CHAPTER clxvi.

An Act to authorise the Blyth and Tyne Railway Company to extend their Warkworth Extension Railway to the Amble branch of the North-eastern Railway; and for other purposes. [30th July 1874.]

A.D. 1874.

WHEREAS it is expedient that the Blyth and Tyne Railway Company, herein-after referred to as the Company, have power to extend their Warkworth Extension Railway so as to join the Amble branch of the North-eastern Railway in the parish of Warkworth, and for that purpose to construct the railway by this Act authorised:

And whereas plans and sections showing the line and levels of the railway authorised by this Act, and also books of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required or which may be taken for the purposes of the railway, have been deposited with the clerk of the peace for the county of Northumberland, and are herein-after 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 for all purposes as "The Blyth and Tyne Railway Act, 1874."

Provisions of certain general Acts incorporated.

2. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," "The Railways Clauses Consolidation Act, 1845," and Part I. (relating to the construction of a railway) of "The

A.D. 1874.

Railways Clauses Act, 1863," are incorporated with and form part of this Act.

Same meanings to words, &c. in incorporated Acts as in this Act.

3. The several words and expressions to which by the Acts wholly or partially incorporated with this Act meanings are assigned have in this Act the same respective meanings, unless there be in the subject or context something repugnant to or inconsistent with such construction.

Interpretation of terms.

4. The following words and expressions have in this Act the meanings hereby assigned to them respectively, unless there be something in the subject or context repugnant to such construction; (that is to say,)

The expression "the railway" or "the undertaking" means the railway and the works connected therewith by this Act authorised to be constructed:

The expression "the undertakers," or "the promoters of the undertaking," in any of the Acts incorporated herewith, means the Company:

The expression "the Act of 1854" means "the Blyth and Tyne Railway Consolidation and Extensions Act, 1854:"

The expression "the Act of 1857" means the Blyth and Tyne Railway Amendment Act, 1857:

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

Power to make railway according to deposited plans.

5. Subject to the provisions of this Act, the Company may make and maintain the railway herein-after described, with all necessary works, stations, approaches, and conveniences connected therewith, in the line and upon the lands delineated on the deposited plans and described in the deposited books of reference, and according to the levels described on the deposited sections, and may enter upon, take, and use such of the said lands as shall be necessary for the purposes of the railway.

Describing railway.

6. The railway hereby authorised will be wholly situate in the county of Northumberland, and is a railway eight miles four furlongs and six chains in length, to commence by a junction with the Warkworth Extension Railway of the Company, in the township of Bothal Demesne, in the parish of Bothal, and to terminate in the township of East Chivington, in the parish of

Warkworth, by a junction with the Amble branch of the North-eastern Railway Company.

Railway to form part of Blyth and Tyne Railway.

7. The Company may demand and take in respect of the railway the same tolls and charges as they are by the Act of 1854 authorised to receive in respect of the railways referred to in that Act; and the railway shall, as to use and working, and for all other purposes, be deemed part of the undertaking of the Company.

Period for compulsory purchase limited.

8. The powers of the Company for the compulsory purchase of land for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Lands for extraordinary purposes.

9. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in "The Railways Clauses Consolidation Act, 1845," shall not exceed three acres.

Power to lease lands.

10. And whereas a large part of the undertaking of the Company is constructed upon wayleaves granted over lands forming parts of the estates of the Most Noble William John Cavendish Bentinck Scott, Duke of Portland, and the Most Noble Algernon George Percy, Duke of Northumberland, Sir Matthew White Ridley, Baronet, the trustees of the Right Honourable Lord Hastings, the Right Honourable Henry Thomas, Earl of Ravensworth, the representatives of the late Sir Francis Blake, Henry Sydney, Hugh Taylor, and partners, owners of Backworth Colliery, the representatives of Sarah Heckells, deceased, John Taylor, and the owners of the Prospect Hill estate, respectively, and leased to the Company for long terms of years; and it is expedient that the Company be enabled to acquire by lease such further lands forming further parts of the estates of the same persons, or some or one of them, as they or he may be desirous to lease to the Company, and as may be necessary for the construction of the railway, and for other the purposes of their undertaking: Therefore the Company may treat, contract, and agree with any party empowered by "The Lands Clauses Consolidation Act, 1845," or otherwise entitled to sell and convey lands forming part of the estates of the said several persons in this section mentioned or described, who shall be willing so to treat, contract, and agree, for granting, demising, or leasing to the Company, for any term or number of years (not being less than the terms or number of years which have been granted to the Company in respect of other lands forming parts of the same estates respectively), or in perpetuity, any lands for the time being held or occupied by the Company, or any waggon-way or other right of way and passage, or other rights, liberties, privileges, or ease-

A.D. 1874.

ments whatsoever, which it shall seem expedient to the Company to acquire for the purpose of constructing the railway, or maintaining or improving their railways, or any works, buildings, or conveniences connected or held therewith, in, upon, through, over, and along any such lands; and all corporations and persons empowered by the Lands Clauses Consolidation Acts to sell and convey such lands, if they think fit so to do, may grant, demise, and lease to the Company, for any term or number of years (not being less than the terms or number of years which have been granted to the Company in respect of other lands forming parts of the same estates respectively), or in perpetuity, to take effect in possession and not in reversion, as well any of the said lands, as also full and free liberty, license, power, and authority in, upon, through, and over any such lands to construct, erect, and maintain any railway, buildings, or works, for such consideration or annual rent, and for such contingent sum or sums in the way of rent, royalty, or otherwise, or for any or either of the aforesaid royalties or sums, as they shall think proper, without taking any fine or foregift for the same, so as the Company do execute counterparts of all such demises, leases, or grants, and enter into such covenants and agreements for the due and punctual rendering and paying the rent or sum of money and reservations to be thereby respectively reserved, and for regulating the use and enjoyment of the liberties and privileges thereby to be granted and demised, as the party making such demises, leases, and grants shall deem expedient.

Confirmation of agreement in schedule.

11. The agreement whereof a copy is contained in the schedule to this Act is hereby confirmed and made binding, and shall be carried into effect by the Company, under and subject to the same obligations and liabilities as if the works thereby agreed to be made and maintained by the Company had been required by the provisions of this Act.

Saving of provisions for protection of the Duke of Portland and former agreements.

12. All existing enactments directly or indirectly restraining the Company from entering upon, taking, or using any land, or easement, rent, or other interest in or relating to land, of which the Duke of Portland is now the owner, and all agreements in which the Duke of Portland is interested, and which are now binding on the Company, save so far as the same or any of them may be expressly varied by the agreement of which a copy is contained in the said schedule, shall remain in full force and virtue.

Period for completion of railway.

13. The railway shall be completed within five years from the passing of this Act, and if not completed within that period, then on the expiration thereof the powers by this Act granted to the

Company for making and completing the railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Imposing penalty unless railway opened.

14. If the Company fail, within the period limited by this Act, to complete the railway, the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railway is completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the railway; and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act, or by the Solicitor of Her Majesty's Treasury, and in the same manner as the penalty provided in section 3 of "The Railway and Canal Traffic Act, 1854"; and every sum of money recovered by way of such penalty as aforesaid shall be paid, under the warrant or order of such court or judge as is specified in that section, to an account opened or to be opened, in the name and with the privity of Her Majesty's Paymaster General, on behalf of the Court of Chancery in England, 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 want of sufficient funds shall not be held to be a circumstance beyond their control.

Providing for application of penalty in compensation to parties injured.

15. Every sum of money so recovered by way of penalty as aforesaid shall be applicable, and after due notice in "the London Gazette" shall be applied, towards compensating any landowners or other persons whose property may have 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 shall have 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 Chancery in England may seem fit; and if no such compensation shall be payable, or if a portion of the sum or sums of money so recovered

A.D. 1874.

by way of penalty as aforesaid shall have 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 either be forfeited to Her Majesty, and be accordingly paid or transferred to or for the account of Her Majesty's Exchequer, in such manner as the Court of Chancery in England thinks fit to order, on the application of the Solicitor of Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the Court, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver, or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company, for the benefit of the creditors thereof.

Power to apply corporate funds to purposes of Act.

16. The Company may apply to the purposes of this Act 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.

Interest not to be paid on calls paid up.

17. The Company shall not, out of any money by this Act authorised to be raised by calls, debenture stock, or borrowing, pay to any shareholder interest or dividend on the amount of calls made in respect of the shares held by him: Provided always, that the Company may pay 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.

18. The Company shall not, out of any money by this Act authorised to be raised, pay or deposit any sum of money 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.

Railway not exempt from provisions of present and future general Acts.

19. Nothing herein contained shall be deemed or construed to exempt the Company or their railways from the provisions of any general Act relating to railways, or to the better or 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 and alteration, under the authority

of Parliament, of the maximum rates of fares and charges, and of the rates for small parcels, authorised to be taken by the Company. A.D. 1874.

Expenses of Act.

20. All the 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.

The SCHEDULE referred to in the foregoing Act.

AGREEMENT made the fourth day of May one thousand eight hundred and seventy-four between the Most Noble William John Cavendish Bentinck Scott, Duke of Portland, (herein-after called "the Duke,") of the one part, and the Blyth and Tyne Railway Company (herein-after called "the Company") of the other part.

WHEREAS a Bill is now pending in Parliament, intituled A Bill to authorise the Blyth and Tyne Railway Company to extend their Warkworth Extension Railway to the Amble branch of the North-eastern Railway, and for other purposes:

And whereas the Duke has petitioned the House of Commons against the passing of the now pending Bill:

And whereas the Duke is willing to withdraw his opposition, upon the faith of the agreement herein-after appearing, and of the confirmation thereof by Parliament, and the several stipulations in such agreement being, by or on the part of the Company, specifically performed and observed:

Now it is hereby mutually agreed between the parties hereto as follows; that is to say,

That if the now pending Bill pass into a law the Company will, in the course of the execution of the railway thereby authorised, and the works thereof, and before the opening of such railway or any part thereof for any public traffic, make and complete and thereafter maintain, to the satisfaction of the Duke, his heirs and assigns, or his or their engineer or agent, the following works; that is to say,

A bridge, with proper and convenient approaches for farm purposes, across the said railway at the point where the fence separates the fields numbered 14 and 15 on the said plans:

Two proper and convenient level crossings for farm purposes at points to be fixed by the Duke's engineer or agent:

Main drains or outlets proper and sufficient for maintaining the drainage of all the lands of which the Duke is tenant for life adjoining to the proposed railway:

Construct and maintain, at such point near the village of Hirst, in such manner as may be approved by the engineer or agent of the Duke, a proper and sufficient siding for lime and manure:

And also for the execution of the works to be authorised by the said Bill the Company shall not take or exercise any powers of compulsory purchase of any land of the Duke, but in lieu thereof may enter upon and use such of the lands of the Duke shown in the said plans and the books of reference thereto, not exceeding eleven acres in the whole, as shall be requisite, making compensation

to the lessees or occupiers thereof for all damages and injury thereby occasioned, and making compensation to the Duke, his heirs or assigns, by means of the payments and benefits to be secured to the Duke, his heirs or assigns, by indenture herein-after referred to; provided nevertheless, that such entry and user by the Company shall not, until the execution of the indenture herein-after referred to, be for any other purpose than the execution of those several works; and also that the Company or their assigns will not permit the said railway, or any part thereof, to be used for any public traffic whatsoever until that indenture be executed, or until the Company or their assigns be entitled under this agreement to call for the execution thereof, and tender to the Duke, his heirs or assigns, the same, duly stamped and executed by the Company, and attested; and also that immediately after the passing of the now pending Bill into law, and the completion of those several works, the Duke, his heirs or assigns, will, or at any time after such passing and before such completion, if he so think fit, he or they may, by indenture under his or their hand and seal or hands and seals, well and effectually make, and the Company will thereby then accept and take, a grant of wayleave, and right and liberty of way and passage in, through, over, and along such portions of the said lands of the Duke as aforesaid; which indenture, except only as far as the parties thereto otherwise mutually agree, and except so far as herein-after varied, shall be according to the form and substance of the indenture referred to in an indenture dated the twenty-fifth day of June one thousand eight hundred and fifty-seven, and expressed to be made between the Duke of the one part, and the Company of the other part, as if the same were herein repeated with the necessary variations.

The variations referred to are as follows:

For the Warkworth Extension and the works thereof respectively shall be substituted the railway and works respectively authorised by the Blyth and Tyne Railway Act, 1874.

For the Blyth and Tyne Railway Act, 1857, shall be substituted the Blyth and Tyne Railway Act, 1874.

For seventeen acres and twenty-five acres respectively shall be substituted eleven acres, and all reference to any rent to be paid for any excess above seventeen acres shall be omitted.

For four hundred and ten pounds shall be substituted three hundred pounds.

For the thirteenth day of May one thousand eight hundred and fifty-nine shall be substituted the thirteenth day of May one thousand eight hundred and seventy-six.

For five thousand six hundred tens shall be substituted three thousand eight hundred and forty tens.

For the words "The Railways Clauses Consolidation Act, 1845," which are incorporated with "The Blyth and Tyne Railway Act, 1867," shall be substituted the words "The Railways Clauses Consolidation Act, 1845," and Part I. (relating to the construction of a railway) of "The Railways Clauses Act, 1863," which are incorporated with the Blyth and Tyne Railway Act, 1874.

And after proviso concerning the minimum yearly rent of sixty pounds shall be inserted a proviso to the effect that if and whenever any quantity of

A.D. 1874.

coal, coke, culm, and cinders shall pass continuously both over the lands already held under the said indenture of the twenty-fifth day of June one thousand eight hundred and fifty-seven, and the railway intended to be authorised by the said pending Bill, or any part thereof respectively, then such coals, coke, culm, and cinders shall, for the purpose of ascertaining the rents payable under the indenture of lease agreed to be granted by the said indenture of the twenty-fifth day of June one thousand eight hundred and fifty-seven, and by the indenture of lease hereby agreed to be granted, only be taken into account in estimating the quantity passing over that railway in respect of which the maximum rent would not otherwise be payable; or if the maximum rent would otherwise not be payable in respect of either railway, then it shall be taken into account in estimating the quantity passing over such one of the railways as the Duke may think fit.

And the Company agree with the Duke, his heirs and assigns, that the Company or their assigns will duly execute and deliver to the Duke, his heirs and assigns, a duplicate of the indenture; and also that the yearly rent agreed to be reserved by the indenture of lease hereby agreed to be granted shall be paid and rendered by the Company and their assigns according to the agreement herein-before contained, notwithstanding such lease may not have been actually executed; and the Duke, his heirs and assigns, shall have all such powers, rights, and remedies for the recovery of the yearly rent as if the lease had been granted: Provided always, that these presents shall not be or operate as a lease, but, so far as relates to the indenture of lease hereby agreed to be granted, shall be deemed an agreement for a lease.

This agreement shall not, except as to matters and things herein expressly provided for, take away, lessen, or prejudice any of the rights of the Duke as a landholder under the Lands Clauses Consolidation Act, 1845, and the Railways Clauses Consolidation Act 1845, or either of those Acts, or any other Act of Parliament.

This agreement is made subject to such alterations as Parliament may think fit to make therein, but if the Committee on the said Bill shall make any material alteration in this agreement, it shall be competent to either party to withdraw the same. In witness whereof the said Duke of Portland hath hereunto set his hand and seal, and the said Company have hereunto caused their common seal to be affixed, the day and year first above written.

The seal of the Blyth and Tyne Railway Company was hereunto affixed in the presence of

R. W. Cooper,
Clerk to Messrs. R. P. & H. Philipson,
solicitors, Newcastle-upon-Tyne.

Blyth and Tyne Railway Seal. (L.S.)

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1874.