ANNO VICESIMO OCTAVO

VICTORIÆ REGINÆ.

Cap. lxxxvi.

An Act to enable the *Whitehaven, Cleator, and Egremont* Railway Company to make Branches and other Works, and to extend their Railway to *Bigrigg Moor* in the County of *Cumberland*; to raise further Capital; and for other Purposes.

[19th *June* 1865.]

WHEREAS the *Whitehaven, Cleator, and Egremont* Railway Company (in this Act called "the Company") were incorporated by "The *Whitehaven, Cleator, and Egremont* Railway Act, 1854," 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 Company were authorized to raise a Share Capital of Fifty thousand Pounds, and to raise Sixteen thousand six hundred Pounds by borrowing: And whereas by "The *Whitehaven, Cleator, and Egremont* Railway Act, 1857," the Powers of the Company were enlarged, and Power given to raise additional Capital in Shares to the Amount of Twenty-five thousand Pounds, and by borrowing to the Extent of Eight thousand Pounds: And whereas by "The *Whitehaven, Cleator, and Egremont* Railway Act, 1861," the Company were empowered to extend their Railway from *Frizington* to *Lamplugh* in the said County, and to widen and enlarge their Railway and Works, and Power was thereby granted

17 & 18 Vict. c. lxiv.

20 Vict. c. iii.

24 & 25 Vict. c. lxii.

enabling the Company to raise further Capital in Shares to the Amount of Forty-five thousand Pounds, and by borrowing to the Extent of Fifteen thousand four hundred Pounds: And whereas by virtue of the said Acts the Railways thereby authorized have been made, and are now open to the Public: And whereas by "The *Whitehaven*, *Cleator*, *and Egremont* Railway Act, 1863," the Company were authorized to extend their Railway from *Lamplugh* aforesaid to join the *Cockermouth and Workington* Railway, and also to divert a Portion of the *Frizington* Branch, and to raise further Capital by Shares to the Amount of Seventy-five thousand Pounds, and Twenty-five thousand Pounds by borrowing: And whereas the Share Capital of the Company authorized by the said recited Acts now amounts in the aggregate to One hundred and ninety-five thousand Pounds, and consists of Ordinary Shares created, issued, and fully subscribed for, and no preferential or guaranteed Shares have been created or issued by the Company: And whereas it would be attended with public and local Advantage if the Company were authorized to extend their Railway to the Mineral District of *Bigrigg Moor* in the Parish of *Egremont* in the County of *Cumberland*, and to make and maintain the Railways or Tramways and Works herein-after described: And whereas Plans and Sections showing the Lines and Levels of the proposed Railways or Tramways and Works, and a Book of Reference to such Plans containing the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and of the Occupiers of the Lands to be taken for the Purposes of the said Railways and Works, have been deposited for public Inspection at the Office of the Clerk of the Peace for the County of *Cumberland*: And whereas it is expedient that the Company should be authorized to raise additional Capital for the Construction of the Works by this Act authorized, and for the general Purposes of their Undertaking; but the Purposes 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 Commons, in this present Parliament assembled, and by the Authority of the same, as follows; (that is to say,)

26 & 27 Vict. c. lxiv.

Short Title.

1. This Act may be cited for any Purpose as "The *Whitehaven*, *Cleator*, *and Egremont* Railway Act, 1865."

8 & 9 Vict. cc. 18. & 20., 23 & 24 Vict. c. 106., and 26 & 27 Vict. cc. 92. & 118. incorporated.

2. "The Lands Clauses Consolidation Act, 1845," "The Railways Clauses Consolidation Act, 1845," and "The Lands Clauses Consolidation Acts Amendment Act, 1860," Part I. (relating to the Construction of a Railway) of "The Railways Clauses Act, 1863," and Part II. (relating to additional Capital) of "The Companies Clauses Act, 1863," shall be incorporated with and form Part of this Act.

3. The

Certain Provisions of 8 & 9 Vict. c. 16. incorporated.

3. The Clauses and Provisions of "The Companies Clauses Consolidation Act, 1845,"—

With respect to the Distribution of the Capital of the Company into Shares;

With respect to the Transfer or Transmission of Shares;

With respect to the Payment of Subscriptions, and the Means of enforcing the Payment of Calls;

With respect to the Forfeiture of Shares for Nonpayment of Calls;

With respect to the Remedies of Creditors of the Company against the Shareholders;

With respect to the Consolidation of Shares into Stock;

With respect to the borrowing of Money by the Company on Mortgage or Bond;

With respect to the Conversion of borrowed Money into Capital;

With respect to the making of Dividends; and

With respect to the Provision to be made for affording Access to the Special Act by all Parties interested;

shall be incorporated with this Act, and shall, in all Particulars not otherwise provided for by or under the Powers of this Act respectively, apply to all Shares and Capital created, and to all Monies borrowed and Mortgages granted, under the Powers of this Act; and in construing those Clauses and Provisions in connexion with this Act the Expression "the Special Act" shall mean this Act, the Expression "the Company" shall mean the *Whitehaven, Cleator, and Egremont* Railway Company, the Expression "the Undertaking" shall mean the Undertaking of the Company, and the Expression "Superior Courts" shall include any Court of competent Jurisdiction as herein defined, and the Expression "Court of competent Jurisdiction" or any other like Expression in this Act, or in the Acts or Parts of Acts 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 or Simple Contract Debt, and not a Debt or Demand created by Statute.

Same Meanings to Words in this Act as in incorporated Acts.

4. The several Words and Expressions to which by the Acts incorporated with this Act Meanings are assigned shall have in this Act the same respective Meanings, unless excluded by the Subject or Context.

Power to create new Shares.

5. The Company may from Time to Time (in addition to the Sums of Money which they are authorized to raise by their several Acts) raise by the Creation of new Shares in their Undertaking any further Sums not exceeding in the whole Fifteen thousand Pounds.

New Shares to be considered as Part of the Capital of the Company.

6. The Capital so to be raised by the Creation of such new Shares as aforesaid shall be divided into Shares of such Amount, not exceeding Twenty Pounds nor less than Ten Pounds *per* Share, as will conveniently allow of the same being apportioned and allotted to the then

then Shareholders of the Company according to the Resolutions of any Ordinary or Extraordinary General Meeting of the Company specially convened for that Purpose, and shall be considered as Part of the general Capital of the Company, and, except as herein otherwise specially provided, shall have and be subject to the same Rights and Provisions in all respects, whether with reference to the Payment of Calls, or the Forfeiture of Shares on the Nonpayment of Calls, or otherwise, as if it had been Part of the original Capital of the Company: Provided always, that it shall be lawful for the Company (subject as herein-after provided) from Time to Time to fix the Times of making Calls on such new Shares, and the Amount of such Calls respectively, as they shall think fit.

Shares not to vest till One Fifth paid up.

7. It shall not be lawful for the Company to issue any Share for raising any Part of the Money by this Act authorized to be raised, nor shall any such Share vest in the Person accepting the same, unless and until a Sum not being less than One Fifth Part of the Amount of such Share shall have been paid up in respect thereof.

Calls.

8. One Fourth of the Amount of each Share shall be the greatest Amount of any One Call which the Company may make on the Shareholders in respect of the Money by this Act authorized to be raised, and Two Months at the least shall be the Interval between successive Calls, and Three Fourths of the Amount of each Share shall be the greatest aggregate Amount of Calls that may be made in any One Year upon any Share.

Dividends on new Shares.

9. The Dividends on the new Shares to be created under the Powers of this Act shall be calculated upon the Amount of Calls for the Time being paid thereon, and every Proprietor of such new Shares shall be a Shareholder of the Company, and be entitled to a Dividend with the Proprietors of the Ordinary Shares of the Company proportioned to the whole Amount so paid thereon respectively.

Power to attach Preference to new Shares.

10. The Company may, with the Consent of Three Fifths of the Votes of the Proprietors of the Ordinary Shares of the Company present, either personally or by proxy, and entitled to vote at any Ordinary or Extraordinary General Meeting of the Company specially convened, and with special Notice for that Purpose, raise the said Sum of Fifteen thousand Pounds, or any Part thereof, by the Creation of Preference Shares; and such Preferential Shares may be created and issued with any Preference or Priority in the Payment of Dividends, and at any fixed or variable Rate of Dividend (not exceeding Five Pounds *per Centum per Annum*), either in perpetuity or for a Term of Years, and either redeemable or irredeemable, and with such Rights and Privileges over the Ordinary Shares of the Company, as the Company may determine.

11. The

Mode of offering the Preference Shares.

11. The Preference Shares which may be so created as aforesaid shall be offered to the Proprietors of the Ordinary Shares of the Company in the Manner herein-before prescribed with reference to the Creation of the said new Shares, or may be disposed of in such other Manner and on such Terms and Conditions as the Company at any General Meeting shall fix and determine, but so that not less than the full nominal Amount of any Share shall be payable or paid in respect thereof.

As to the Votes of Proprietors of new Shares.

12. The Proprietors of such new Shares and Preference Shares respectively shall be entitled to such Number of Votes in respect thereof as the nominal Amount represented by such Shares would have entitled them to if they had been possessed of original Shares of the same Amount in the Company, but no Proprietor shall have any Right of voting or any Qualification in respect of a Sum less than Twenty Pounds in nominal Amount of Shares.

Power to borrow on Mortgage.

13. The Company may from Time to Time, under the Powers of this Act, borrow on Mortgage any additional Sums of Money, not exceeding in the whole the Sum of Four thousand six hundred Pounds, but no Part of that Sum shall be borrowed until the whole of the additional Capital of Fifteen thousand Pounds herein-before authorized to be raised shall have been subscribed for, and One Half thereof shall have been actually paid up, and the Company shall 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 all the additional Capital of Fifteen thousand Pounds has been subscribed for, and that One Half thereof has been paid up, and that not less than Twenty *per Centum* has been paid up on account of each Share (before or at the Time of the Issue or Acceptance thereof), and that such Shares were taken *bonâ fide*, and are held by the Subscribers or their Assigns, and that such Subscribers or their Assigns are legally liable for the same, of which Facts the Certificate of such Justice under that Section shall be sufficient Evidence.

Former Bonds or Mortgages to have Priority.

14. All existing Mortgages or Bonds granted by the Company before the passing of this Act shall, during their Continuance, have Priority over all Mortgages to be granted by virtue of this Act.

Application of Money raised.

15. All Money which the Company are by this Act authorized to raise, either by Shares or by Mortgage, shall be applied exclusively for the Purposes authorized by this Act and any other Act relating to the said Company.

Power to consolidate Shares into Stock.

16. It shall be lawful for the Company from Time to Time, with the Consent of Three Fifths of the Votes of the Shareholders present, in person or by proxy, at any General Meeting of the Company when due Notice for that Purpose shall have been given, to convert or consolidate

consolidate all or any Part of the Shares then existing in the Capital of the Company, and in respect whereof the whole Money subscribed shall have been paid up into a general Capital Stock to be divided amongst the Shareholders according to their respective Interests therein.

Works to be constructed according to deposited Plans.

17. Subject to the Provisions in this and the Acts incorporated herewith contained, the Company may make and maintain in the Lines and upon the Lands delineated on the Plans, and described in the Book of Reference, and according to the Levels defined on the Sections, the Railways or Tramways and Works herein-after described, and all proper Works and Conveniences connected therewith, and may enter upon, take, and use such of the said Lands, Houses, and Hereditaments as shall be necessary for these Purposes.

Description of Railways and Works.

18. The Railways or Tramways and Works by this Act authorized shall be the following; (that is to say,)

A Railway or Tramway (No. 1) commencing by a Junction with the present Railway of the Company in the Parish of *Cleator* in the County of *Cumberland* at a Point in the said Parish Three Chains or thereabouts on the South Side of the Bridge near *Moor Row* carrying the private Road of *Thomas Ainsworth* Esq. over the said Railway in that Parish, and passing from, in, through, or into, or situate within the several Parishes or Places of *Bigrigg Moor*, *Cleator*, and *Egremont*, in the County of *Cumberland*, and terminating in or near to a Close belonging to *Thomas Hartley* Esq., now in the Occupation of Mr. *Isaac Banks*, adjoining the *Whitehaven* Turnpike Road, and situate near the Farm House called *Langhorn* in the Parish of *Egremont*:

A Railway or Tramway (No. 2) commencing by a Junction with the said intended Railway or Tramway (No. 1) at a Point thereon Nine Chains or thereabouts to the South-east of the Iron Ore Pit called "*James's Pit*" in the Parish of *Egremont*, and in or near to a Close belonging to the Reverend *John Thomas O'Neill*, now in the Occupation of Mr. *Isaac Banks*, situate in the Parish of *Egremont*, and terminating near to the Iron Ore Pit called "*Sir John Pitt*," situate in a Close in the same Parish belonging to Sir *John Benn Walsh*, and now in the Occupation of Mr. *Robert Hilton*.

Railways and Works to form Part of Company's Undertaking.

19. The Railways and Works by this Act authorized shall form Part of the Undertaking of the Company, and the Company may apply for the Purposes of this Act any Money by any Act relating to the Company authorized to be raised, which they have raised, or may hereafter raise, and which Monies may not be required for the Purposes of such Act or Acts.

Lands for extraordinary Purposes.

20. The Company may from Time to Time purchase by Agreement such Lands as they may require for any of the extraordinary Purposes

Purposes specified in "The Railways Clauses Consolidation Act, 1845," in connexion with the Railways and Works by this Act authorized, not exceeding in the whole Two Acres.

Powers for compulsory Purchases limited.

21. The Powers of the Company for the compulsory Purchase of Lands for the Purposes of the Railways shall not be exercised after the Expiration of Three Years from the passing of this Act.

Period for Completion of Railways.

22. The Railways and Works hereby authorized shall be completed within Four Years from the passing of this Act, and on the Expiration of such Period the Powers by this Act granted to the Company for making the said Railways and Works shall cease to be exercised, except as to so much of the said Railways and Works as shall then have been completed.

Penalty in case Railways not completed.

23. In case the Railways by this Act authorized to be constructed shall not be completed and opened for public Traffic within the Period of Four Years from the passing of this Act, the Company shall be liable to a Penalty of Fifty Pounds *per* Day, to be recovered as a Debt due to the Crown, for every Day after the said Period until the Line shall be completed and opened for public Traffic: Provided always, that no such Penalty shall accrue in respect of any Time during which it shall appear, by the Certificate of the Board of Trade, that the Company were prevented from completing or opening the Railways by reason of any unforeseen Accident, or Circumstances beyond their Control, but the Want of sufficient Funds shall not be held to be a Circumstance beyond the Control of the Company.

Regulating the Inclination of certain Roads.

24. The Company shall divert the Turnpike Road in the Parish of *Egremont* numbered 54 on the deposited Plans, and shall carry such Road over the Railway by means of a Bridge, and shall construct the Approaches to the Bridges or Arches for carrying the Roads numbered as after mentioned on the deposited Plans over the Railway, with such Inclinations as they think fit, not steeper than the following; (that is to say,)

RAILWAY No. 1.

Number on Plans.	Parish where Road situate.	Description of Road.	Proposed Inclination.	Present Inclination.
52	Egremont - -	Public Highway -	1 in 19	1 in 15
54	Egremont - -	Turnpike Road -	South, 1 in 83, 5 North, 1 in 330	1 in 15, 3

Tolls and maximum Charges.

25. The Company from Time to Time may demand and take, in respect of the several Railways by this Act authorized, for all Passengers, Animals, and Things conveyed thereon, and for Carriages, Waggons, and

and Trucks respectively conveying the same, and for Locomotive Engines or other Power, and for all Services performed by the Company thereon, and for all other Matters with respect to the Traffic thereon, a like Amount of Tolls, Fares, Rates, and Charges as by the first-recited Act the Company are authorized to demand and take in respect of the Railways thereby authorized, and for the like Traffic and Services, and in like Manner and with and subject to the like Powers and Provisions in all respects as if the Railways by this Act authorized had been Part of the Company's original Undertaking: Provided always, that the maximum Charges to be taken by the Company upon, for, or in respect of the Railways hereby authorized shall not exceed those limited by the said Act and this Act.

Interest or Dividends not to be paid on Calls.

26. The Company shall not, out of any Money by this Act or any other Act relating to the Company authorized to be raised by Calls in respect of Shares, or by the Exercise of any Power of borrowing, pay Interest or Dividends to any Shareholder on the Amount of Calls made in respect of the Shares held by him in the Capital of the Company: Provided always, that nothing herein contained shall be deemed to prevent the Company from paying to any Shareholder such Interest on Money advanced by him beyond the Amount of Calls actually made as shall be in conformity with the Provisions in "The Companies Clauses Consolidation Act, 1845," in that Behalf contained.

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

27. The Company shall not, out of any Money by this or any other Act relating to the Company authorized to be raised, pay or deposit any Sum of Money which, by any Standing Order of either House of Parliament from Time to Time 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.

Railway not exempt from Provisions of present and future General Acts.

28. Nothing herein contained shall be deemed or construed to exempt the Railway and Works from the Provisions of any General Act relating to Railways, or to the better or 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 and Alteration, under the Authority of Parliament, of the maximum Rates of Fares and Charges authorized, or of the Rates for small Parcels by this or the said recited Acts authorized.

Expenses of Act.

29. All the Costs, Charges, and Expenses of and incident to the obtaining and passing of this Act shall be paid by the Company.

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