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CHAPTER xcv.

An Act for vesting in the Furness Railway Company jointly with the London and North-western Railway Company the Whitehaven, Cleator, and Egremont Railway; and for other purposes. A.D. 1878.
[17th June 1878.]

WHEREAS by the London and North-western Railway (Whitehaven, Cleator, and Egremont Railway Vesting) Act, 1877 (in this Act called "the Vesting Act of 1877"), the agreement between the Whitehaven, Cleator, and Egremont Railway Company (in this Act called "the Cleator Company") and the London and North-western Railway Company (in this Act called "the North-western Company") (which agreement was set forth in a schedule thereto, and is in this Act called "the scheduled agreement") was confirmed, and the undertaking theretofore the undertaking of the Cleator Company as defined in the scheduled agreement (in this Act called "the Cleator Undertaking") was as from the first day of July 1877 (therein and in the scheduled agreement referred to as the vesting period) vested in the North-western Company upon the terms and conditions in the said Act and the scheduled agreement expressed: 40 & 41 Vict.
c. xlvii.

And whereas by article 4 of the scheduled agreement it was provided that the consideration for the sale of the undertaking of the Cleator Company to the North-western Company should be the following payments by the North-western Company:

- (1.) The interest at such periods as the same might become due and payable on the mortgage debt of the Cleator Company, including interest on so much as might at the said vesting period have been then raised by the exercise of their borrowing powers or as might thereafter be raised

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from time to time as authorised by their Acts of 1875 and 1876:

The former of these sums amounting to	-	£126,600
Amount remaining to be borrowed	-	51,000
		£177,600

The rate of interest on any renewals or further borrowings of such mortgage debt not to exceed 4*l.* per centum without the consent of the North-western Company:

- (2.) A perpetual preference dividend of 5*l.* per centum per annum on the preference capital of the Cleator Company, or on so much of such capital as should be created and issued at the said vesting period or as might thereafter from time to time be created and issued under the authority of their Acts, viz.,

The preference capital created and paid up	£54,000
The 1876 preference capital created but not called up	24,000
The capital authorised by the Cleator Company's Act of 1876 not created or issued, but to be created and issued as a perpetual 5 <i>l.</i> per centum preference stock	75,000
	£153,000

- (3.) A perpetual dividend of 10*l.* per centum per annum on the ordinary stock and share capital of the Cleator Company, such capital consisting of ordinary consolidated stock

stock	£335,000
And on the new 4,800 ordinary 10 <i>l.</i> shares created 1876 upon which 2 <i>l.</i> per share had already been called up	48,000
	£383,000

Such payments to be made half-yearly on the days on which the North-western Company pay their ordinary dividends, but not later than the twenty-fifth day of September and the twenty-fifth day of March in each year, except that the preference dividends were to be paid on the first day of January and first day of July in each year, and such preference and other dividends and interest were to be in accordance with their respective priorities a first charge on the undertaking of the Cleator Company:

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And whereas by section 7 of the Vesting Act of 1877 it was provided that as from the said vesting period the North-western Company should pay to or satisfy the respective holders of the mortgages granted by the Cleator Company the interest or principal, or principal and interest, as the case might be, secured by those mortgages as and when the same should become due, and by section 8 of the same Act the North-western Company were empowered to create and issue debenture stock in their own undertaking in lieu of or in substitution for mortgages of the Cleator Company :

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And whereas by section 9 of the Vesting Act of 1877 it was provided that as from the said vesting period the North-western Company should be liable to pay and should pay to every holder of preference shares of the Cleator Company the dividends accruing from that date on those preference shares as provided for by the scheduled agreement, and by section 10 that as from the said vesting period the North-western Company should also be liable to pay and should pay to every holder of ordinary shares or stock of the Cleator Company the dividends accruing from that date on the said ordinary shares or stock as provided for by the scheduled agreement :

And whereas by section 11 of the Vesting Act of 1877 provision is made for the conversion of shares or stock in the Cleator Company into stock of the North-western Company yielding the same amount of interest or dividend, and bearing the name of London and North-western (Whitehaven, Cleator, and Egremont) Railway Stock, and entitling the holders thereof to the dividends payable half-yearly attaching to such stock according to the provisions of the Vesting Act of 1877 and the scheduled agreement, and by section 14 the North-western Company were empowered, for the purposes of such conversion, to create and issue new stock in their undertaking bearing the several rates of dividend by the Vesting Act of 1877 and the scheduled agreement prescribed :

And whereas by article 15 of the scheduled agreement it was provided that in case the Cleator Company should be authorised by any Act of Parliament of the then next session, or previous to the said vesting period, to execute any new works, the same should be comprised within the scope and operation of the scheduled agreement, and the additional capital which might be thereby authorised might be created and issued at such time and in such manner as the North-western Company might think fit :

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And whereas by an Act passed in the then next session of Parliament, entitled the Whitehaven, Cleator, and Egremont Railway Act, 1877 (in this Act called the "Cleator Act of 1877"), the Cleator Company were authorised to make new railways and other works, and to raise additional capital to the extent of thirty thousand pounds by the creation of new ordinary shares or stock, or new preference shares or stock, and ten thousand pounds by borrowing :

And whereas the powers of the Cleator Company under their Acts (including the Cleator Act of 1877), so far as the same were unexercised at the said vesting period, are now exercisable by the North-western Company, who have paid off the principal moneys secured by certain mortgages or bonds of the Cleator Company, and have created debenture stock in respect thereof :

And whereas it has been agreed between the North-western Company and the Furness Railway Company (in this Act called "the two Companies") that the undertaking so vested in the North-western Company by the Vesting Act of 1877 should be vested in the two Companies for their joint and equal use and benefit, upon the terms and conditions contained in the scheduled agreement and the Act of 1877 and in this Act, and it would be of advantage to the two Companies and of public and local convenience if the said undertaking were vested in the two Companies accordingly :

And whereas the undertaking so vested in the North-western Company by the Vesting Act of 1877 comprised and included (amongst other railways, works, and property) the rights and interests of the Cleator Company as joint owners with the Furness Railway Company (in this Act called "the Furness Company") in the railway from Egremont to Sellafield (in this Act called "the Sellafield Line"), authorised by the Cleator and Furness Railway Act, 1866 (in this Act called "the Act of 1866"), and it has been agreed between the two Companies that the Sellafield Line should form part of the undertaking by this Act vested in the two Companies, and it would conduce to the convenience of the two Companies and of the public that provision should be made accordingly :

And whereas the Furness Company as such joint owners of the Sellafield Line have, in pursuance of the provisions of the Act of 1866, raised and expended for the purposes of the Sellafield Line the sum of thirty-three thousand pounds (being one moiety of the total share capital by the Act of 1866 authorised to be raised), and

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also the further sum of two thousand five hundred pounds, being one moiety of the sum of five thousand pounds raised and expended for the purposes of the Sellafield Line in exercise of the borrowing powers of that Act, making together the sum of thirty-five thousand five hundred pounds; and it has been agreed between the two Companies that, for the purpose of vesting in them on equal terms the said undertaking, the said sum of thirty-five thousand five hundred pounds should be repaid by the North-western Company to the Furness Company, and that provision should be made in relation thereto as in this Act contained :

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And whereas in order not to disturb or vary the obligations by the Vesting Act of 1877 and the scheduled agreement imposed on the North-western Company to make the several payments thereby provided for, it has been agreed between the two Companies that the North-western Company should, notwithstanding the vesting effected by this Act, continue to make those payments as if this Act had not been passed, and that the repayment to the North-western Company by the Furness Company of their moiety of those payments and of the other payments herein-after referred to made or to be made by the North-western Company in respect of the Cleator Undertaking should be made and secured as by this Act provided :

And whereas it is expedient that the Furness Company should be authorised to raise further capital for the purposes of this Act :

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,)

1. This Act may be cited as the London and North-western and Furness Railway Companies (Whitehaven, Cleator, and Egremont Railway Vesting) Act, 1878. Short title.

2. The Cleator Undertaking, as the same was by the Vesting Act of 1877 vested in the North-western Company, and all powers, rights, privileges, and authorities granted to that Company by that Act and the scheduled agreement, including the powers conferred on the Cleator Company by the Cleator Act of 1877, and all duties and liabilities imposed upon or incurred by the North-western Company in relation to the said undertaking and also the Sellafield Line, and all powers, rights, privileges, and authorities granted to, Vesting
Cleator
Undertaking
in the two
Companies
jointly.

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and all duties and liabilities imposed upon, the Furness Company and the Cleator Company jointly or severally by the Act of 1866, shall as from the first day of July one thousand eight hundred and seventy-eight (herein-after referred to as "the vesting period") be transferred to and vested in the two Companies jointly, and for their joint and equal use and benefit, upon and subject to the terms and conditions in the Vesting Act of 1877 and the scheduled agreement and this Act contained :

Provided always, that, except as by this Act otherwise expressly provided, and notwithstanding the vesting effected by this Act, the provisions of the Vesting Act of 1877 and the scheduled agreement with respect to the payments to be made by the North-western Company, and with respect to the raising of money under the Acts relating to the Cleator Company, shall apply to the North-western Company only.

The two Companies to have equal rights in respect of joint line.

3. The two Companies shall have equal rights each with the other in all respects as to working over and using, and may work over and use, the railways from time to time comprised within the Cleator Undertaking and the Sellafield Line (herein-after collectively referred to as "the joint line") as and when those railways are from time to time completed, and the stations, junctions, works, and conveniences thereof, and no advantage shall be given to or taken by either Company to the prejudice of the other: Provided that the rates to be paid by each Company for the conveyance by that Company of through traffic over the joint line shall, in addition to the usual terminals arising upon the joint line, be the mileage proportion attributable to the joint line of the gross receipts of the carrying Company from the traffic so carried by that Company over the joint line, after deducting from such gross receipts (first) the usual terminals and also paid-ons, paid-outs, proportions paid or due to other companies, and Government duty, and (secondly) from the net sum thereby ascertained such an allowance to the carrying Company for working expenses as may be agreed upon between the two Companies, or as, failing agreement, shall be settled by arbitration in the manner provided by the Railway Companies Arbitration Act, 1859.

Providing for appointment of joint committee.

4. All the powers by this Act conferred on or vested in the two Companies jointly with respect to the joint line (except the right of user thereof, as in the last preceding section provided for), and the maintenance and management thereof, and the levying of tolls and charges in respect of the use thereof, shall be vested in a joint committee, to be called the "North-western and Furness

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Joint Committee" (herein-after called "the committee"), and the following provisions (subject to any agreements which the two Companies may from time to time make in relation thereto) shall apply to the appointment, duties, and proceedings of that committee : A.D. 1878.

(1.) Within three months after the passing of this Act the directors of the North-western Company shall nominate and appoint in writing, under the hand of their chairman or secretary, three persons, and the directors of the Furness Company shall, within the same period, in like manner nominate and appoint three persons, and such six persons shall form the committee, and shall remain in office until they respectively die, resign, or are removed by the directors by whom they were nominated, and their places shall be filled, or they may be re-appointed, by the same means by which the original appointments were made, and all the powers vested in them by this Act may be exercised by them in the name of the committee ; and the expression "the promoters of the undertaking" in the Lands Clauses Consolidation Act, 1845, and the expression "the Company" in the Railways Clauses Consolidation Act, 1845, shall for the purposes of the joint line mean and apply to the committee : Constitution of committee.

8 & 9 Vict.
c. 18.
8 & 9 Vict.
c. 20.

(2.) The two Companies may from time to time in like manner, at their pleasure, remove the members of the committee so nominated by them respectively, and may in like manner respectively fill up the vacancies occurring among such members by removal, death, or resignation. No act done by the committee shall be invalidated because of any alleged or real want of authority on the part of the chairman or secretary to sign such appointment : As to vacancies in committee.

Meetings of committee.

(3.) The committee shall hold its meetings at such place as it may from time to time determine upon, and two shall be a quorum thereof, provided that each of the two Companies is represented. The chairman of each meeting shall be elected alternately from the members representing each of the two Companies at the commencement of such meeting. Unless otherwise unanimously agreed on at any such meeting, for that meeting the representatives of each of the two Companies shall only have one vote amongst them, and the chairman shall not have a casting vote :

(4.) The committee shall at their first meeting in every year appoint some person as arbitrator for the ensuing year, As to settlement of disputes.

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and if any question shall at any time arise in the committee, concerning which question the member or members present representing the one Company differ from the member or members present representing the other Company, the matter in difference shall, if so desired by the member or members present representing either Company, be from time to time referred to the arbitrator, or in default of the appointment of such arbitrator by the committee, then to an arbitrator to be nominated by the Board of Trade on the application of either of the two Companies :

The arbitrator may, on application made to him by the members of the committee representing either of the two Companies, attend at any meeting of the committee and summarily decide any such matter in difference, and every award or decision of such arbitrator shall be final with respect to the matters submitted to him; and the said committee or the Board of Trade (as the case may be) may fix the remuneration to be paid to such arbitrator :

Provided always, that if any matter which may have been referred to the arbitrator shall be left undecided by him at the expiration of his year of office, the same matter shall be decided by him, and his decision shall be binding although he may no longer fill the office of arbitrator :

Functions of
committee.

(5.) The committee shall have the direction of the joint line, and they may appoint, remunerate, and at their pleasure remove such officers, clerks, and servants as they may deem needful for the purposes thereof; and they shall cause proper books of account to be kept, containing accurate statements of the receipts and expenditure touching the joint line and connected with the traffic thereon, as well as books in which shall be entered the minutes of all proceedings at every meeting of the committee :

As to funds
for main-
tenance, &c.

(6.) In order to provide funds for the management, maintenance, and repair of the joint line, and for otherwise carrying on the business of the committee, the following provisions shall have effect; namely,

(a.) The committee shall from time to time, in a minute, estimate the amount of moneys required by them for the above purposes, and shall fix the times at which such moneys are to be paid to their bankers or trea-

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surer. Copies of every such minute, signed by the chairman of the meeting at which such minute was made, and by the clerk of the committee, or by the arbitrator and clerk, shall be sent with all convenient despatch to the secretaries of the two Companies respectively, addressed to the principal offices of the same Companies :

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(b.) The two Companies shall, at the time so fixed in the minute, pay in equal moieties to the bankers or treasurer of the committee the amount specified in the minute. Such moieties shall be deemed debts due from the two Companies respectively to the committee from the day fixed for the payment thereof until the same shall be discharged :

(c.) If either of the two Companies shall make default in such payment, that Company shall be charged by the committee, and shall pay to the committee, interest at the rate of ten per centum per annum upon the amount due from the same Company, to be calculated from the day fixed for the payment until the day when the same is paid :

(d.) The committee may recover from the Company in default the moneys so due in any court of competent jurisdiction. It shall be sufficient in any such action to produce the minute book containing the estimate on which the claim is founded, and to prove that a copy of the said minute, duly authenticated, was sent to the Company in default, addressed to their secretary at the principal office of that Company, and that the sum mentioned in the said minute has not been paid :

(7.) The committee shall receive all the tolls, rents, rates, and charges, and all other the revenue arising from or out of the joint line or connected therewith, and shall devote the same in the first instance to paying the salaries, charges, and expenses incident to the working, control, management, maintenance, and repair thereof. The balance of revenue remaining in the hands of the committee at the end of every half year, after making such payments as aforesaid, shall be applied as follows; (that is to say,)

As to disposal of revenue.

One moiety thereof shall be paid to the North-western Company. Out of the other moiety thereof shall, so

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far as the same extends, be paid to the North-western Company such sums of money as shall then by the accounts rendered by them to the Furness Company as in this Act provided appear to be due and payable by the Furness Company to the North-western Company, and the balance of that moiety (if any) shall be paid to the Furness Company :

Providing
for deficiency
of revenue
on joint
line.

(8.) If the revenue so coming to the hands of the committee shall be insufficient for the purpose of defraying the salaries, charges, and expenses incident to the working, control, management, maintenance, and repair of the joint line, each of the two Companies shall from time to time, upon demand thereof by the committee, pay to the committee in equal proportions the amount declared by them to be required for the purpose aforesaid, whether in anticipation of future payments or in liquidation of payments already made; and the foregoing provisions as to funds for maintenance, &c. shall extend and apply to the sums so declared to be required :

Accounts to
be kept and
rendered.

(9.) If not otherwise agreed between the two Companies, the joint committee shall, so far as possible, half-yearly make up and render to the two Companies accounts and a balance sheet, with all proper and reasonable information and vouchers, showing the result of each half year's proceedings and dealings (inclusive of receipts and expenditure), and the respective liabilities of each of the two Companies to the other :

(10.) If not otherwise agreed between the two Companies, the two Companies respectively shall keep and render half-yearly to the joint committee and to each other all proper accounts, and shall secure to the joint committee and to each other proper means of vouching such accounts :

Actions, &c.
with respect
to joint line.

(11.) All actions, suits, indictments, and other proceedings at law or in equity which might have been brought and prosecuted by or against either of the two Companies if that Company had been solely authorised to exercise the powers of this Act with respect to the joint line, may, as regards any act or default of the committee in relation thereto, be brought and prosecuted by or against the committee, and any summons, demand, writ, notice, or other proceeding at law or in equity, or otherwise relating in any manner to the joint line or to any act or default of

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the committee, shall, if served on the secretary or any member of the committee, or if left at or transmitted by post to the principal office of the committee or of either of the two Companies, be valid and effectual: A.D. 1878.

(12.) The following sections of the Companies Clauses Consolidation Act, 1845, shall be incorporated with and form part of this section; and the expression "the directors" in those sections shall in this Act mean the committee; and the expression "the Company" in the hundredth section shall mean the two Companies, or either of them: Extending certain provisions of 8 & 9 Vict. c. 16.

Section 97, with respect to the making of contracts;
 Section 98, with respect to the entry of proceedings;
 Section 99, with respect to informalities in appointment of directors;

Section 100, with respect to the personal liability of directors;

Sections 109 to 114, with respect to the accountability of officers of the Company; and

Sections 142 to 160, with respect to the recovery of damages not specially provided for, and penalties:

Provided always, that any contract which according to the said ninety-seventh section ought to be made under seal shall be valid and effectual if made in the name of the committee, under the hands and seals of the chairman of the meeting of the committee at which such contract was signed, and one other member of the committee present at such meeting:

(13.) Subject to the provision herein-before contained as to the use of the joint line by the two Companies, the tolls, rates, and charges to be demanded and taken in respect of the use of the joint line shall from time to time be fixed by the committee, but so as in no case to exceed the tolls, rates, and charges authorised by the Whitehaven, Cleator, and Egremont Railway Act, 1854, and the other Acts relating to the joint line. Committee to fix tolls, &c. 17 & 18 Vict. c. lxiv.

5. As regards the fulfilment by the two Companies of their liability and obligations to each other as owners of the joint line the following provisions shall apply: Provisions as to obligations of the two Companies to each other.

(1.) The North-western Company shall, as soon as conveniently may be after the passing of this Act, deliver to the Furness Company particulars in writing of the costs mentioned or referred to in article 13 of the scheduled

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agreement and in section 22 of the Cleator Vesting Act of 1877, and of all other payments (including the six thousand pounds mentioned in article 11 of the said agreement, and the stamp duty provided for by section 4 of the said Act) made by them on account or in respect of the Cleator Undertaking, and showing the amount payable by the Furness Company to the North-western Company in respect thereof :

- (2.) The North-western Company shall, within two months after the vesting period, repay to the Furness Company in respect of the Sellafield Line the said sum of thirty-five thousand five hundred pounds, which, in default of payment, shall be deemed to be a debt which has priority by statute, and shall have all the incidents thereof, and may be recovered accordingly by the Furness Company in any court of competent jurisdiction, together with interest at the rate of ten per centum per annum thereon and costs of suit :
- (3.) The North-western Company shall, not less than one month before the expiration of every half year from the vesting period, deliver to the Furness Company particulars in writing of the interest paid or to be paid by them for the current half year in respect of the mortgages of the Cleator Company, and of any interest or dividend so paid or to be paid by them upon or in respect of any debenture stock created and issued by the North-western Company in lieu of any such mortgages, together with interest at the rate of four per centum per annum upon the several sums of money so paid, from the day of payment thereof respectively to the expiration of the current half year, and showing the amount payable by the Furness Company to the North-western Company in respect thereof :

Provided that when the Furness Company shall, as herein-after provided, have contributed their moiety of the mortgage debt of the Cleator Company subsisting at the vesting period, and shall have raised and paid to the North-western Company one moiety of the principal moneys secured by mortgages or bonds of the Cleator Company which shall have been paid off by the North-western Company prior to the vesting period, the foregoing provision shall cease :

- (4.) When and as the principal money secured by any mortgage of the Cleator Company is paid off by the North-western

Company, the Furness Company shall, upon notice thereof with an account given to them by the North-western Company, forthwith repay to that Company one moiety of the principal money so paid off: A.D. 1878.

- (5.) The Furness Company shall, within two months after the vesting period, repay to the North-western Company the sum of one thousand two hundred and fifty pounds (being one moiety of the mortgage debt of two thousand five hundred pounds) incurred by the Furness Company under the Act of 1866, subsisting at the vesting period, and which said sum of two thousand five hundred pounds is to be repaid by the North-western Company to the Furness Company under the provisions herein-before contained:
- (6.) The powers of the Cleator Company's Acts, including the Act of 1866, for the raising of money by means of mortgage or debenture stock, so far as those powers remained unexercised at the vesting period prescribed by the Cleator Vesting Act of 1877, shall be exercised by the North-western Company and the Furness Company in equal proportions, and for that purpose the following provisions shall have effect:
- (a.) Within six months after the passing of this Act the Furness Company shall, by means of mortgages or debenture stock, raise and shall pay to the North-western Company one moiety of the principal moneys secured by mortgages or bonds of the Cleator Company which, prior to the vesting period, shall have been paid off by the North-western Company, together with interest thereon at the rate of four per centum per annum from the vesting period:
- (b.) When and as the North-western Company, in exercise of the aforesaid powers of the Cleator Acts, including the Act of 1866, raise any sum of money, the Furness Company shall, within three months after notice in writing from the North-western Company requiring them so to do, raise by means of mortgage or debenture stock and shall pay to the North-western Company a sum of money equal in amount to the money stated in such notice to have been so raised by the North-western Company:
- (c.) Every sum of money so raised and paid by the Furness Company shall be applied by the North-

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western Company to all or some of the purposes to which the money authorised by the Cleator Company's Acts, including the Act of 1866, to be raised by means of mortgage and debenture stock are by those Acts made applicable :

- (7.) From and after the repayment by the North-western Company to the Furness Company, under the provisions of this Act, of the said sum of thirty-three thousand pounds (part of the said sum of thirty-five thousand five hundred pounds), the Furness Company shall be liable to pay and shall pay to the North-western Company a dividend at the rate of four and a half per centum per annum on sixteen thousand five hundred pounds, being one moiety of the said sum of thirty-three thousand pounds :
- (8.) The North-western Company shall, not less than one month before the expiration of every half year from the vesting period, deliver to the Furness Company particulars in writing of the dividends paid or to be paid by them during the current half year on the preference and ordinary shares and stock in the capital of the Cleator Company from time to time subsisting, and on any stock of the North-western Company issued by them in substitution for or in lieu of shares or stock of the Cleator Company, and also on any other shares or stock of the North-western Company created and issued by them in exercise of the powers of the Cleator Company's Acts, and showing the amount payable by the Furness Company to the North-western Company in respect thereof, and including the dividends payable as aforesaid by the Furness Company to the North-western Company in respect of the said sum of sixteen thousand five hundred pounds :
- (9.) Every sum of money appearing by any such account as aforesaid to be payable by the Furness Company to the North-western Company, and not paid or satisfied out of the funds of the joint committee as by this Act provided, shall be deemed to be a debt which has priority by statute, and shall have all the incidents thereof, and, if not paid at or before the expiration of the current half year, shall be recoverable accordingly, together with interest at the rate of ten per centum thereon and costs of suit :

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(10.) Notwithstanding any payment by the Furness Company to the North-western Company under the foregoing provisions, the Furness Company may, if they are dissatisfied with the accuracy of any account to be delivered to them by the North-western Company, require any question arising between them and the North-western Company thereon to be determined by arbitration in the manner prescribed by the Railway Companies Arbitration Act, 1859; and if on any such arbitration it shall be found that the Furness Company have paid more than their due proportion, the amount of such excess shall forthwith be repaid to them by the North-western Company, and in default of payment may be recovered by the Furness Company in any court of competent jurisdiction, together with interest at the rate of ten per centum thereon and costs of suit:

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22 & 23 Vict.
c. 59.

(11.) The North-western Company and the Furness Company respectively may from time to time, subject to the provisions of Part III. of the Companies Clauses Act, 1863, create and issue debenture stock, or grant mortgages, to such an extent as may be necessary to give effect to the foregoing provisions of this Act; but, notwithstanding anything in the said Act of 1863 contained, the interest of the debenture stock so created and issued by the two Companies respectively shall rank *pari passu* with the interest of all mortgages at any time after the passing of this Act granted by the two Companies respectively, and shall have priority over all principal moneys secured by such mortgages.

26 & 27 Vict.
c. 118.

6. All mortgages or bonds granted or to be granted under the authority of any former Act relating to the North-western Company shall, during the continuance thereof, and subject to the provisions of the Acts under which such mortgages were respectively granted, have priority over any mortgages granted by virtue of the last preceding section of this Act, and nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the North-western Company.

Existing mortgages of North-western Company to have priority.

7. The North-western Company may apply to the purposes of this Act any part, not exceeding thirty-three thousand pounds, of the moneys which they now have in their hands or which they have power to raise by shares, stock, debenture stock, or mortgage,

Power to North-western Company to apply corporate funds to purposes of Act.

[Ch. xcv.] *London and North-western and* [41 VICT.]
Furness Railway Companies (Whitehaven, Cleator, and
Egremont Railway Vesting) Act, 1878.

A.D. 1878. by virtue of any Acts relating to that Company, and which may not
— be required for the purposes to which they are by any such Acts
made specially applicable.

Power to
Furness
Company to
raise addi-
tional capital.
26 & 27 Vict.
c. 118.

8. The Furness Company may, subject to the provisions of Part II. of the Companies Clauses Act, 1863, from time to time raise for the purposes of this Act any additional capital not exceeding in the whole twenty thousand pounds, and such additional capital may be issued, at the option of the Furness Company, either as ordinary shares or stock, or preference shares or stock, or wholly or partially by any one or more of those modes respectively, but the Furness Company shall not issue any share of less nominal amount than ten pounds.

Incorpora-
tion of
general Acts.

9. With respect to the additional capital by this Act authorised to be raised by the Furness Company, the following parts of Acts are (except where expressly varied by this Act) incorporated with and form part of this Act; (that is to say,)

8 & 9 Vict.
c. 16.

The clauses and provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters; namely,

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;

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

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

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

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

26 & 27 Vict.
c. 118.

Shares of
Furness
Company not
to issue until
one-fifth part
paid up.

10. The Furness Company shall not issue any share created under the authority of this Act, 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 in respect thereof.

[41 VICT.] *London and North-western and* [Ch. xcv.]
Furness Railway Companies (Whitehaven, Cleator, and
Egremont Railway Vesting) Act, 1878.

11. Except as is by this Act otherwise provided, the capital in new shares or stock created by the Furness 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 Furness 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 Furness Company.

A.D. 1878.

Except as otherwise provided, new shares or stock of Furness Company to be subject to same incidents as other shares or stock.

12. Every person who becomes entitled to new shares or stock issued by the Furness Company under this Act shall in respect of the same be a holder of shares or stock in the Furness Company, and shall be entitled to a dividend, either preferential or ordinary, as the case may be, 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 of Furness Company.

13. The Furness Company may, in respect of the additional capital of twenty thousand pounds which they are by this Act authorised to raise, from time to time borrow on mortgage any sums not exceeding in the whole six thousand six hundred 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 Furness 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 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 Furness 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 and paid up 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, so far as 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

Power to Furness Company to borrow on mortgage.

8 & 9 Vict. c. 16.

[Ch. xcv.] *London and North-western and* [41 VICT.]
Furness Railway Companies (Whitehaven, Cleator, and
Egremont Railway Vesting) Act, 1878.

A.D. 1878. books of the Furness Company, or 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.

Repealing provisions of former Acts of Furness Company as to appointment of a receiver.

14. Every provision in any Act passed before the present session of Parliament whereby the Furness Company is authorised to raise, by borrowing, money for the purposes of their undertaking with respect to the appointment of a receiver for enforcing payment by the Furness Company of arrears of interest or principal, or principal and interest, shall be and the same is hereby repealed, but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act, under any such provision.

As to appointment of a receiver in respect of mortgages of Furness Company.

15. The mortgagees of the Furness 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 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.

Former mortgages of Furness Company to have priority.

16. All mortgages and bonds granted by the Furness Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and which shall be subsisting at the time of the passing thereof, and subject to the provisions of the Acts under which the same are respectively granted, shall during the continuance of such mortgages and bonds have priority over any mortgages to be granted by virtue of this Act; and nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Furness Company.

Power for Furness Company to create debenture stock. 26 & 27 Vict. c. 118.

17. The Furness 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 after the passing of this Act created and issued by the Furness Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Furness Company, and shall have priority over all principal moneys secured by such mortgages.

Application of moneys raised by

18. All moneys raised by the Furness Company under this Act, whether by shares, stock, debenture stock, or borrowing, or which

[41 VICT.] *London and North-western and* [Ch. xcv.]
Furness Railway Companies (Whitehaven, Cleator, and
Egremont Railway Vesting) Act, 1878.

shall be repaid to them by the North-western Company, shall be applied for the purposes of this Act and the general purposes of the Furness Company only, and the Furness Company may apply to the purposes of this Act any of the moneys which they now have in their hands or which they have power to raise under any of the Acts relating to the Furness Company, and which may not be required for the purposes to which they are by any such Acts made specially applicable.

A.D. 1878.

Furness
Company
under this
Act.

19. The Furness 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 that 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.

8 & 9 Vict.
c. 16.

20. The Furness 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 that Company to construct any other railway or to execute any other work or undertaking.

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

21. Nothing in this Act contained shall exempt the two Companies, or either of them, or their 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 to be taken by either of the two Companies.

Companies
not exempt
from pro-
visions of
present and
future
general Rail-
way Acts.

22. 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 two Companies in equal proportions.

Expenses of
Act.

