CHAPTER cxxix.

An Act to authorise the Cleator and Workington Junction Railway Company to extend their authorised Railway to the Rowrah and Kelton Fell Mineral Railway; and for other purposes. [4th July 1878.] A.D. 1878.

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

And whereas by the Cleator and Workington Junction Railway Act, 1877, in this Act called "the Act of 1877," the Company and the Furness Railway Company, in this Act called "the Furness Company," were authorised to enter into agreements with respect to the working and construction of the railways of the Company by the Furness Company: 40 & 41 Vict. c. xlviii.

And whereas by the Act of 1877 a working agreement between the two Companies was confirmed:

And whereas the extension of the authorised railway of the Company to the Rowrah and Kelton Fell Mineral Railway would be of public and local advantage, and it is expedient that the Company should be authorised to make such extension:

And whereas the capital of the Company is limited under the Act of 1876 to one hundred and fifty thousand pounds to be raised by shares, and fifty thousand pounds by borrowing, and it is expedient for the purposes of this Act that the Company should be authorised to raise additional capital:

And whereas it is expedient that the Company should be empowered from time to time to enter into and carry into effect agreements with the Rowrah and Kelton Fell Mineral Railway Company, in this Act called "the Rowrah Company," with respect

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to the working by that company of the railway by this Act authorised:

And whereas it is expedient that powers should be conferred upon the Rowrah Company to enter into similar agreements with the Company with respect to the working of the Rowrah and Kelton Fell Mineral Railway:

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 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 Extension Act, 1878.

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, 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.

Extending 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 the 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; A.D. 1878.

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 Parts I., II., and III. of the Companies Clauses Act, 1863, relating respectively to the cancellation and surrender of shares, to additional capital, and to debenture stock; 26 & 27 Vict. c. 118.

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 expression "the railway" means the railway by this Act authorised; and the expression "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 according to deposited plans.

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 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 railway herein-before referred to, and authorised by this Act, will be wholly situate in the county of Cumberland, and is—

A railway, six miles three furlongs and four chains in length, commencing in the parish of Distington by a junction with Railway No. 1, authorised by the Act of 1876, and terminating in the township of Winder, in the parish of Lamplugh, by a junction with the siding of the Rowrah and Kelton Fell Mineral Railway.

Inclination of road.

6. In altering for the purposes of this Act the road next herein-after mentioned, the Company may make the same of any inclina-

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tion not steeper than the inclination herein-after mentioned; (that is to say,)

Number on deposited Plans.	Parish.	Description of Road.	Intended Inclination.
13	Distington - - -	Road and public footpath.	1 in 15.

Height and span of bridge.

7. 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,)

Number on deposited Plans.	Parish.	Description of Road.	Height.	Span.
13	Distington - -	Roadway and public footpath.	15 feet -	20 feet.

Power to take easements, &c. by agreement. 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106.

8. 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.

Lands for extraordinary purposes. 8 & 9 Vict. c. 20.

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 two acres.

Period for compulsory purchase of lands.

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

Deposit money not to be repaid except so far as railway is opened.

11. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth year of the reign of Her present Majesty, chapter twenty, a sum of two thousand nine hundred and ninety-two pounds, being five per centum upon the amount of the estimate in respect of the railway, has been deposited with the Chancery Division of the High Court of Justice in England

in respect of the application to Parliament for this Act, which sum is referred to in this Act as the deposit fund: Be it enacted that, notwithstanding anything contained in the said Act, the said deposit fund shall not be paid or transferred to or on the application of the person or persons, or the majority of the persons, named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them, which persons, survivors or survivor, are or is in this Act referred to as the depositors, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the railway, open the same for the public conveyance of passengers: Provided that if, within such period as aforesaid, the Company open any portion of the railway for the public conveyance of passengers, then, on the production of a certificate of the Board of Trade specifying the length of the portion of the railway opened as aforesaid, and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the railway so opened bears to the entire length of the railway, the Court shall, on the application of the depositors, or the majority of them, order the portion of the deposit fund specified in the certificate to be paid or transferred to them, or as they shall direct, and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the above-mentioned Act to the contrary notwithstanding.

Application of deposit.

12. 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, then and in every such case the deposit fund, or so much thereof as shall not have been paid to the depositors, 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 deposit fund has been found sufficient to satisfy all just claims in respect of such compensation, then the deposit fund, or such portion thereof as may not

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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 Chancery 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 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: Provided that until the deposit fund has been repaid [re-transferred] to the depositors, or has become otherwise applicable as hereinbefore mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, be paid to or on the application of the depositors.

Period for completion of railway.

13. 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.

For protection of London and North-western Railway Company.

14. The following provisions for the protection of the London and North-western Railway Company (in this section referred to as the North-western Company) shall be binding on the Company, and they shall perform the same and comply therewith:

1. The railway shall be carried over the Whitehaven, Cleator, and Egremont Railway of the North-western Company at the proposed crossing thereof, according to the centre line of such railway as shown on the deposited plans, unless otherwise agreed between the engineers of the two companies; and for such crossing there shall be a girder bridge with a clear span of not less than forty-eight feet, measured on the square, and with a clear headway of not less than fifteen feet for the entire width thereof, and such crossing shall be so effected as to leave undisturbed all the existing lines of the railway so crossed, and the works thereof at such crossing:
2. The works authorised by this Act affecting the said railway of the North-western Company shall be constructed and executed only according to plans and sections and specifications as shall be reasonably approved by and under the superintendence and to the satisfaction of the engineer of

that company, and in all things at the expense of the Company, and by and in such means and manner only as not to interfere with the free, uninterrupted, and safe user of that railway:

3. The Company shall at all times maintain the bridge with the clear span and headway aforesaid, and the other works for such crossing, in substantial repair and good order and condition to the reasonable satisfaction in all respects of the engineer of the North-western Company; and if and whenever the Company fail so to do, that company may make and do, in and upon as well the lands and works of the Company as on their own lands and works, all such works and things as they may reasonably think requisite in that behalf, and the sum from time to time certified by their engineer to be the reasonable amount of such their expenditure shall be repaid to them by the Company, and in default of full repayment may be recovered from the Company, with full costs, in any court of competent jurisdiction:

4. The Company shall not, without in every case obtaining the previous consent of the North-western Company under their common seal, take, use, enter upon, or interfere with any of the lands, railways, works, or property from time to time belonging to or in the possession or under the power of that company, except only such part or parts of their said lands as it shall be absolutely necessary for the Company to take, use, enter upon, or interfere with, for the purpose of making and maintaining the works by which, according to this enactment, the railway is to be carried across the Whitehaven, Cleator, and Egremont Railway, and for the purpose of effecting a junction by a single line of rails with the Rowrah and Kelton Fell (Mineral) Railway, and which junction shall be made so as to interfere as little as is practicable with the interchange of traffic between the Rowrah and Kelton Fell (Mineral) Railway and the Whitehaven, Cleator, and Egremont Railway of the North-western Company:

5. With respect to any land or property of the North-western Company which the Company is by this Act authorised to use, enter upon, or interfere with, the Company shall not purchase or take the same, but the Company may purchase and take, and that company may and shall sell and grant accordingly, an easement or right of using the same for the

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purposes for which, but for this enactment, the Company might purchase and take the same:

6. The Company shall not in any manner, in the execution of any of their works, obstruct or interfere with the free, uninterrupted, and safe use of the railways, sidings, or other works of that company, or the passage or conduct of traffic thereover or thereat:

7. The Company shall bear, and on demand pay to the North-western Company, the expense of the employment by that company, during the execution of the works affecting the railway and works of that company, of a sufficient number of inspectors and watchmen, to be appointed by that company, for watching their said railway and its works with reference to and during the execution of the works of the Company, and for preventing, as far as may be, all interference, obstruction, danger, and accident from any of the operations or from the acts or defaults of the Company or their contractors, or any person in the employment of the Company or of their contractors, with reference thereto or otherwise:

8. If by reason of the execution of any of the works, or any proceedings of the Company, or the failure of any such works, or any act or omission of the Company or of their contractors, or of any person in the employment of the Company or of their contractors, or otherwise, the said railway of the North-western Company, or any of the works thereof or connected therewith, shall be injured or damaged, such injury or damage shall be forthwith made good by the Company at their expense, or in the event of their failing so to do, then that company may make good the same, and recover the expense thereof, with full costs, against the Company in any court of competent jurisdiction; and if any interruption shall be occasioned to the traffic of that company by reason of any of the matters or causes aforesaid, the Company shall pay to that company all costs and expenses to which that company may be put, as well as full compensation for the loss and inconvenience sustained by them by reason of any such interruption, such costs and expenses and compensation to be recoverable, with full costs, by that company from the Company in any court of competent jurisdiction:

9. Nothing in this Act contained shall prejudice, take away, diminish, or interfere with any of the property, rights,

interests, powers, and privileges of the North-western Company otherwise than is herein expressly provided:

10. Any question which may arise between the two companies under this enactment shall, on the application of either company, be referred to and determined by an engineer to be appointed by the President of the Institution of Civil Engineers, but nothing in this Act contained shall be deemed to enable the said arbitrator to direct that any of the works affecting the North-western Company shall be made of any less dimensions than those prescribed by this enactment.

Tolls.

15. 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 Cleator and Workington Junction Railway.

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 have now in their hands, or which they have power to raise under the Act of 1876, and which may not be required for the purposes of that Act.

Power to raise additional capital. 26 & 27 Vict. c. 118.

17. The Company may, subject to the provisions of Part II. of the Companies Clauses Act, 1863, raise any additional capital, not exceeding in the whole sixty-three thousand 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.

18. 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 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.

19. The Company may, in respect of the additional capital of sixty-three thousand pounds which they are by this Act authorised to raise, from time to time borrow on mortgage any sum not exceeding in the whole twenty-one thousand pounds, but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted, and one half of such capital is paid up, and the Company have proved to the justice who is to certify under the fortieth section

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Nature and extent of traffic facilities.

27. The traffic facilities to be so afforded shall include such through booking, through invoicing, through waggons, trucks, and other arrangements and facilities as may be agreed upon, or as, failing agreement, shall be determined by arbitration in manner provided by the Regulation of Railways Act, 1873.

36 & 37 Vict. c. 76.

Terms, &c. on which facilities shall be given.

28. The terms and conditions, pecuniary and otherwise, on which the said traffic facilities shall be respectively afforded, and the through rates for traffic, shall be such as from time to time may be agreed upon, or, failing such agreement, as shall be from time to time determined by arbitration in manner provided by the Regulation of Railways Act, 1873.

36 & 37 Vict. c. 76.

Interest not to be paid on calls paid up.

29. 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.

8 & 9 Vict. c. 16.

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

30. 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.

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

31. 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.

32. 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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