he requires to be provided and may require the Company

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to do the whole or any part of the work necessary to provide such substituted telegraphic line;

(*c*) Sub-section (8) and the last paragraph of the said section shall not apply:

(3) In this Act the expressions "telegraphic line" "alter" "altering" and "alteration" have the same meaning as in the Telegraph Act 1878 and a telegraphic line includes any hut used for the reception of a telegraphic line or any part thereof.

Power to take easements &c. by agreement.

7. 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 servitude right or privilege (not being an easement servitude 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 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 servitudes rights and privileges as aforesaid respectively.

Lands for extraordinary purposes.

8. 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 for the purposes of this Act shall not exceed fifteen 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 or permitted by them upon any land so taken.

Period for compulsory purchase of lands.

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

For the protection of Altshellach House.

10. For the protection of James Robert Alexander Chinnery Haldane Bishop of the Episcopal Church in Scotland for the Diocese of Argyll and the Isles (in this section called "the owner") the following provisions shall subject to any alterations thereof which may hereafter be agreed upon between the Company and the owner have effect:—

(1) The Company shall not in the construction of the railway or of any works or buildings connected therewith take or interfere with the lands of Altshellach in the parish of Kilmallie or ex adverso of those lands deviate the centre line of the railway as delineated on the deposited plans so as to bring

the same or any works connected therewith nearer to the said lands:

(2) In altering the road numbered on the deposited plans 294 in the parish of Kilmallie the Company shall not raise the same to a greater height than eleven feet two inches nor shall the inclination thereof exceed one in twenty and no alteration of the road shall be made within a distance of seventeen yards from the entrance gate to Altshellach House:

(3) The station station buildings and sidings at the termination of the railway shall be constructed by the Company at or near such termination and so as not to interfere with the access to the Loch Leven Temperance Hotel or obstruct the clear view westwards from its windows:

(4) The Company shall not so long as the owner or any member of his family is the lessee of the said hotel sell or supply or authorise the sale or supply of intoxicating malt or spirituous liquors at North Ballachulish.

For the protection of pier at Fort William.

11. The Company shall not for a distance of three hundred yards measured from the commencement of the railway deviate the same seawards from the centre line thereof as delineated on the deposited plans and shall not in any way alter or interfere either in the construction or use of the railway with the access to the public pier at Fort William or interfere with or interrupt the traffic to and from and over the said pier.

Powers of lateral and vertical deviation and of altering gradients and curves of railway.

12. The Company notwithstanding the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 incorporated with this Act may deviate from the lines of the railway authorised by this Act as delineated on the deposited plans thereof to any extent within the limits of deviation shown on those plans and may deviate from the levels of the railway as delineated on the deposited sections thereof to any extent upwards or downwards as may be agreed upon in writing with the owners of any lands through which and with the owners lessees and occupiers of any house affected by or through the curtilage of which such deviations are intended to be made and may increase any inclination or gradient of the railway shown on the deposited sections thereof as not steeper than one in fifty to such an extent as they may see fit provided that such inclinations or gradients where so increased be not steeper than one in fifty and they may diminish the radius of any curve described on the deposited plans of the railway to any extent which shall leave a radius of not less than one furlong.

Inclination of roads.

13. In altering for the purposes of this Act the roads next herein-after mentioned the Company may make the same of any

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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.
	Railway (No. 1).		
78	Kilmallie - -	Public - -	1 in 15.
206, 207 and 208	Kilmallie - -	Public - -	1 in 19.
78	Kilmallie - -	Public - -	1 in 20.
294	Kilmallie - -	Public - -	1 in 20.

Height and span of bridges.

14. The Company may make the arches of the bridges for carrying the railway over the roads next herein-after mentioned of any heights and spans not less than the heights and spans herein-after mentioned in connexion therewith respectively (that is to say) :—

No. on deposited Plan.	Parish.	Description of Road.	Height.	Span.
	Railway (No. 1).			
206, 207 and 208	Kilmallie -	Public - -	15 feet -	20 feet.
78	Kilmallie -	Public - -	15 feet -	20 feet.

In this section the word height means clear height above the centre of the roadway.

Widths of certain roadways.

15. The Company may make the roadway over the bridges by which the following roads will be carried over the railway of such width between the fences thereof as the Company think fit not being less than the respective widths herein-after mentioned in connexion therewith respectively (that is to say) :—

No. on Plan.	Parish.	Description of Roadway.	Width of Roadway.
	Railway (No. 1).		
78	Kilmallie - -	Public - -	20 feet.
294	Kilmallie - -	Public - -	20 feet.

In this section the word width means clear width of roadway between abutments or parapets.

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Power to divert roads as shown on deposited plans.

16. The Company may divert the public highways referred to in the next following table in the manner shown upon the deposited plans and sections and when and as in each case the new portion of any road is made to the satisfaction of the sheriff or two justices and is open for public use may stop up and cause to be discontinued as a road so much of the existing road as will be rendered unnecessary by the new portion of road (that is to say) :—

Railway.	Parish.	No. of Road on Plan.
Railway (No. 1) - -	Kilmallie - - -	78
Railway (No. 1) - -	Kilmallie - - -	206 207 208

And when and so soon as any portion of the said existing roads is so stopped up all rights of way over such portion shall cease and the Company may subject to the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to mines lying under or near the railway appropriate and use for the purposes of their undertaking the site of the portion of road stopped up as far as the same is bounded on both sides by lands of the Company and such new portion of road shall as respects management and maintenance and in all other respects be deemed to be part of and be subject to the same provisions as the existing road or portion of road for which the same is substituted Provided always that where any such new portion of road is formed through or along lands belonging wholly or partly to any person through or along whose lands the superseded portion of existing road passes the value of the site of so much of the said superseded portion of road as passes through or along the lands of such owner and is given up to him shall be taken into account in estimating the compensation payable to him for the land taken from him for such new portion of road.

Confirming agreement with the Commissioners of the Burgh of Fort William.

17. The agreement between the Commissioners of the Burgh of Fort William and the Company as set forth in the First Schedule to this Act is hereby confirmed and made binding on the said parties thereto and the provisions of Article nine thereof shall for the protection of Christina Cameron Campbell of Fassifern and Callart also extend to and may be enforced against the Company by her and her successors in estate.

Power to limited owners to

18. It shall be lawful for any limited owner named in the Second Schedule to this Act whose land the Company are authorised

convey lands free of charge in certain cases.

to take for the purposes of their undertaking to grant convey dispone or dispose of the same or any portion thereof to the Company free of cost to the Company and without consideration other than the construction of the railway.

Restrictions on displacing persons of labouring class.

19.—(1) The Company shall not under the powers of this Act purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1867 ten or more houses which on the fifteenth day of December last were or have been since that day or shall hereafter be occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until—

(*a*) They shall have obtained the approval of the Secretary for Scotland to a scheme for providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of December last or for such number of persons as the Secretary for Scotland shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such persons and to all the other circumstances of the case; and

(*b*) They shall have given security to the satisfaction of the Secretary for Scotland for the carrying out of the scheme.

(2) The approval of the Secretary for Scotland to any scheme under this section may be given either absolutely or conditionally and after the Secretary for Scotland has approved of any such scheme he may from time to time approve either absolutely or conditionally of any modifications in the scheme.

(3) Every scheme under this section shall contain provisions prescribing the time within which it shall be carried out and shall require the new dwellings proposed to be provided under the scheme to be completed fit for occupation before the persons residing in the houses in respect of which the scheme is made are displaced:

Provided that the Secretary for Scotland may dispense with the last-mentioned requirement subject to such conditions (if any) as he may see fit.

(4) Any provisions of any scheme under this section or any conditions subject to which the Secretary for Scotland may have approved of any such scheme or of any modifications of any such scheme or subject to which he may have dispensed with the above-mentioned requirement shall be enforceable by an order of the Court of Session to be obtained by the Secretary for Scotland.

(5) If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary for Scotland by action in the Court of Session and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the court may if it think fit reduce such penalty.

(6) For the purpose of carrying out any scheme under this section the Company may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require and for the purpose of any such purchase section ninety of the Public Health (Scotland) Act 1867 shall be incorporated with this Act and shall apply to the purchase of lands by the Company for the purposes of any scheme under this section in the same manner in all respects as if the Company were a local authority within the meaning of that Act and the scheme were one of the purposes of that Act.

(7) The Company may on any lands belonging to them or purchased or acquired under this section or under any Provisional Order issued in pursuance of this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell demise let or otherwise dispose of such dwellings and any lands purchased or acquired as aforesaid and may apply for the purposes of this section to which capital is properly applicable or any of such purposes any moneys which they may be authorised to raise or apply for the purposes of their undertaking :

Provided that all lands on which any buildings have been erected or provided by the Company in pursuance of any scheme under this section shall for the period of twenty-five years from the date of the scheme be appropriated solely for the purpose of such dwellings and every conveyance demise or lease of such lands and buildings by the Company shall contain proper covenants for securing that the buildings on such lands shall during such period of twenty-five years be used exclusively for the purpose of such dwellings and shall be endorsed with notice of this enactment :

Provided also that the Secretary for Scotland may at any time dispense with all or any of the requirements of this sub-section subject to such conditions (if any) as he may see fit.

(8) The Secretary for Scotland may direct any inquiries to be held which he may deem necessary in relation to any scheme under

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this section and for giving effect to any of the provisions of this section and he and any person appointed by him to hold inquiry shall have and may exercise for any purpose in connexion with any scheme under this section all or any of the powers vested in them respectively under the Public Health (Scotland) Act 1867 in the same manner in every respect as if the preparation and carrying into effect of such scheme were one of the general purposes of that Act.

(9) The Company shall pay to the Secretary for Scotland a sum to be fixed by him in respect of the preparation and issue of any Provisional Order in pursuance of this section and any expenses incurred by him in relation to any inquiries under this section including the expenses of any witnesses summoned by the person appointed to hold any such inquiry and a sum to be fixed by the Secretary for Scotland not exceeding three guineas a day for the services of the person so appointed.

(10) Any houses on any of the lands shown on the plans deposited with reference to this Act occupied or which may have been occupied by persons of the labouring class within five years before the passing of this Act which have been acquired by or on behalf of the Company and for which houses no substitutes have been or are directed to be provided by any scheme approved by the Secretary for Scotland under the powers of any previous Act relating to the Company shall for the purposes of this section be deemed to have been acquired under the powers of this Act and to have been occupied on the fifteenth day of December last by the same number of persons belonging to the labouring class as were occupying the said houses at the date of their acquisition Provided that if the Secretary for Scotland is unable to ascertain the number of such persons who were then occupying the said houses the said houses shall be deemed to have been occupied by such number of such persons as in the opinion of the Secretary for Scotland they might have been sufficient to accommodate.

(11) For the purposes of this section the expression "labouring class" 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.

Penalty imposed unless the railway is

20. If the Company fail within the period limited by this Act to complete the railway by this Act authorised the Company shall be liable to a penalty of fifty pounds a day for every day after

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opened within the time limited.

the expiration of the period so limited until the railway is completed and opened for the public conveyance of passengers or until the sum received in respect of such penalty amounts to five per centum on the estimated cost of any portion of the railway not so completed and the said penalty may be applied for by any landowner or other person claiming to be compensated or interested in accordance with the provisions of the next following section of this Act and in the same manner as the penalty provided in the third section 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 of the Queen's and Lord Treasurer's Remembrancer on behalf 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 the 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.

Application of penalty.

21. 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 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 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 shall be payable or if a portion of the sum or sums of money so 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 recovered by way of penalty or such portion thereof as may not be required as aforesaid shall if a judicial factor has been appointed or the Company is insolvent or the railway or any part thereof has been abandoned be paid to such judicial factor or be applied in the discretion of the Court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid to the Company.

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Period for completion of railway.

22. 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 same or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Railway to be part of Company's Undertaking.

23. Subject to the provisions of this Act the railway shall for the purposes of tolls rates and charges form part of the authorised railways of the Company and shall be and be deemed to be for all other purposes part of the railways and works of the Company.

Extending working agreement with North British Railway Company.

24. Sections forty-one and forty-three of the North British Railway Act 1893 and the Agreement set forth in the Third Schedule to that Act shall be held to extend to and include the railway and Article Seven of the said Agreement shall as modified by section thirty-three of the Act of 1895 extend and apply to the additional share and loan capital which the Company are by that and this Act authorised to raise.

Power to apply corporate funds to purposes of Act.

25. The Company may apply to the purposes of this Act to which capital is properly applicable any moneys which they now have in their hands or which they have power to raise by shares or mortgage or debenture stock 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 to the Company to raise additional capital.

26. The Company may from time to time raise any additional capital not exceeding in the whole one hundred and five thousand pounds by the issue at their option of new ordinary shares or new preference shares or wholly or partially by either or both of those modes 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 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 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) and Part II (relating to additional capital) of the Companies Clauses Act 1863 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.

27. 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 is paid in respect thereof.

Receipt in case of persons not sui juris.

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

Certain sections of Act of 1889 to apply to new shares.

29. The provisions of section eight and of sections ten to seventeen of the West Highland Railway Act 1889 (herein-after called "the Act of 1889") shall extend and apply to and in the case of any ordinary shares created by the Company under the powers of this Act.

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

30. Except as by this Act otherwise provided the capital in new shares created by the Company under this Act and the new shares 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 were shares in that capital The capital in new shares so created shall form part of the capital of the Company.

Dividends on new shares.

31. Every person who becomes entitled to new shares shall in respect of the same be a holder of shares in the Company and shall be entitled to a dividend with the other holders of shares of the same class or description proportioned to the whole amount from time to time called and paid on such new shares.

Restriction as to votes in respect of preferential shares.

32. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares to which a preferential dividend shall be assigned.

Power to borrow.

33. The Company may in respect of the additional capital of one hundred and five 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-five thousand pounds but no part thereof shall be borrowed until the

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whole of the additional capital of one hundred and five thousand pounds is issued and accepted and one-half thereof 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 the whole of such 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 in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and that such shares were issued bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assignees and that such persons or corporations 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.

For appointment of a judicial factor.

34. 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 or interest 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.

35. The Company may raise all or any part of the money which they are by this Act authorised to raise on mortgage by the creation and issue of debenture stock subject to the provisions of section twenty of the Act of 1889 Notice of the effect of that enactment shall be endorsed on all mortgages and certificates of debenture stock.

Priority of principal moneys secured by existing mortgages.

36. The principal moneys secured by all mortgages 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 have priority over

the principal moneys secured by any mortgages granted by virtue of this Act.

Application of moneys.

37. All moneys raised under this Act whether by shares 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.

Works below high-water mark not to be commenced without consent of Board of Trade.

38. The Company shall not under the powers of this Act construct on the shores of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the Secretaries or Assistant Secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve such approval being signified as last aforesaid and where any such work may have been constructed the Company shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals If any such work be commenced or completed contrary to the provisions of this Act the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the costs and charges of the Company and the amount of such costs and charges shall be a debt due from the Company to the Crown and shall be recoverable accordingly with costs.

Survey of works by Board of Trade.

39. If at any time the Board of Trade deems it expedient for the purposes of this Act to order a survey and examination of a work constructed by the Company on in over through or across tidal lands or tidal water or of the intended site of any such work the Company shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Company to the Crown and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company.

Abatement of work abandoned or decayed.

40. If a work constructed by the Company on in over through or across tidal lands or tidal water is abandoned or suffered to fall into decay the Board of Trade may abate and remove the work or any part of it and restore the site thereof to its former condition at the expense of the Company and the amount of such expense shall be a debt due from the Company to the Crown and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company.

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Accesses to and from shore &c.

41. During the construction of the railway by this Act authorised on or near the foreshore of Loch Linnhe and other lochs and also at all times after completion thereof the Company shall make and permanently maintain at their own expense and to the satisfaction of the Board of Trade for the free use of the public such footways and carriageways over under or across the railway as the Board of Trade may from time to time direct or approve and shall also make and permanently maintain at the like expense and to the like satisfaction on the seaward side of the embankments of the railway such boat slips or other facilities for boats and for passengers landing therefrom or embarking thereon as the Board of Trade may from time to time direct or approve.

Saving rights of the Crown in the foreshore.

42. Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act 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.

For the protection of salmon fishings belonging to the Crown.

43. It shall not be lawful for the Company to construct any work on any land over which a right of salmon fishing belongs to Her Majesty without the previous consent in writing of the Commissioners or Commissioner for the time being of Her Majesty's Woods Forests and Land Revenues having the management of the Land Revenue of the Crown in Scotland and such consent may be given on payment of such compensation as may be agreed upon for any injury which the works by this Act authorised may be reasonably expected to occasion to any such right of salmon fishing as in this section mentioned And in case the amount of such compensation as aforesaid shall not be agreed upon the same shall be settled by two referees one being appointed by the said Commissioners or Commissioner and one being appointed by the Company or by an umpire to be appointed by the said referees and the charges and expenses of such referees or their umpire shall be paid by the Company.

Compensation for injury to salmon

44. The Company shall make compensation for the damage or injury (if any) which may be sustained by Her Majesty or Her tenants in respect of any right of salmon fishing through the

exercise of the powers of this Act although the works causing such injury or damage may be constructed elsewhere than on any land over which a right of salmon fishing belongs to Her Majesty The amount of such compensation shall be subject to the provisions of the immediately preceding section of this Act.

fishings belonging to the Crown.

45. 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 twenty-one and twenty-two of the Crown Lands Act 1866 and belonging to or exerciseable on behalf of Her Majesty Her heirs or successors.

Saving rights of Crown under Crown Lands Act.

46. No interest or dividend shall be paid out of any share or loan capital which the Company are by this 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 not to be paid on calls paid up.

47. 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 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.

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

48. Nothing in this Act contained shall exempt the Company or the North British Railway Company or the railways of either company 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.

Provisions as to general Railway Acts.

49. 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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The SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

Agreement between the West Highland Railway Company (herein-after called "the Company") on the one part and the Commissioners of the Burgh of Fort William (herein-after called "the Commissioners") on the other part.

Whereas the Company are promoting a Bill now depending in Parliament intituled "An Act to empower the West Highland Railway Company to "extend their railway from Fort William to Ballachulish and for other "purposes" And whereas the Commissioners have deposited in Parliament a Petition against said Bill And whereas it has been agreed that all questions between the Company and the Commissioners raised in the said Petition should be settled by an Agreement to be scheduled to and confirmed by the Bill And whereas it is intended in the said Bill to take part of the foreshore ex adverso of the Burgh of Fort William and otherwise affect the interests and property of the said burgh Therefore the said parties have agreed and hereby agree and bind and oblige themselves as follows videlicet:—

First.—The Company shall consent to the Commissioners forming on the south side of the rails a twenty-four feet or thereby roadway from Macmillan Lane to Fraser Square according to lines and levels to be agreed between the burgh surveyor and the engineer of the Company and the Commissioners shall have power without payment to use for the purpose of constructing the said roadway the ground belonging to and not presently occupied by the works of the Company on the south side of the north red line shown on the plan subscribed as relative hereto and for that purpose the Company shall if so required convey and make over the said ground to the Commissioners for the said purpose and any part of which ground may for the purposes of said roadway be excambed for other property not belonging to the Company which it may be necessary to acquire for the construction of the said roadway Upon completion of the said roadway as far as the west boundary of the Imperial Hotel property the Company shall pay to the Commissioners the sum of four hundred and fifty pounds sterling towards the cost thereof The Company shall at their own expense within six months from the date hereof form a footpath at least four feet in width on the north side of the rails from the level crossing at the goods yard to the boat slip opposite Macmillan Lane.

Second.—The Company shall at their own expense within six months of the date hereof construct complete and maintain between the said roadway and the lines of railway from Fraser Square to Macmillan Lane a stone wall of two feet high with an ornamental iron railing on the top thereof and also an

ornamental iron railing between the said footpath and the railway from the said level crossing to Macmillan Lane.

Third.—The Company shall not at any time close up or interfere with or obstruct the free access at all times from High Street to the boat slip by Macmillan Lane.

Fourth.—The Company shall in constructing their proposed line of railway on the foreshore ex adverso of the hotel known as the West End Hotel carry the same upon a bridge of three spans each at least twenty feet wide and formed with girders resting on piers with the greatest headway the levels will admit but which headway shall not be less than nine feet above the surface of the ground The railway shall be carried solid to opposite the westmost boundary of the court house A clear space shall also be left between the railway and the road two hundred and forty feet or thereby in length measuring from the new pier westwards and averaging in breadth from eighty feet at the east end to forty feet at the west which may be used in all time coming by the public for the purposes of drawing up boats and drying nets In crossing the foreshore ex adverso of the villa known as Hughenden Villa the Company shall construct the railway on a similar span of not less than twenty feet with the greatest headway the levels will permit but which headway shall not be less than a clear headway throughout of seven feet above the surface of the ground.

Fifth.—The Company shall also form two under or over line bridges at suitable points to be fixed by the Company west of Hughenden Villa as additional accesses to the foreshore and one of which bridges shall be so constructed as to be available and suitable for cart traffic.

Sixth.—The Company shall make and maintain a boat slip from high-water mark to low-water mark on the east side of the westmost span of the foresaid bridge not less than seven feet in width on the foreshore at a point near the said West End Hotel and a similar boat slip seven feet in width from high-water mark to low-water mark west therefrom at a point to be afterwards agreed upon between the Company and the Commissioners.

Seventh.—The Company shall form and complete and for one year after completion maintain a footpath of not less than eight feet in width kerbed with concrete on the north-west side of the public road leading from Fort William to Onich from immediately west of the new pier to the burgh boundary being a distance of four and a half furlongs The Company shall on the west side of the said footpath erect and maintain a wall two feet six inches in height surmounted by a vertical bar railing of similar height and of a pattern to be approved of by the burgh surveyor with convenient openings in the said wall for public accesses to the foreshore.

Eighth.—The Company shall acquire the land in the parish of Kilmallie lying between the said wall to be constructed along the said footpath and the sea and between the points indicating the distances of two furlongs and six chains and of three furlongs and nine chains on the deposited plans and shall lay out and plant such land so far as not occupied by railway with trees and shrubs and shall hold and maintain the same as a pleasure ground for the use and enjoyment of the inhabitants of the burgh declaring however that the centre line of railway between the said points shall not be constructed at a greater distance

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than forty-five feet from the foresaid proposed wall and any extension of ground required by the Company shall in the first instance be taken on the south side of the line The remaining ground on the north side shall be reserved for the use of the public in all time coming declaring further that at no time shall workmen's houses workshops sheds or stores or other similar buildings be erected on any parts of the said grounds and that the ground shall not be used for sidings for the purpose of marshalling trains or for shunting purposes or for storing waggons The works agreed to be carried out in this and in the 4th 5th 6th and 7th Articles hereof shall be commenced constructed and completed within the period allowed by Parliament under the present Bill for the construction of the said extended line of railway.

Ninth.—The Company shall not for a distance of three hundred yards measured from the commencement of the proposed railway deviate the said railway seawards from the centre line thereof as delineated on the deposited plans and shall not in any way alter or interfere either in the construction or use of the railway with the access to the public pier or interfere with or interrupt the traffic to and from and over the said pier.

Tenth.—The Company shall in the construction of their railway and works and at their expense conduct and carry all sewers which may be interfered with under their line in properly constructed culverts and shall maintain the same in all time and also make provision for other sewers or water pipes interfered with or taken by them or for access for renewal or repair and such operations and works shall be done to the reasonable satisfaction of the burgh surveyor.

Eleventh.—The Company shall take all such proceedings as may be necessary and obtain all such powers as are or may be required for giving full and complete effect to the foregoing obligations and arrangements and for carrying out the same.

Twelfth.—The provisions of this Agreement shall be scheduled to the Bill and shall be confirmed by a clause or clauses in the Bill and made binding on the Company subject to such alterations as Parliament may think fit to make thereon.

Thirteenth.—In the event of the Bill not being passed into law this Agreement shall only continue and subsist as regards paragraphs one two three eleven and fourteen hereof.

Fourteenth.—Any difference between the parties hereto in connexion with any matter under this Agreement shall be referred to the decision of a person to be appointed by the Sheriff Principal of Inverness-shire And both parties consent to the registration hereof for preservation and execution.

In witness whereof these presents written on this and the four preceding pages together with the marginal addition on page first all by Hugh Hunter clerk to Macrae Flett and Rennie Writers to the Signet Edinburgh and also the foresaid plan are (under the declaration that the words "be excambed" occurring in the thirty-sixth line from the top of page first and that the words "on the top thereof" occurring in the twelfth line from the top of page second are all written on erasures and that the words "and also an ornamental iron railing between the said footpath and the railway from the" are interlined between the twelfth and thirteenth lines from the top of said page second to be

read after the word "thereof" occurring in said twelfth line all before subscription) executed by the parties hereto as follows videlicet They are sealed with the Common Seal of the Burgh of Fort William and are signed by Peter MacFarlane Chemist Duncan McGregor Shoemaker John Cameron Factor Duncan Ross Shoemaker Colin Young Blacksmith all of Fort William Commissioners and Hector Fraser Town Clerk all of the said Burgh of Fort William on the second day of May eighteen hundred and ninety-six as follows By said Peter MacFarlane and Duncan Ross before these witnesses Duncan Macniven junior Solicitor Fort William and Crawford Smith Chemist there By the said Duncan McGregor before these witnesses the said Duncan Macniven junior and Alexander McDonald Flesher Fort William By the said John Cameron before these witnesses the said Duncan Macniven junior and Patrick John Sinton Farmer Glennevis Fort William and by the said Colin Young and Hector Fraser before these witnesses the said Duncan Macniven junior and Alexander Robert MacDougall Merchant Fort William and they are sealed with the Common Seal of the said West Highland Railway Company and are signed for and on behalf of and as authorised by said Company by George Bradley Wieland Secretary thereof at Edinburgh the seventh day of the month and year last mentioned before these witnesses William Fulton Jackson Clerk and William Forgie Clerk both of number eight Princes Street Edinburgh.

(Signed) P. MacFarlane Commissioner Duncan McGregor Commissioner John Cameron Comr. Duncan Ross Commissioner Colin Young Comr. Hector Fraser Clerk to the Commissioners G. B. Wieland Secy. West Highland Ry. Duncan Macniven junior Witness Crawford Smith Witness Duncan Macniven junior Witness Alexander McDonald Witness Alexr. MacDougall Witness Duncan Macniven junior Witness P. J. Sinton Witness Duncan Macniven junior Witness Alex. R. MacDougall Witness Duncan Macniven junior Witness W. F. Jackson Witness William Forgie Witness.

THE SECOND SCHEDULE.

NAME OF LIMITED OWNER.

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