



CHAPTER ccxii.

An Act to authorise the Whitehaven, Cleator, and Egremont Railway Company to make new Railways and other Works in the county of Cumberland ; to raise further Capital ; and for other purposes. A.D. 1877.
[6th August 1877.]

WHEREAS by the Whitehaven, Cleator, and Egremont Railway Act, 1854, (herein-after called the Act of 1854,) the Whitehaven, Cleator, and Egremont Railway Company (herein-after called " the Company ") were incorporated for making a railway from the Whitehaven and Furness Junction Railway, near Whitehaven, to the town of Egremont in the county of Cumberland, with a branch therefrom to Frizington in the same county, and the powers of the Company have been extended and enlarged by various Acts of Parliament and certificates of the Board of Trade up to and including the Whitehaven, Cleator, and Egremont Railway Act, 1876 : 17 & 18 Vict.
c. lxiv.

And whereas it is expedient that the Company should be empowered to make and maintain the railways and other works by this Act authorised : 39 & 40 Vict.
c. lviii.

And whereas it is expedient that the Company should be authorised to raise further moneys for the purposes of this Act and for the general purposes of their undertaking :

And whereas it is expedient that the Company and the trustees of the port, harbour, and town of Whitehaven should be authorised to enter into agreements for the supply of water to the Company as herein-after provided :

And whereas plans and sections showing the lines and levels of the railways authorised by this Act, and plans showing the lands which may be taken for the purposes of 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 or under the powers 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 :

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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 :

Short title.

1. This Act may be cited as "The Whitehaven, Cleator, and Egremont Railway Act, 1877."

Certain provisions of general Acts herein named incorporated.

2. The Lands Clauses Consolidation Acts, 1845, 1860, and 1869 :
The Railways Clauses Consolidation Act, 1845 :

Part I. (relating to the construction of a railway) of the Railways Clauses Act, 1863 :

The clauses and provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters ; (that is to say,)

The distribution of the capital of the Company into shares ;

The transfer or transmission of shares ;

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

The forfeiture of shares for nonpayment of calls ;

The remedies of creditors of the Company against the shareholders ;

The borrowing of money by the Company on mortgage or bond ;

The conversion of borrowed money into capital ;

The consolidation of shares into stock ;

The giving of notices ; and

The provision to be made for affording access to the special Act by all parties interested :

Part I. (relating to the cancellation and surrender of shares),

Part II. (relating to additional capital), and Part III. (relating

to debenture stock), of the Companies Clauses Act, 1863,

and the Companies Clauses Act, 1869,

are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction. The expression "the Company" means the Whitehaven, Cleator, and

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Egremont Railway Company; the expressions "the railway" and "the undertaking" mean respectively the railway and the undertaking of the Company; the expression "the trustees" means the Trustees of the Port, Harbour, and Town of Whitehaven; and (for the purposes of this Act) in enactments incorporated with this Act "court of competent jurisdiction" shall have effect as if the debt or demand with respect to which it is used were a common simple contract debt, and not a debt or demand created by statute; and the term "superior courts" shall include any court of competent jurisdiction.

4. 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 railways 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 that purpose.

Power to make railways according to deposited plans.

The railways herein-before referred to and authorised by this Act are—

(1.) A Railway No. 1, two furlongs two chains and seventy links in length, commencing in the parish of Cleator in the county of Cumberland at and by a junction with the existing deviation line of the Frizington Branch Railway of the Company, and terminating in the extra-parochial place of Low Keekle in the same county by a junction with the existing railway of the Company:

(2.) A Railway No. 2, one furlong three chains and eight links in length, commencing in the said parish of Cleator at and by a junction with the said intended new Railway No. 1, and terminating in the same parish by a junction with the existing railway of the Company from Moor Row to Egremont.

5. Subject to the provisions of this Act, the Company, in addition to the other lands which they are by this Act authorised to acquire, may enter upon, take, and use for the purposes of their undertaking the lands herein-after described, which are delineated upon the deposited plans and described in the deposited books of reference; (that is to say,)

Power to purchase additional lands.

Certain pieces of land situate in the parish of Egremont in the county of Cumberland on the north side of and adjoining to the railway of the Company at or near their Moor Row Station, and extending in length twenty chains or thereabouts;

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Certain pieces of land situate in the parish of Cleator in the said county on the south-east side of and adjoining to the railway of the Company at and near their passenger station at Cleator Moor, and extending in length thirty-two chains or thereabouts ;

Certain pieces of land situate in the said parish of Cleator on the south-east side of and adjoining to the Frizington Branch Railway of the Company near their goods station at Cleator Moor, and extending in length twenty-five chains or thereabouts ;

and the Company may upon such lands lay down sidings and erect and construct such houses, warehouses, offices, and other buildings, yards, stations, wharves, engines, machinery, apparatus, and other works and conveniences, as they think proper.

Lands for extraordinary purposes.

6. The quantity of land to be taken by the Company by agreement in connexion with their undertaking for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act, 1845, shall not exceed one acre.

Powers for compulsory purchases limited.

7. 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.

Owner may be required to sell parts only of certain lands and buildings.

8. And whereas in the construction of the railways and works by this Act authorised it may happen that portions only of the lands, buildings, or manufactories shown on the deposited plans will be sufficient for the purposes of the same, and that such portions may be severed from the remainder of the said properties without material detriment thereto : Therefore, notwithstanding section 92 of the Lands Clauses Consolidation Act, 1845, the owners of and persons interested in the lands, buildings, or manufactories described in the schedule to this Act, and whereof parts only are required for the purposes of this Act, may, if such portions can, in the judgment of the jury, arbitrator, or other authority assessing or determining the compensation under that Act, be severed from the remainder of the said properties without material detriment thereto, be required to sell and convey to the Company the portions only of the premises so required without the Company being obliged or compellable to purchase the whole or any greater portion thereof, the Company paying for the portions required by them, and making compensation for any damage sustained by the owners thereof or other persons interested therein by severance or otherwise.

Power to use and cross existing railways.

9. From and after the completion of the railways by this Act authorised the Company shall use for the purpose of sidings only so

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much of their Frizington Branch Deviation Railway authorised by the Whitehaven, Cleator, and Egremont Railway Act, 1863, as lies between the commencement of Railway No. 1 by this Act authorised and the point at which the Railway No. 2 by this Act authorised crosses the said Frizington Branch Deviation Railway; and the Company may in the construction of the said Railway No. 2 carry the same with a single line only while such railway shall consist of a single line, and afterwards with a double line only, across and on the level of their Frizington Branch (Mineral) Railway: Provided always, that the said Railway No. 2 and Frizington Branch (Mineral) Railway shall after the commencement of the works for effecting such crossing be used for goods and mineral traffic only.

10. 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, except as herein-after expressly provided, in, over, or affecting any such lands, and the provisions of the said Acts with respect to lands and rent-charges, 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.

Power to take easements, &c. by agreement.

11. If the railways by this Act authorised are not completed within three 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 railways, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Period for completion of works.

12. With respect to the Post Office telegraph system the following provisions shall take effect:

(A.) The Company shall not by any work or thing interfere with any telegraph post, wire, tube, apparatus, or work of Her Majesty's Postmaster General, or execute or do any work or thing causing or likely to cause any interruption of or impediment to postal telegraphic communication, unless and until the Company have given to the Postmaster General one calendar month's previous notice in writing of their intention to execute or do the proposed work or thing, specifying all necessary and proper particulars relating thereto, and unless and until the Postmaster

Restriction on works affecting Post Office telegraph system.

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General has approved of the proposed work or thing by writing delivered to the Company, or has failed to approve or to disapprove of the same for one calendar month after service of such notice and particulars on him: Provided always, that this section shall not be deemed to prevent the Company executing any repairs or other works or things which shall be necessary to prevent accidents, and in any such case the Company shall forthwith give notice to the Postmaster General of any such interference and the reason for the same.

Power for Postmaster General to annex conditions.

(B.) Her Majesty's Postmaster General may annex to his approval under this Act of any work or thing such reasonable terms and conditions as to the time and mode of execution of any such work or thing as he thinks fit, and the Company shall observe and perform the same.

Power of entry for Postmaster General.

(C.) The engineer and other officers and servants and workmen of Her Majesty's Postmaster General may, at and for all reasonable times, enter on and into and remain on any of the railways, lands, and works of the Company for the purpose of examining, repairing, altering, or removing any telegraph post, wire, tube, apparatus, or work the property of the Postmaster General being thereon.

Compensation by Company to Postmaster General, and penalty.

(D.) The Company shall from time to time make full compensation to Her Majesty's Postmaster-General for any expense, loss, or damage which he is put to or sustains by reason of the Company, by any work or thing executed or done by them, interfering with any telegraph post, wire, tube, apparatus, or work of the Postmaster General; and if at any time any such work or thing causes an interruption of or impediment to postal telegraphic communication, the Company shall, in addition to making compensation as aforesaid, be liable to forfeit a sum not exceeding twenty pounds for every twenty-four hours during which that interruption or impediment continues, and the amount of any such expense, loss, damage, or forfeiture shall be a debt due from the Company to the Crown, and be recoverable accordingly with costs, or the same may be recovered with costs on behalf of the Postmaster General as a penalty is recoverable from the Company.

Power for Postmaster General to construct and work telegraphs, &c.

(E.) Her Majesty's Postmaster General, on, over, along, and across any of the railways, works, and lands for the time being of the Company, may from time to time construct such line or lines of telegraphs as he thinks fit, with all neces-

sary and proper posts, wires, apparatus, and other works connected therewith, and remove or vary the same, and construct others instead thereof or in addition thereto, and may maintain, inspect, test, repair, reinstate, work, and use the same as they for the time being exist, and may by his engineers and other officers, servants, and workmen, at and for all reasonable times, for all or any of the purposes aforesaid, enter on and into and remain on those railways, works, and lands, but in the exercise of the powers of this section the Postmaster General shall not interfere with the traffic on any of the Company's railways, and shall cause as little inconvenience as may be to the Company, and shall execute and do every work or thing to the reasonable satisfaction of the engineer of the Company; and if at any time the Company desire to make at their own expense any alteration in any work executed by the Postmaster General under the authority of this section, without interrupting or impeding postal telegraphic communication, they may do so, first giving notice in writing to the Postmaster General of their intention; and in the exercise of the powers given by this section the Postmaster General shall do as little damage as may be, and shall make full compensation to the Company for all damage sustained by them by reason or in consequence of the exercise of such powers, the amount and application of such compensation to be determined in manner provided by "The Lands Clauses Consolidation Act, 1845," and any Act amending the same, for the determination of the amount and application of compensation for lands taken or injuriously affected.

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(F.) Inasmuch as it is contemplated to introduce a general measure for the better protection of the national telegraphs and to enlarge the powers of the Postmaster General in relation thereto, this section shall only remain in force for one year from the date of the passing of this Act and to the end of the then next session of Parliament.

Provisions to remain in force for one year and to the end of the then next session of Parliament.

13. If the Company fail within the period limited by this Act to complete the railways by this Act authorised, 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 railways are 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 works, and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance

Imposing penalty unless lines be opened.

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Providing
for applica-
tion of pe-
nalty in com-
pensation to
parties
injured.

14. 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 railways 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 Chancery Division of the High Court of Justice may seem fit; and if no such compensation shall be payable, or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid 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 portions 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 Chancery Division of the High Court of Justice 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. A.D. 1877.

15. 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 thirty thousand pounds, by the issue at their option of new ordinary shares or stock, or new preference shares or stock, or wholly or partially 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 share vest in the person or corporation accepting the same, unless and until a sum not being less than one fifth of the amount of such share shall have been paid up in respect thereof. Power to raise additional capital.

16. Except as by this Act otherwise provided, the capital in new shares or stock created by the Company under this Act, and the new shares or stock therein, and the holders thereof respectively, shall be subject and entitled to the same powers, provisions, liabilities, rights, privileges, and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description, and the new shares or stock were shares or stock in that capital. The capital in new shares or stock so created shall form part of the capital of the Company. Except as otherwise provided, new shares or stock to be subject to the same incidents as other shares or stock.

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

18. Subject to the provisions of any Act already passed by which the Company are authorised to raise capital by new shares or stock, and to the provisions of this Act, the Company may, if they think fit, raise by the creation and issue of new shares or stock of one and the same class all or any part of the aggregate capital which they are by such other Act and this Act respectively authorised to raise by the creation and issue of new shares or stock. New shares or stock raised under this Act and any other Act may be of same class.

19. If any money is payable to a shareholder being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company. Receipt in case of persons not sui juris.

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Power to borrow on mortgage.

20. The Company may, in respect of the additional capital of thirty 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 ten 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 40th section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that shares for the whole of such capital have been issued and accepted, and that one half of such capital has been paid up, and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and until stock for one half of so much of the said 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.

Repeal of previous powers to appoint a receiver.

21. The several clauses in the existing Acts of the Company whereby the mortgagees of the Company are empowered to appoint a receiver are hereby repealed, but without prejudice to any appointment heretofore made, or any proceedings now pending.

Arrears may be enforced by appointment of a receiver.

22. 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. In order to authorise the appointment of a receiver in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds in the whole.

Priority of principal moneys secured by existing mortgages.

23. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing hereof, shall, during the continuance of such mortgages, have priority over any mortgages granted by virtue of this Act; but nothing in this section contained shall affect any

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priority of the interest of any debenture stock at any time created and issued by the Company. A.D. 1877.

24. The Company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863; but, notwithstanding anything therein contained, the interest of all debenture stock at any time created and issued by the Company shall rank *pari passu* with the interest of all mortgages at any time after the passing of this Act granted by the Company, and shall have priority over all principal moneys secured by such mortgages. Debenture stock.

25. All moneys raised under this Act, whether by shares, stock, debenture stock, or borrowing, shall be applied exclusively for the purposes authorised by this Act and any other Act relating to the Company, and for the general purposes of their undertaking. Application of moneys.

26. With respect to tolls, rates, and charges, and for all other purposes whatever, the railways by this Act authorised shall be part of the Company's undertaking as authorised by the Act of 1854. Tolls and maximum charges.

27. It shall be lawful for the trustees, if they think fit to do so (without prejudice to their domestic supply), to contract and enter into any agreement or agreements with the Company for the supply of water to the Company from the mains and waterworks of the trustees at and to the stations, works, and property of the Company situate within the several parishes, townships, and extra-parochial or other places following; (that is to say,) Arlecdon, Frizington, Low Keekle, Parton, Moresby, and Harrington, all in the county of Cumberland, at such prices and on such terms and conditions as may be agreed upon. Power to enter into agreements with Whitehaven trustees for supply of water.

28. 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. 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 or deposit any sum which, by any standing order of either House of Parliament now or hereafter in force, may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking. Deposits for future Bills not to be paid out capital.

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

30. Nothing in this Act contained shall exempt the Company or the railways 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, authorised by this Act.

Expenses of Act.

31. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Company.

SCHEDULE to which the foregoing Act refers.

DESCRIBING LANDS, BUILDINGS, MANUFACTORIES, AND PROPERTY OF WHICH PORTIONS ONLY MAY BE REQUIRED.

Parish.	Numbers on deposited Plans.
WORKS AT CLEATOR MOOR GOODS STATION.	
Cleator - - - - -	2
RAILWAY No. 1.	
Cleator - - - - -	10
Cleator - - - - -	19
Cleator - - - - -	22
Extra-parochial place of Low Keekle - - - - -	3
RAILWAY No. 2.	
Cleator - - - - -	22
Cleator - - - - -	32
Extra-parochial place of Low Keekle - - - - -	3