CHAPTER ccxxxix.

An Act to authorise the Lancashire and Yorkshire Railway Company to provide and work steam vessels between the ports of Goole and Hull and certain continental ports and to subscribe to the funds of steamship companies and for other purposes. A.D. 1904.

[15th August 1904.]

WHEREAS the Lancashire and Yorkshire Railway Company (in this Act called "the Company") own a system of railways connecting the principal towns in Lancashire and Yorkshire and affording a means of communication between those towns and other parts of the country:

And whereas the railways of the Company also form a direct means of communication between the manufacturing centres of Lancashire and Yorkshire and the port of Goole and the Company have also access to the port of Hull:

And whereas it will conduce to the public convenience that the Company should have powers to provide steam vessels and enter into arrangements with steamship companies and persons having and using steam or other vessels as hereinafter provided in order to facilitate the transmission of traffic between the continental ports hereinafter mentioned and the railways of the Company:

And whereas it is expedient that the Company be empowered to raise additional capital for the purposes of this Act:

And whereas it is expedient that the other provisions in this Act contained should be sanctioned:

And whereas the objects aforesaid cannot be attained without the authority of Parliament:

[*Price* 1*s.*]

A.D. 1904.

May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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 Lancashire and Yorkshire Railway (Steam Vessels) Act 1904.

Incorporation of Part IV. of Railways Clauses Act 1863.

2. Part IV. (relating to steam vessels) of the Railways Clauses Act 1863 is hereby incorporated with and forms part of this Act.

Application of certain sections of Harbours Docks and Piers Clauses Act 1847.

3. The provisions of sections 14 15 28 67 and 99 of the Harbours Docks and Piers Clauses Act 1847 shall so far as applicable apply to any quays landing-places or wharves constructed by the Company under the powers of this Act and shall be read and have effect as if the expression harbour dock or pier where used in the said sections were defined to mean such quays landing-places or wharves.

Applying certain provisions of Companies Clauses Acts.

4. Subject to the provisions of this Act the 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 non-payment 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 the borrowed money into capital ;

The consolidation of the shares into stock ;

The making of dividends ;

The giving of notices ; and

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

and Parts I. II. and III. of the Companies Clauses Act 1863 (as amended by subsequent Acts) relating respectively to the cancellation and surrender of shares to additional capital and to debenture stock shall be applicable to the capital and moneys

hereby authorised to be raised by shares or stock or mortgage or debenture stock and to the proprietors thereof.

Power to provide and use steam vessels between Goole and Hull and certain continental ports.

5. It shall be lawful for the Company to purchase build hire and charter and to use maintain and work steam and other vessels for the conveyance of and to convey therein passengers animals minerals and goods between the ports of Goole and Hull on the one hand and Dunkirk Bruges Ghent Flushing Heyst (otherwise Zeebrugge) Antwerp Rotterdam Amsterdam Harlingen Delfzyl Hamburg Lubeck Stettin Dantzic Copenhagen Aarhuus and Stockholm or any of them on the other hand Provided that except in the case of any temporary hiring or chartering all such vessels shall be registered at a British port.

Agreements with steamship companies and others.

6. The Company may enter into and carry into effect agreements having reference to the conveyance of passengers animals minerals and goods between the ports of Goole and Hull on the one hand and any of the continental ports mentioned in this Act on the other hand with any steamship company or other company or persons having and using steam or other vessels Provided that except in the case of any temporary hiring or chartering all such vessels shall be registered at a British port The Company may subscribe to the funds of any company with whom they shall enter into any such agreements with reference to traffic between such ports as aforesaid and the terms and conditions on which such subscriptions may be made may include the nomination by the company of directors of any such company:

Provided that subsection (5) of section 33 of the Railway and Canal Traffic Act 1888 shall (without prejudice to any other enactment applicable to such traffic) apply in the case of all through rates charged in respect of traffic conveyed in such vessels in pursuance of any such agreement:

Provided also that if under the powers of this section the Company subscribe to the funds of any other company the relation so established shall be deemed to be an arrangement for working steam vessels for the purpose of section 25 of the Railway and Canal Traffic Act 1888.

Agreements with owners of piers and quays.

7. The Company may enter into and fulfil agreements with the owners and lessees of piers and quays at the said ports of Goole and Hull with reference to the use of such piers and quays and the accommodation of traffic thereat.

A.D. 1904.

Power to acquire lands by agreement and provide quays warehouses &c.

8. The Company may acquire and take on lease by agreement lands and premises and may on such lands construct maintain and use quays landing-places wharves warehouses and stores in connection with the transmission or reception of traffic by any service of steamers provided under the powers of this Act or in which the Company may acquire any interest under the powers of this Act and for carrying on the business of the Company at the said ports of Goole and Hull.

For protection of Humber Conservancy Commissioners.

9. The following provisions for the protection of the Humber Conservancy Commissioners (in this section referred to as "the commissioners") shall be binding and obligatory upon the Company (namely):—

(1) Nothing in this Act contained shall authorise the Company to construct any quay landing-place or wharf on or so as to interfere with any portion of the foreshore or bed of the River Humber or of any channel creek bay or estuary thereof within the jurisdiction of the commissioners without the consent in writing under seal of the commissioners but such consent shall not be unreasonably withheld:

(2) In the event of any question or difference arising between the commissioners and the Company as to whether such consent ought or ought not to be given or as to the conditions upon which such consent should be given such question or difference shall be referred to an arbitrator to be appointed by the Board of Trade on the application of the Company or of the commissioners:

(3) Nothing in this Act contained shall prejudice or derogate from or in anywise alter affect or interfere with the jurisdiction or authority of the commissioners or any of the provisions of the Humber Conservancy Acts 1852 to 1899 or any other rights powers privileges or authorities of the commissioners.

Saving rights of Crown.

10. Nothing herein contained shall authorise the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to the King's most Excellent Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without

the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent such Commissioners and such Board are hereby respectively authorised to give) neither shall anything herein contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the King's Majesty.

Lights on works during construction &c.

11. The Company shall if so required by the Board of Trade at or near any works which they may construct alter or extend under the powers of this Act below high-water mark during the whole time of the constructing altering or extending the same exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Board of Trade from time to time require or approve.

If the Company fail to comply in any respect with the provisions of this section they shall for each day on which they so fail be liable to a penalty not exceeding twenty pounds.

Permanent lights on works.

12. The Company shall at the outer extremity of any works constructed by them under the powers of this Act below high water exhibit and keep burning from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the corporation of the Hull Trinity House shall from time to time direct.

If the Company fail to comply in any respect with the provisions of the present section they shall for each day on which they so fail be liable to a penalty not exceeding twenty pounds.

Provision against danger to navigation in case of injury to or decay of works &c.

13. In case of injury to or destruction or decay of any works constructed by them under the powers of this Act below high water or any part of such works the Company shall lay down such buoys exhibit such lights or take such other means for preventing so far as may be danger to navigation as shall from time to time be directed by the corporation of the Hull Trinity House and shall apply to that corporation for directions as to the means to be taken and the Company shall be liable to a penalty not exceeding ten pounds for every calendar month during which they omit so to apply or refuse or neglect to obey any direction given in reference to the means to be taken:

Provided that so far as the buoys to be laid down the lights to be exhibited and the means of preventing danger to navigation

A.D. 1904.

in the River Ouse under the powers of this and the preceding section are concerned those buoys lights and means shall be such as the undertakers of the Aire and Calder Navigation shall from time to time with the approval of the Board of Trade direct.

Works below high-water mark not to be commenced without consent of Board of Trade.

14. The Company shall not under the powers of this Act construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of such approval being signified as last aforesaid and where any such work may have been constructed the Company shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals If any such work be commenced or completed contrary to the provisions of this section the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the costs and charges of the Company and the amount of such costs and charges shall be a debt due from the Company to the Crown and shall be recoverable as a Crown debt or summarily.

Survey of works by Board of Trade.

15. If at any time the Board of Trade deem it expedient for the purposes of this Act to order a survey and examination of a work constructed by the Company on in over through or across tidal lands or tidal water or of the intended site of any such work the Company shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Company to the Crown and be recoverable as a Crown debt or summarily.

Abatement of work abandoned or decayed.

16. If a work constructed by the Company under the powers of this Act on in over through or across tidal lands or tidal water is abandoned or suffered to fall into decay the Board of Trade may abate and remove the work or any part of it and restore the site thereof to its former condition at the expense of the Company and the amount of such expense shall be a debt due from the Company to the Crown and be recoverable as a Crown debt or summarily.

Saving rights of Trinity House Deptford Strond.

17. Nothing in this Act contained shall prejudice or affect the rights and privileges of the corporation of Trinity House Deptford Strond.

Power to charge for use of steam vessels and in respect of quays &c.

18. The Company may demand take and recover such reasonable rates dues rents and charges as they shall think fit for or in respect of steam vessels provided or used by them under the powers of this Act and the conveyance of traffic thereon and for and in respect of any quays landing-places wharves warehouses and stores acquired or provided by them under the powers of this Act and of any services to be performed by them thereat.

Power to provide refreshment rooms and refreshments.

19. It shall be lawful for the Company to provide maintain and manage refreshment rooms at the said ports of Goole and Hull and to supply or make provision for the supply of refreshments thereat and in any buildings which may be used in connection with any service of steam or other vessels established by the Company or in which they may obtain any interest under the powers of this Act and to supply or provide for the supply of refreshments on any vessels employed in any such service:

Provided that the supply or sale of any refreshments tobacco or intoxicating liquors under the powers of this section shall be subject to the provisions of all Acts relating to the supply or sale thereof.

Cesser of powers in certain events.

20.—(1) If the powers conferred by this Act with respect to the continental ports in this Act mentioned shall not be bonâ fide and regularly exercised as between Goole and any such continental port either by the Company working a steam vessel or vessels or by agreement with other steamship owners before the expiration of five years from the passing of this Act then the powers conferred by this Act as between Goole and such continental port shall cease and determine.

(2) If the powers conferred by this Act with respect to the continental ports in this Act mentioned shall not be bonâ fide and regularly exercised as between Hull and any such continental port either by the Company working a steam vessel or vessels or by agreement with other steamship owners before the expiration of five years from the passing of this Act then the powers conferred by this Act as between Hull and such continental port shall cease and determine.

(3) Provided that this section shall not be construed so as to compel the Company to establish and maintain services to and from Hull separate from services to and from Goole.

(4) If any question shall arise as to whether the Company are bonâ fide and regularly exercising their powers as between

A.D. 1904.

Hull and Goole and any continental port mentioned in this Act such question shall on the application of any company or person interested in the question or of any authority acting under section 7 of the Railway and Canal Traffic Act 1888 alleging that such powers have not been bonâ fide and regularly exercised be referred to the court of the Railway and Canal Commission and the regulations in force with reference to the procedure on applications to that court under or by virtue of the Railway and Canal Traffic Acts 1873 to 1888 shall as far as applicable apply to the procedure on an application made to such court under or by virtue of this section.

Facilities to London and North Western Railway Company.

21. The Company shall afford to the London and North Western Railway Company all proper and reasonable facilities (by any vessels provided hired chartered or used by them or to the funds of the owners of which the Company have subscribed under the powers of this Act) between the ports of Goole and Hull and the continental ports mentioned in this Act for all traffic of whatever description for which the routes viâ Goole or Hull are reasonable routes passing or intended to pass from and to stations or sidings upon the system of the London and North Western Railway Company or beyond the system of that company (exclusive of the system of the Company) to and from the said ports viâ the ports of Goole and Hull and also from and to all places where the London and North Western Railway Company are entitled to carry by running powers on the system of the Company and from and to stations or sidings on any lines jointly owned by the Company and the London and North Western Railway Company to and from the said ports viâ the ports of Goole and Hull The Company shall at all times and in all respects conduct forward carry on and accommodate all such traffic as efficiently and expeditiously as if it were their own proper traffic and shall afford all such facilities services and conveniences as may be needful for that purpose including through bookings through tickets and invoices and through rates and fares where through rates and fares shall be put in force by the Company's own route such through rates and fares in the case of competitive traffic not to be higher in amount than those in force by the Company's own route.

Facilities to GreatCentral Railway Company.

22. The Company shall afford to the Great Central Railway Company all proper and reasonable facilities by any vessels provided hired chartered or used by them or to the funds of the owners of which the Company have subscribed under the powers of this Act

between the ports of Goole and Hull and the continental ports mentioned in this Act for all traffic of whatever description for which the routes viâ Goole or Hull are reasonable routes passing or intended to pass from and to stations or sidings upon the system of the Great Central Railway Company or beyond the system of that company (exclusive of the system of the Company) to and from the said ports viâ the ports of Goole and Hull and also from and to all places where the Great Central Railway Company are entitled to carry by running powers on the system of the Company and from and to stations or sidings on any lines jointly owned by the Company and the Great Central Railway Company to and from the said ports viâ the ports of Goole and Hull The Company shall at all times and in all respects conduct forward carry on and accommodate all such traffic as efficiently and expeditiously as if it were their own proper traffic and shall afford all such facilities services and conveniences as may be needful for that purpose including through bookings through tickets and invoices and through rates and fares where through rates and fares shall be put in force by the Company's own route such through rates and fares in the case of competitive traffic not to be higher in amount than those in force by the Company's own route.

Facilities to Hull Barnsley and West Riding Junction Railway and Dock Company.

23. The Company shall afford to the Hull Barnsley and West Riding Junction Railway and Dock Company (in this section called "the Hull and Barnsley Company") all proper and reasonable facilities by any vessels provided hired chartered or used by them or to the funds of the owners of which the Company have subscribed under the powers of this Act between the port of Hull and the continental ports mentioned in this Act for all traffic of whatever description for which the route viâ Hull is a reasonable one passing or intended to pass from and to stations or sidings upon or beyond the system of the Hull and Barnsley Company to and from the said ports viâ the port of Hull The Company shall at all times and in all respects conduct forward carry on and accommodate all such traffic as efficiently and expeditiously as if it were their own proper traffic and shall afford all such facilities services and conveniences as may be needful for that purpose including through bookings through tickets and invoices and through rates and fares where through rates and fares shall be put in force by the Company's own route such through rates and fares not to be higher in amount than those in force by the Company's own route.

A.D. 1904.

For protection of undertakers of Aire and Calder Navigation.

24. The following provisions for the protection of the undertakers of the Aire and Calder Navigation (in this section referred to as "the undertakers") shall apply and have effect :—

(1) Nothing in this Act shall alter prejudice or affect the provisions of section 59 of the Wakefield Pontefract and Goole Railway Act 1845:

(2) Subject to the preceding subsection nothing in this Act contained shall authorise the Company to construct any quay landing-place or wharf on or so as to interfere with any portion of the foreshore or bed of the River Ouse or of any channel creek bay or estuary thereof within the jurisdiction of the undertakers without the consent in writing of the undertakers but such consent shall not be unreasonably withheld:

(3) In the event of any question or difference arising between the undertakers and the Company as to whether such consent ought or ought not to be given or as to the conditions upon which such consent should be given such question or difference shall be referred to an arbitrator to be appointed by the Board of Trade on the application of the Company or of the undertakers:

(4) Nothing in this Act contained shall prejudice or derogate from or in anywise alter affect or interfere with the jurisdiction or authority of the undertakers under the Ouse (Lower) Improvement Act 1884 or of any Act amending the same.

Power to raise additional capital.

25. The Company from time to time may for the purposes of this Act and for the general purposes of their undertaking raise by the creation and issue of shares or stock such additional capital as they shall think necessary not exceeding three hundred and sixty thousand pounds exclusive of the moneys which they are or may be authorised to raise by any other Act or Acts of Parliament and the Company may create and issue such shares or stock either wholly or partly as ordinary or wholly or partly as preferential shares or stock as they may think fit.

Shares not to to be issued until one-fifth part thereof shall have been paid up.

26. The Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds nor shall any such share vest in the person accepting the same unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Qualifications of new shares or stock.

27. Except as by or under the powers of this Act otherwise provided the new ordinary shares or stock issued under the powers of this Act shall in proportion to the aggregate amount thereof from time to time held by the same person at the same time entitle the respective holders thereof to the same dividends and profits and confer on them the like qualifications and the like right of voting as the like amount of existing ordinary shares or stock of the Company.

Power to raise capital under any other Act and this Act by new shares or stock of one class.

28. 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 and any other Act passed in the present Session of Parliament whether before or after the passing of this Act by which the Company may be authorised to raise capital by new shares or stock the Company if they think fit may 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.

Power to borrow on mortgage.

29. The Company may in respect of the additional capital of three hundred and sixty thousand pounds which they are by this Act authorised to raise borrow on mortgage of their undertaking any sum not exceeding in the whole one hundred and twenty thousand pounds and of that sum they may borrow any sum not exceeding in the whole forty thousand pounds in respect of each one hundred and twenty thousand pounds of the said additional capital but no part of any such sum of forty thousand pounds shall be borrowed until shares for so much of the said portion of the additional capital in respect of which the borrowing powers are to be exercised as is to be raised by means of shares are issued and accepted and one half of such capital is paid up and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for the whole of such portion of capital have been issued and accepted and that one half of such portion has been paid up and that not less than one fifth part of the amount of each separate share in such portion of 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 such portion 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

A.D. 1904.

stock as the case may be were issued and accepted and to the extent aforesaid paid up bonâ fide and are held by the persons to whom the same were issued or their executors administrators successors or assigns and also so far as the said additional capital is raised by shares that such persons 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.

Former mortgages to have priority.

30. The mortgages and bonds granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act and subsisting at the time of the passing of this Act shall during the continuance of such mortgages and bonds but subject to the provisions of the Acts under which such mortgages and bonds were respectively granted have priority over any mortgages granted by virtue of this Act but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Debenture stock.

31. 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 after the passing of this Act 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.

Application of moneys.

32. All moneys raised by the Company under this Act whether by shares stock debenture stock or borrowing shall be applied for the purposes of this Act and for the general purposes of the Company being in each case purposes to which capital is properly applicable.

Receipt in case of persons not sui juris.

33. If any money is payable to a holder of shares or stock in or of a mortgage or debenture stock of the Company being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Interest not to be paid on calls paid up.

34. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise 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.

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

35. 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.

Provision as to general Railway Acts.

36. Nothing in this Act contained shall exempt the Company or the railways of the Company from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies passed before or after the commencement of this Act 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.

Costs of Act.

37. 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.

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