CHAPTER xlviii.

An Act to confer further powers upon the Cleator and Workington Junction Railway Company for the extension of their railways and for other purposes. A.D. 1881.

[3rd June 1881.]

WHEREAS by the Cleator and Workington Junction Railway Act 1876 the Cleator and Workington Junction Railway Company (in this Act called "the Company") were incorporated and the Company were by the said Act and other subsequent Acts authorised to construct certain railways in the county of Cumberland and to exercise various other powers: 39 & 40 Vict. c. li.

And whereas it is expedient that the Company should be authorised to make and maintain the railway and works herein-after described:

And whereas the capital which the Company are authorised to raise by shares is limited to two hundred and seventy-three thousand pounds in respect of which they may borrow ninety-one thousand pounds and it is expedient that the Company should be authorised to raise additional capital for the purposes of this Act and for the general purposes of their undertaking:

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

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

A.D. 1881. 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 Cleator and Workington Junction Railway Act 1881.

Incorporation of general Acts. 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. 32 & 33 Vict. c. 18. 8 & 9 Vict. c. 20. 26 & 27 Vict. c. 92. 36 & 37 Vict. c. 76.

2. The Lands Clauses Consolidation Acts 1845 1860 and 1869 (except the provisions of the Lands Clauses Consolidation Act 1845 with respect to the entry upon purchase and taking of land otherwise than by agreement) the Railways Clauses Consolidation Act 1845 Part I. (relating to "construction of a railway") and Part III. (relating to "working agreements") of the Railways Clauses Act 1863 as amended by the Regulation of Railways Act 1873 are except where expressly varied by this Act incorporated with and form part of this Act.

Extension of certain provisions of 8 & 9 Vict. c. 16.

3. Subject to the provisions of this Act the clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to—

The distribution of the capital of the Company into shares :

The transfer or transmission of shares :

The payment of subscriptions and means of enforcing the payment of calls :

The forfeiture of shares for nonpayment of calls :

The remedies of the creditors of the Company against 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 also Part I. II. and III. relating respectively to the cancellation and surrender of shares to additional capital and to debenture stock of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869

26 & 27 Vict. c. 118. 32 & 33 Vict. c. 48.

are incorporated with this Act and shall extend and apply to the Company and to the additional capital which they are by this Act authorised to raise.

Interpretation of terms.

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 railway by this Act authorised :

"Superior court" 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 make railway.

5. Subject to the provisions of this Act the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the railway herein-after described with all proper stations sidings approaches works and conveniences connected therewith and may by agreement enter upon take and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for those purposes. The said railway will be wholly situate in the county of Cumberland and is as follows:—

A branch railway (Number 5) two furlongs six chains and forty links in length commencing in the parish of Distington by a junction with the main line of the Cleator and Workington Junction Railway and terminating in an enclosure or field belonging to Henry Frazer Curwen and in the occupation of the Distington Iron Company and James Brown in the township of Workington in the said parish of Workington.

Height and span of bridge.

6. The Company may make the arch of the bridge for carrying the railway over the road next herein-after mentioned of any height and span not less than the height and span herein-after mentioned in connexion therewith (that is to say):—

No. on deposited Plan.	Parish.	Description of Road.	Height.	Span.
		Railway No. 5.		
17	Distington -	Public road - -	12 feet -	15 feet.

Power to take easements, &c. by agreement.

7. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement right or privilege not being an easement of water 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.

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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 Act 1845 shall not exceed one acre.

Period for completion of railway.

9. If the railway be 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 said railway or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed.

Penalty unless railway is opened within the time limited.

10. If the Company fail within the period limited by this Act to complete the railway authorised by this Act 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 in the same manner as the penalty provided in section three 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 Chancery Division of the High Court of Justice 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 such 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. Provided further that no penalty shall accrue if it appear by a certificate to be obtained from the Board of Trade that the Company was prevented by the want of compulsory powers for the acquisition of the necessary lands in that behalf from completing the railway without incurring unreasonable delay inconvenience or expense.

17 & 18 Vict. c. 31.

Application of penalty.

11. If the Company do not previously to the expiration of the period limited for the completion of the railway complete the same and open it for the public conveyance of passengers 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 has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or any portion thereof or who 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 Chancery Division of the High Court of Justice in England may seem fit and if no such compensation is payable or if a portion of the sum or sums 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 so recovered by way of penalty or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the said division 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 said division 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.

Tolls.

12. The Company may demand and take in respect of the railway the same tolls and charges as they are authorised to receive for and in respect of the railways authorised by the Cleator and Workington Junction Railway Act 1876.

Power to raise additional capital.

13. The Company may for the purposes of this Act and for the general purposes of their undertaking subject to the provisions of Part II. of the Companies Clauses Act 1863 raise any additional capital not exceeding in the whole forty thousand and two hundred pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock in their capital or wholly or partly by any one or more of those modes respectively but the Company shall not issue any share of less nominal value than ten pounds nor shall any such share vest in the person or corporation accepting the same unless and until a sum not being less than one-fifth part of the amount of such share shall have been paid in respect thereof.

Calls.

14. One fifth of the amount of a share shall be the greatest amount of a call and three months at least shall be the interval

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between successive calls and three fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Power to borrow on mortgage.

15. The Company may in respect of the additional capital of forty thousand and two hundred pounds which they are by this Act authorised to raise from time to time borrow on mortgage any sum not exceeding in the whole thirteen thousand and four hundred pounds and of that sum they may from time to time borrow any sums not exceeding in the whole three thousand three hundred and fifty pounds in respect of every sum of ten thousand and fifty pounds of their said additional capital but no part of any such sum of three thousand three hundred and fifty pounds shall be borrowed until shares for such portion of the said ten thousand and fifty pounds of additional capital as is to be raised by means of shares are issued and accepted and one half of such portion 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 the whole of such portion 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 portion has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one half of such portion of the said sum of ten thousand and fifty pounds of 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 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 if 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.

Existing mortgages to have priority.

16. All mortgages granted under the authority of any former Act relating to the Company before the passing of this Act and subsisting at the passing thereof shall during the continuance of such mortgages and subject to the provisions of the Acts under which such mortgages were respectively granted have priority over any mortgages granted by virtue of this Act but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Application of moneys.

17. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only for the purposes of this Act and the general purposes of the Company.

Interest not to be paid on calls paid up.

18. The Company shall not out of any money by this Act authorised to be raised pay interest or dividend 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.

19. 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.

20. 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.

Expenses of Act.

21. 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.

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