



CHAP. cli.

An Act for making a Railway from Callington to Calstock in A.D. 1869.
the county of Cornwall; and for other purposes.

[9th August 1869.]

WHEREAS the making of a railway (in this Act called railway No. 1.) from Callington in the county of Cornwall to a certain incline to Kelly Quay on the river Tamar in the parish of Calstock in the same county, and a railway (in this Act called railway No. 2.) from railway No. 1. to the southerly end of the said incline, and a railway (in this Act called railway No. 3.) from railway No. 2. on the said incline to certain coal yards at Calstock Quay, would be of great local and public advantage: .

And whereas the persons herein-after named, with others, are willing at their expense to carry the proposed undertaking into execution:

And whereas a plan and section of the intended railways showing the line and levels thereof respectively, together with a book of reference to the said plan containing the names of the owners, lessees, and occupiers of the lands and property which may be required for the purposes of the undertaking, have been deposited in the office of the clerk of the peace of the county of Cornwall, and the same are in this Act referred to as the deposited plan, section, and book of reference respectively:

And whereas the objects aforesaid 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 of the Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as "The Callington and Calstock Railway Act, 1869." Short title.

2. "The Companies Clauses Consolidation Act, 1845," Parts I. and III. of "The Companies Clauses Act, 1863," (relating respectively General Acts herein named incorporated.

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A.D. 1869. tively to the cancellation and surrender of shares and to debenture stock,) "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation Act, 1845," and Part I. of "The Railways Clauses Act, 1863," (relating to construction of a railway,) are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpreta-
tion of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Company" shall mean the Company incorporated by this Act; the expression "the railway" or "the undertaking" shall mean the railway or undertaking by this Act authorized, or any part thereof; and the expression "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or any Act wholly or partially incorporated herewith, shall 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.

Company in-
corporated.

4. Arthur Chandler, Thomas Vivian Gurney, and James Rhodes, and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a company for the purpose of making and maintaining the railways, and for other the purposes of this Act, and for those purposes shall be incorporated by the name of "The East Cornwall Mineral Railway Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

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 plan and section the railways herein-after described, with all proper stations, approaches, works, and conveniences connected therewith respectively, and may enter upon, take, and use such of the lands delineated on the said plan and described in the deposited book of reference as may be required for that purpose. The railways herein-before referred to and authorized by this Act are,—

1. A railway (No. 1.), seven miles and two chains in length, commencing in the parish of Callington, and terminating in the parish of Calstock by a junction with the incline to Kelly Quay on the river Tamar:

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2. Railway (No. 2.), three furlongs and three chains in length, commencing by a junction with railway (No. 1.) at the termination thereof, and terminating at or near the bottom or southerly end of the said incline, such railway being in substitution for or an enlargement of the said incline: A.D. 1869.

3. Railway (No. 3.), three furlongs and seven chains in length, commencing by a junction with railway No. 2., or the said incline, and terminating at or near the western boundary of certain coal yards at Calstock Quay.

6. The capital of the Company shall be sixty thousand pounds, in six thousand shares of ten pounds each. Capital.

7. The Company shall not issue any share created under the authority of this Act, 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 shall have been paid in respect thereof. Shares not to issue until one fifth paid up.

8. One fifth of the amount of a share shall be the greatest amount of a call, and two months at least shall be the interval between successive calls, and four fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any one year upon any share. Calls.

9. The Company may from time to time borrow on mortgage any sum not exceeding in the whole twenty thousand pounds, but no part thereof shall be borrowed until the whole capital of sixty thousand pounds is subscribed for, issued, and accepted, and one half thereof 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 the capital has been subscribed for, 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 has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide and is held by the subscribers or their assigns, and that such subscribers or their 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 shall be sufficient evidence thereof. Power to borrow on mortgage.

10. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver, and in order to Appoint-ment of receiver.

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A.D. 1869. authorize the appointment of a receiver in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver shall be made shall be not less than two thousand pounds in the whole.

Application of monies. **11.** All monies raised under this Act, whether by shares or borrowing, shall be applied for the purposes of this Act only.

First ordinary meeting. **12.** The first ordinary meeting of the Company shall be held within six months after the passing of this Act.

Number of directors. **13.** The number of directors shall be five, but it shall be lawful for the Company from time to time to reduce the number, provided that the number be not less than three.

Qualification of directors. **14.** The qualification of a director shall be the possession in his own right of not less than ten shares.

Quorum. **15.** The quorum of a meeting of directors shall be three, unless the number of directors is reduced, and then, and so long as the number shall continue to be three, the quorum shall be two.

First directors. **16.** Arthur Chandler, Thomas Vivian Gurney, and James Rhodes shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act; at that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act, or any of them, or may elect a new body of directors, or directors to supply the places of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election, and may appoint additional directors, but so as that the number shall not exceed five; and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions in "The Companies Clauses Consolidation Act, 1845," contained; and the several persons elected at any such meeting, being neither removed nor disqualified nor having resigned, shall continue to be directors until others are elected in their stead, in manner provided by the same Act.

Lands for extraordinary purposes. **17.** 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. **18.** 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 two years from the passing of this Act.

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19. The railway shall be completed within three years from the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for executing the railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed. A.D. 1869.
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Period for completion of works.

20. Subject to the provisions in "The Railways Clauses Consolidation Act, 1845," and in Part I. (relating to the construction of a railway) of "The Railways Clauses Act, 1863," contained, in reference to the crossing of roads on the level, the Company may in the construction of the railway carry the same with a single line of railway only whilst the railway shall consist of a single line, and afterwards with a double line of railway only, across and on the level of the roads herein-after mentioned; (that is to say,) Power to cross roads on the level.

Number on deposited plan.	Parish.	Description of road.
16	Calstock - - - - -	Parish road.
32	Calstock - - - - -	Parish road.

21. In altering, for the purposes of this Act, the roads next herein-after mentioned, the Company may make the same of any inclinations not steeper than the inclinations herein-after mentioned in connexion therewith respectively; (that is to say,) Power to alter levels of certain roads.

Number on deposited plan.	Parish.	Description of road.	Intended inclination.
14	Callington - -	Parish road -	1 in 13 on one side and level on the other side.
30	Stokeclimsland -	Parish road -	1 in 11.
65	Stokeclimsland -	Parish road -	1 in 12 on one side and 1 in 20 on the other side.
47	Calstock - -	Parish road -	1 in 9.
65	Calstock - -	Parish road -	1 in 12 on one side and 1 in 20 on the other side.
109	Calstock - -	Parish road -	1 in 18.
116	Calstock - -	Parish road -	1 in 12 on one side and 1 in 20 on the other side.
119	Calstock - -	Parish road -	1 in 10 on one side and 1 in 20 on the other side.

22. The Company may make the arches of the bridges for carrying the railway over the roads next herein-after mentioned of Height and span of bridges.

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Number on deposited plan.	Parish.	Description of road.	Height and Span.	
			Feet.	Feet.
14	Callington - -	Parish road -	14 high	20 span.
30	Stokeclimsland - -	Parish road -	14 high	20 span.
47	Calstock - -	Parish road -	14 high	20 span.
116	Calstock - -	Parish road -	14 high	20 span.
119	Calstock - -	Parish road -	14 high	20 span.

Gauge.

23. The Company may construct the railway of such gauge as they think fit, provided that it be not wider than four feet eight inches and a half, or narrower than three feet.

Limiting speed of trains.

24. The Company shall not run any train on the railway at a rate of speed exceeding sixteen statute miles per hour.

Deposit money not to be repaid until line opened or half the capital paid up and expended.

25. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth and tenth years of Her present Majesty, chapter twenty, a sum of three thousand pounds, being five per centum upon the amount of the estimate in respect of the railway authorized by this Act, has been deposited with the Court of Chancery in England in respect of the application to Parliament for this Act: Be it enacted, that, notwithstanding anything contained in the said recited Act, the said sum of three thousand pounds so deposited as aforesaid in respect of the application for this Act 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, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the railway hereby authorized to be made, either open the said railway for traffic, or prove to the satisfaction of the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations that the Company have paid up one half of the amount of the capital by this Act authorized to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital; and if the said period shall expire before the Company shall either have opened the said railway for traffic, or have given such proof as aforesaid to the satisfaction of the Lords of the said Committee, the said sum of money deposited as aforesaid shall be applied in the manner hereinafter specified; and the certificate of the Lords of the said Committee that such

proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the said recited Act to the contrary notwithstanding. A.D. 1869.

26. The said sum of money deposited 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 said 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 said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, or such portion thereof as may not be required as aforesaid, shall be paid to or on the application of the person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivor or survivors of them; provided that until the said sum of money shall have been repaid to the depositors, or shall have become otherwise applicable as herein-before 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 person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivors or survivor of them. Application
of deposit.

27. It shall be lawful for the Company to demand any tolls for the use of the railway not exceeding the following; (that is to say,) Tolls.

In respect of the tonnage of all articles conveyed upon the railway or any part thereof, as follows: Tonnage on
articles of
merchandise.

For all lime, limestone, culm or coal for burning lime, sand, oreweed, dung, compost, and all other sorts of manure, building stone, freestone, granite, and clay, the sum of twopence per ton per mile; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile not exceeding one penny:

For all copper, copper ore, tin, tin ore, lead, lead ore, iron, iron ore, antimony, manganese, and all other ores, metals, minerals, and semi-metals, wrought and cast iron, coals and culm (not used for burning lime), bricks, tiles, slate, and

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stone used for making roads, timber and deals, the sum of fourpence per ton per mile; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile not exceeding one penny :

For all grain, corn, flour, meal, and potatoes, hay, straw, seeds, vetches, peas, salt, and all other goods, wares, merchandise, and other articles, matters, or things whatsoever, the sum of sixpence per ton per mile; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile not exceeding one penny.

Tolls for
propelling
power.

28. The toll which the Company may demand for the use of engines for propelling carriages on the railway shall not exceed one penny per mile for each ton of goods or other articles, in addition to the several other tolls or sums by this Act authorized to be taken.

Regulations
as to the
tolls.

29. The following provisions and regulations shall be applicable to the fixing of such tolls ; (that is to say,)

For articles conveyed on the railway for a less distance than four miles the Company may demand tolls and charges as for four miles :

For a fraction of a mile beyond four miles, or beyond any greater number of miles, the Company may demand tolls on merchandise for such fraction in proportion to the number of quarters of a mile contained therein, and if there be a fraction of a quarter of a mile such fraction shall be deemed a quarter of a mile :

For a fraction of a ton the Company may demand toll according to the number of quarters of a ton in such fraction, and if there be a fraction of a quarter of a ton such fraction shall be deemed a quarter of a ton :

With respect to all articles, except stone and timber, the weight shall be determined according to the usual avoirdupois weight :

With respect to stone and timber, fourteen cubic feet of stone, forty cubic feet of oak, mahogany, teak, beech, or ash, and fifty cubic feet of any other timber, shall be deemed one ton weight, and so in proportion for any smaller quantity.

For goods.

30. And with respect to the conveyance of goods, the maximum rate of charge to be made by the Company, including the tolls for the use of the railway and waggons or trucks and locomotive power, and every expense incidental to such conveyance (other than and except a reasonable charge for loading or unloading, when such service is performed by the Company), shall not exceed the following sums :

For lime and other articles herein-before classed therewith, the sum of fourpence per ton per mile :

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For copper and other articles herein-before classed therewith, the sum of sixpence per ton per mile: A.D. 1869.

For grain and other articles herein-before classed therewith, the sum of eightpence per ton per mile.

31. With respect to small parcels, packages, and single articles of great weight, notwithstanding the rate of tolls prescribed by this Act, the Company may lawfully demand the following; (that is to say,) Tolls for small parcels and single articles of great weight.

For the carriage of small parcels on the railway, or on any part thereof, as follows:

For any parcel not exceeding seven pounds in weight, fourpence:

For any parcel exceeding seven pounds in weight but not exceeding fourteen pounds in weight, eightpence:

For any parcel exceeding fourteen pounds in weight but not exceeding twenty-eight pounds in weight, one shilling:

For any parcel exceeding twenty-eight pounds in weight but not exceeding fifty-six pounds in weight, one shilling and sixpence:

And for parcels exceeding fifty-six pounds in weight but not exceeding five hundred pounds in weight, the Company may demand any sum which they think fit:

Provided always, that articles sent in large aggregate quantities, although made up of separate parcels, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but such term shall apply only to single parcels in separate packages:

For the carriage of any one boiler, cylinder, bob or single piece of machinery, or single piece of timber or stone, or other single article the weight of which including the carriage shall exceed five tons but shall not exceed eight tons, the Company may demand such sum as they from time to time may think fit, not exceeding one shilling per ton per mile; and if conveyed by carriages belonging to the Company, an additional sum per ton per mile not exceeding sixpence:

For the carriage of any single piece of timber, stone, machinery, or other single article the weight of which with the carriage shall exceed eight tons, the Company may demand such sum as they think fit.

32. The railways by this Act authorized shall not be used for the conveyance of passengers, horses, cattle, or carriages without the authority of Parliament in that behalf first had and obtained.

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Toll for
traffic over
railway
No. 3.

33. In calculating the tolls to be charged in respect of traffic passing from railway No. 2. to railway No. 3., or from railway No. 3. to railway No. 2., no account shall be taken of the portion of the railway No. 3. over which such traffic shall be conveyed; and in respect of all traffic of whatever description which shall be conveyed solely over railway No. 3., a uniform rate of threepence per ton, irrespective of distance, shall be charged, and every fraction of a ton shall be reckoned as a ton.

Company
may take
increased
charges by
agreement.

34. Nothing herein contained shall be held to prevent the Company from taking any increased charge over and above the charges herein-before limited for the conveyance of goods of any description by agreement with the owners of or persons in charge of such goods, either in respect of the conveyance of such goods, or by reason of any special service performed by the Company in relation to such goods.

Interest not
to be paid on
calls paid up.

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

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

36. The Company shall not, out of any money by this Act authorized 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 authorizing the Company to construct any other railway, or to execute any other work or undertaking.

Saving the
rights of the
Duchy of
Cornwall.

37. Nothing contained in this Act, or in any Act or Acts incorporated herewith, or herein mentioned or referred to, shall extend to authorize the Company to take, use, enter upon, or interfere with any land, soil, or water, or any rights in respect thereof, belonging to Her Majesty, Her heirs or successors, in right of the Duchy of Cornwall, without the consent in writing of some two or more of such of the regular officers of the said duchy, or of such other persons as may be duly authorized under the provisions of "The Duchy of Cornwall Management Act, 1863," section thirty-nine, to exercise all or any of the rights, powers, privileges, and authorities by the said Act made exerciseable, or otherwise for the time being exerciseable, in relation to the said duchy or belonging to the Duke

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of Cornwall for the time being, without the consent of such Duke, testified in writing under the seal of the Duchy of Cornwall, first had and obtained for that purpose, or to take away, diminish, alter, prejudice, or affect any property, rights, profits, privileges, powers, or authorities vested in or enjoyed by Her Majesty, Her heirs or successors, in right of the Duchy of Cornwall, or in or by the Duke of Cornwall for the time being. A.D. 1869.

38. Nothing herein contained shall be deemed or construed to exempt the railway by this Act authorized to be made 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, authorized by this Act. Railway not exempt from provisions of present and future general Acts.

39. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act shall be paid by the Company. Expenses of Act.

