CHAPTER lx

An Act for enabling the North-eastern Railway Company to make new Railways; for amalgamating with their undertaking the undertaking of the Whitby Redcar and Middlesborough Union Railway Company; and for other purposes. A.D. 1889

[5th July 1889.]

WHEREAS it is expedient that the North-eastern Railway Company (in this Act called "the Company") should be empowered to make the new railways roads and footpaths and execute the other works by this Act authorised and to acquire the lands in this Act described and that the other powers in this Act mentioned should be conferred on the Company:

And whereas plans and sections showing the lines and levels of the said new railways and works and plans of the said lands and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited with the clerks of the peace for the several counties and ridings within which the said railways and works will be constructed and the said lands are situate which plans sections and books of reference are in this Act respectively referred to as the deposited plans sections and books of reference:

And whereas it is expedient that the agreement dated the fourteenth day of August one thousand eight hundred and eighty-eight and made between the Company of the one part and the mayor aldermen and burgesses of the borough of Middlesbrough of the other part as set forth in the First Schedule to this Act should be confirmed:

And whereas under or by virtue of the Whitby Redcar and Middlesborough Union Railway Act 1875 the undertaking of the Whitby Redcar and Middlesborough Union Railway Company (in this Act called "the Whitby Company") was leased to the Company in perpetuity and it is expedient that the Whitby Company should

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be amalgamated with the Company on the terms and in manner herein-after expressed:

And whereas it is expedient that some of the powers and provisions of the North-eastern Railway Company's Act 1875 (with respect to the abandonment of a portion of the Tynemouth extension of the Blyth and Tyne Railway) and of other Acts relating to the Company should be amended or repealed and that such further powers should be granted to the Company as are mentioned in this Act:

And whereas it is expedient that provision should be made as in this Act mentioned with respect to contributions by the Company to any pension fund that may be formed for servants of the Company and others and as to the mode of altering the scheme for the existing superannuation fund and as to the payment of interest on deposits:

And whereas it is expedient that the Company should be empowered to raise further capital for the purposes aforesaid and for the general purposes of their undertaking:

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):—

Short title.

1. This Act may be cited for all purposes as the North-eastern Railway Act 1889.

Incorporation of general Acts.

2. The following Acts and parts of Acts are (except where expressly varied by this Act) incorporated with and form part of this Act (that is to say):—

The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883:

The Railways Clauses Consolidation Act 1845:

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

The 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 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 powers of the directors and the powers of the Company to be exercised only in general meeting;

The making of dividends; and

The giving of notices: and

Part I. (relating to cancellation and surrender of shares) and Part II. (relating to additional capital) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction:

The expression "the railway" or "the railways" means the new railway or new railways by this Act authorised:

The expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partially incorporated herewith shall for the purposes of this Act be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Power to make railways.

4. Subject to the provisions of this Act the Company may make and maintain in the lines shown on the deposited plans and according to the levels shown on the deposited sections the railways hereinafter described with all proper stations sidings approaches roads works and conveniences connected therewith and may enter upon purchase take and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for that purpose:

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

(1) A Railway No. 1 one mile five furlongs and six chains in length commencing in the parish of Pittington in the county of Durham by a junction with the Company's Durham and Sunderland Railway and terminating in the parish of St. Oswald in the city of Durham:

(2) A Railway No. 2 six furlongs four chains and twenty yards in length situate wholly in the parish of Featherstone in the West Riding of the county of York commencing by a junction with the Company's York and Normanton Railway and

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terminating in a field at a point about thirty yards south of the south-west corner of the chemical works of Messrs. Hunt Brothers.

Tolls.

5. The railways shall for the purposes of tolls rates and charges and for all other purposes whatsoever be part of the undertaking of the Company and the Company may demand receive and take in respect thereof tolls rates and charges not exceeding the tolls rates and charges which by the North-eastern Railway Company's Act 1854 the North-eastern and Stockton and Darlington Railways Amalgamation Act 1863 the North-eastern Railway Company's (Pelaw and other Branches) Act 1865 and the North-eastern Railway Company's (New Lines) Act 1874 the Company are authorised to demand receive and take in like manner as if the railways had formed part of the North-eastern Railway when those Acts were respectively passed.

Power to cross road in parish of Featherstone on the level.

6. Subject to the provisions in the Railways Clauses Consolidation Act 1845 and in Part I. (relating to the construction of a railway) of the Railways Clauses Act 1863 contained in reference to the crossing of roads on the level the Company may in the construction of the Railway No. 2 carry the same with a double line only across and on the level of the road numbered on the deposited plans 60 in the parish of Featherstone Provided always that the Company shall provide a bridge for foot passengers at the said level crossing and upon the completion of such bridge all rights of way across the railway and on the level thereof for foot passengers shall be and the same are hereby extinguished.

Period for completion of railways.

7. If the railways are not completed within five years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for making and completing the railways or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Imposing penalty if railways not opened within period limited.

8. If the Company fail within the period limited by this Act to complete the railways they shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railway in respect of which the penalty has been incurred is completed and opened for the public conveyance of passengers or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the railway in respect of which the penalty has been incurred:

The said penalty may be applied for by any landowner or other person claiming to be compensated in respect of the railway in respect of which the penalty has been incurred in accordance with the provisions of the next following section of this Act or by the

Solicitor to Her Majesty's Treasury and in the same manner as the penalty provided in the third section of the Railway and Canal Traffic Act 1854:

Every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in the said third section of the said Act to an account opened or to be opened in the name of the Paymaster General for and on behalf of the Supreme Court of Judicature in England in the bank and to the credit specified in such warrant or order and shall not be paid thereout except as herein-after provided:

But no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company was prevented from completing or opening the railway in respect of which the penalty has been incurred by unforeseen accident or circumstances beyond their control Provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Providing for application of penalty.

9. Every sum of money so recovered by way of penalty as aforesaid shall be applicable and after due notice in the London Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway in respect of which the penalty has been incurred or any portion thereof or who may have been subjected to injury or loss in consequence of the compulsory powers conferred upon the Company by this Act of taking property for the purposes of such railway and for which injury or loss no compensation or inadequate compensation shall have been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the High Court of Justice in England may seem fit:

If no such compensation is payable or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid has been found sufficient to satisfy all just claims in respect of such compensation then the said sum or sums of money recovered by way of penalty or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and accordingly be paid to or for the account of Her Majesty's Exchequer in such manner as the court thinks fit to order on the application of the Solicitor to Her Majesty's Treasury and shall be carried to and form part of the Consolidated Fund of the United Kingdom or in the discretion of the court if the Company is insolvent and has been ordered to be wound up or a receiver has been appointed shall wholly or in part be paid to such receiver or to the liquidator or liquidators of

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the Company or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

Power to acquire additional lands.

10. Subject to the provisions of this Act the Company in addition to the other lands which they are by this Act authorised to acquire may from time to time enter upon purchase take and use all or any of the lands herein-after described or referred to and delineated on the deposited plans and described in the deposited books of reference and may hold and retain any of such lands which they have already purchased (that is to say) :—

In the City and County of Newcastle-upon-Tyne.

Certain lands and buildings in the parish of St. Nicholas and parish or parochial chapelry of St. John or one of them situate on the south side of the Company's railway near their central station in Newcastle-upon-Tyne.

In the East Riding of the County of York.

Certain lands in the townships of Market Weighton and Shipton and parish of Market Weighton on which or on part of which portions of the Company's railway between York Market Weighton and Beverley have been constructed.

Power to stop up level crossing in Hull.

11. The Company may stop up and abolish the occupation road level crossing over their Hull and Withernsea Railway about three hundred and sixteen yards east of the point where such railway is crossed by the Hull and Barnsley Railway near to Empringham Street in the parish of Drypool in the town and county of the town of Kingston-upon-Hull and all rights of way over the same are hereby extinguished :

Provided that the Company shall if and when the said level crossing is stopped up pay to any person legally entitled to any such right of way compensation for the extinguishment thereof to be settled as provided by the Lands Clauses Consolidation Act 1845 but no person shall be entitled to compensation as aforesaid unless a notice in writing stating the particulars of the right of way claimed and the amount claimed in respect of the extinguishment thereof shall be served by such person upon the Company within six months from the stopping up and abolition of the said level crossing.

Substitution of subway for Whitehouse level crossing for foot passengers.

12. The existing subway for foot passengers under the Company's Middlesbrough and Redcar Railway immediately adjacent to the Whitehouse level crossing in the parish of Ormesby in the North Riding of the county of York shall on the passing of this Act be substituted for the existing level crossing for foot passengers known

as the Whitehouse level crossing and all rights of way for foot passengers over such level crossing shall be and the same are hereby extinguished.

Power to make new roads.

13. Subject to the provisions of this Act and in accordance with the deposited plans and sections the Company may make the new roads herein-after described with all proper approaches works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for those purposes (that is to say):—

(1) They may make a new road in the parish of Leeds in the West Riding of the county of York commencing by a junction with Cardigan Lane and terminating by a junction with Cardigan Road and may carry the same over the Company's Leeds and Thirsk Railway by a bridge such bridge being connected with Chapel Lane by a slope ten feet in width for foot passengers (with proper hand-rails if the Corporation of Leeds require any such hand-rails to be provided) so as to provide a direct access for foot passengers between the said bridge and Chapel Lane:

When and so soon as the said new road is completed and opened to the public the Company may stop up and discontinue as a road and appropriate to the purposes of their undertaking so much of Cardigan Lane as is shown on the deposited plans as proposed to be stopped up including the level crossing also shown on the said plans but nothing in this Act contained shall authorise the Company to remove any existing gas or water mains or pipes of the said Corporation of Leeds in Cardigan Lane aforesaid.

(2) They may make a new road in the parish of Stranton in the county of Durham from Hill Street to Mainsforth Terrace and may carry the same under the Company's Cliff House Branch Railway by means of a subway:

When and so soon as the said new road is completed and opened to the public the Company may stop up and abolish the level crossing over their Stockton and Hartlepool Railway adjoining the east side of the Seaton Carew Ironworks and the level crossing over their Cliff House Branch Railway adjoining the west side of the said Seaton Carew Ironworks Provided that the said new roads referred to in this section shall be maintained by the Company until such roads have been paved flagged and sewered in manner provided by the Public Health Act 1875 or as regards the said new street or road in the parish of Leeds in manner provided by the Leeds Improvement

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Acts by the parties liable under those Acts to pave flag and sewer new streets and have been declared under the last-mentioned Acts or any of them to be highways repairable by the inhabitants at large.

Power to make new footpaths &c.

14. Subject to the provisions of this Act and in accordance with the deposited plans the Company may execute the following works and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for those purposes (that is to say) :—

(1) They may make two new footpaths in the parish of Eston in the North Riding of the county of York one of such footpaths commencing by a junction with the Sailors Trod footpath at or near a point about three hundred and thirty-four yards west of an imaginary line drawn across the said footpath north and south from the eastern wall of the Cleveland Hotel and terminating by a junction with the said Sailors Trod footpath at a point about four hundred and seventy-seven yards eastward of the same imaginary line and the other of such footpaths commencing by a junction with such last-mentioned footpath nearly opposite the east end of Eston Old Station and terminating by a junction with the said existing footpath from Eston and may carry such last-mentioned new footpath through a subway :

(2) They may make a bridge in the said parish of Eston to carry the Sailors Trod footpath over the lines of railway leading to the Clay Lane Ironworks and other adjoining lines of railway :

(3) They may make a bridge in the said parish of Eston to carry the Sailors Trod footpath over the lines of railway leading to the Cargo Fleet Ironworks and other adjoining lines of railway :

When and so soon as the said new footpaths and bridges are respectively completed and opened to the public the Company may stop up and abolish such respective parts of the Sailors Trod footpath as are shown on the deposited plans as proposed to be stopped up and may appropriate to the purposes of their undertaking such parts of the existing footpaths as are bounded on both sides by lands of the Company.

Provision as to repair of new roads &c.

15. Except as otherwise provided by this Act the new roads and footpaths authorised by the last two preceding sections of this Act (except the bridges (including the roadways thereon) or subways carrying the same over or under the Company's railway which shall be maintained by the Company) shall when completed be maintained by the persons liable to maintain the public highways within the districts in which such new roads and footpaths will be situate If any question shall arise between the Company and any

of such persons as to the due completion of any new road footpath or works such question shall from time to time be determined by two justices on the application of either of the parties in difference and after not less than seven days notice to both parties of the sitting of the justices for the purpose and the certificate of the justices of the due completion of such new road shall be conclusive evidence of the fact so certified.

Extinguishment of rights of way.

16. All rights of way over or along the several roads footpaths or other highways or portions thereof which shall under the provisions of this Act be stopped up and over any of the lands which shall under the compulsory powers of this Act be purchased or acquired shall be and the same are as from such stopping up or acquisition hereby extinguished.

Site of roads and footpaths stopped up to vest in Company.

17. Where the Company shall under the provisions of this Act divert or stop up any road or footpath the soil and site of the road so diverted or stopped up to the extent of the lands of the Company on both sides of such road or footpath shall subject to the provisions of the Railways Clauses Consolidation Act 1845 with respect to mines lying under or near to the railway thereupon vest in and thenceforth be held by them in fee as part of their undertaking.

Period for compulsory purchase of lands.

18. The powers by this Act conferred upon the Company for the compulsory purchase of lands and buildings shall cease after the expiration of three years from the passing of this Act.

Power to owners to grant easements to Company.

19. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement right or privilege (not being an easement of water) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

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

20. And whereas in the construction of the Railway No. 2 by this Act authorised it may happen that portions only of certain lands buildings or manufactories shown on the deposited plans will be sufficient for the purposes of the Company and that such portions may be severed from the remainder of the said properties without material detriment thereto Therefore notwithstanding section ninety-two of the Lands Clauses Consolidation Act 1845 the owners of and other persons interested in the lands buildings or manufactories distinguished on the deposited plans by the numbers 49 50 51 and 52 in the parish of Featherstone and whereof parts only are required

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for the purposes of the Company may if such portions can in the opinion of the jury arbitrators or other authority to whom the question of disputed compensation shall be submitted be severed from the remainder of the said properties without material detriment thereto be required to sell and convey to the Company the portions only of the properties so required without the Company being obliged or compellable to purchase the whole or any greater portion thereof the Company paying for the portions required by them and making compensation for any damage sustained by the owners thereof and other persons interested therein by severance or otherwise.

Restriction as to houses of labouring class.

21.—(1) The Company shall not under the powers by this Act granted purchase or acquire in any city borough or other urban sanitary district or any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until—

(A) They shall have obtained the approval of the Local Government Board to a scheme for providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of December last or for such number of persons as the Local Government Board shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such persons and to all the circumstances of the case: and

(B) They shall have given security to the satisfaction of the Local Government Board for the carrying out of the scheme:

(2) The approval of the Local Government Board to any scheme under this section may be given either absolutely or conditionally and after the Local Government Board have approved of any such scheme they may from time to time approve either absolutely or conditionally of any modifications in the scheme:

(3) Every scheme under this section shall contain provisions prescribing the time within which it shall be carried out and shall require the new dwellings proposed to be provided under the scheme to be completed fit for occupation before the persons residing in the houses in respect of which the scheme is made are displaced:

Provided that the Local Government Board may dispense with the last-mentioned requirement subject to such conditions (if any) as they may see fit:

(4) Any conditions subject to which the Local Government Board may have approved of any scheme under this section or of any modifications of any scheme or subject to which they may have dispensed with the above-mentioned requirement shall be enforceable by a writ of Mandamus to be obtained by the Local Government Board out of the High Court of Justice:

(5) If the Company acquire or appropriate any house or houses under the powers by this Act granted in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court of Justice and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the court may if it think fit reduce such penalty:

(6) For the purpose of carrying out any scheme under this section the Company may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require and for the purpose of any such purchase sections one hundred and seventy-six and two hundred and ninety-seven of the Public Health Act 1875 shall be incorporated with this Act and shall apply to the purchase of lands by the Company for the purposes of any scheme under this section in the same manner in all respects as if the Company were a local authority within the meaning of the Public Health Act 1875 and the scheme were one of the purposes of that Act:

(7) The Company may on any lands belonging to them or purchased or acquired under this section or any provisional order issued in pursuance of this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell demise or let or otherwise dispose of such dwellings and any lands purchased or acquired as aforesaid and may apply for the purposes of this section to which capital is properly applicable or any of such purposes any moneys which they may be authorised to raise or apply for the general purposes of their undertaking:

Provided that all lands on which any buildings have been erected or provided by the Company in pursuance of any scheme under this section shall for a period of twenty-five years from the passing of this Act be appropriated for the purpose of dwellings and every conveyance demise or lease of such lands and buildings shall be endorsed with notice of this enactment:

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Provided also that the Local Government Board may at any time dispense with all or any of the requirements of this sub-section subject to such conditions (if any) as they may see fit:

(8) So much of section one hundred and fifty-seven of the Public Health Act 1875 as provides that the provisions of that section and of sections one hundred and fifty-five and one hundred and fifty-six of the same Act shall not apply to buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament shall not apply to buildings erected or provided by the Company for the purpose of any scheme under this section:

(9) The Local Government Board may direct any inquiries to be held by their inspectors which they may deem necessary in relation to any scheme under this section and for giving effect to any of the provisions of this section and the inspectors of the Local Government Board shall for the purposes of any such inquiry have all such powers as they have for the purposes of inquiries directed by that Board under the Public Health Act 1875:

(10) The Company shall pay to the Local Government Board a sum to be fixed by that Board in respect of the preparation and issue of any provisional order in pursuance of this section and any expenses incurred by that Board in relation to any inquiries under this section including the expenses of any witnesses summoned by the inspector and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector:

(11) For the purposes of this section the expression "labouring class" includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Vesting Whitby Company's undertaking in Company and dissolution of Whitby Company.

22. On and after the passing of this Act and subject to the provisions thereof the undertaking of the Whitby Company which expression includes the railway and all works of whatever description of the Whitby Company now existing and all lands and other the real and personal property vested in the Whitby Company or in or to which the Whitby Company may have a legal or equitable right title or interest together with all the rights powers authorities privileges and exemptions of the Whitby Company shall be and is hereby absolutely vested in the Company as part of their undertaking subject to all existing debts liabilities and obligations of the Whitby

Company and the Whitby Company shall be and are hereby dissolved except for the purpose of winding up their affairs for which purpose that Company may exercise all such powers and authorities as are necessary:

The transfer and vesting shall be evidenced by a deed of conveyance in which the consideration shall be fully set forth which may be in the form in the Third Schedule to this Act or to the like effect with such variations and conditions as circumstances may require and such deed shall be duly stamped with the proper ad valorem duty within three months after the passing of this Act and shall be produced to the Commissioners of Inland Revenue and in default of such production the amount of such stamp duty with interest thereon at the rate of five pounds per centum per annum from the passing of this Act shall be recoverable from the Company with full costs of suit and all costs and charges attending the same.

Payment to Whitby shareholders.

23. The Company shall within one month from the passing of this Act pay to the directors of the Whitby Company the sum of twenty-five thousand pounds to be distributed by them rateably amongst the proprietors of the ordinary stock of the Whitby Company on production and verification by each such proprietor of the certificate or certificates for the stock held by him or if any certificate shall be lost or destroyed then upon proof thereof to the satisfaction of the directors and upon every such payment being made the certificates for the stock in respect of which the same is made shall be delivered up to the said directors and such stock shall thereupon be cancelled.

As to distribution of unclaimed proportions of purchase money.

24. The Whitby Company shall within six months after the passing of this Act give notice by circular in manner herein-after provided to every proprietor who has not prior to the giving of such notice claimed or received the proportion due to him or her of such sum of twenty-five thousand pounds requiring every such proprietor to send in his or her claim to the Whitby Company within a period not being less than one month from the date of such circular and in the event of no answer being received to any such circular within the said period such notice shall be advertised as herein-after mentioned Every such notice shall be sent by registered post-letter to every such proprietor as aforesaid addressed to him or her at his or her address on the share register of the Whitby Company or any subsequent known address and the production of a postmaster's receipt for any such registered letter shall be sufficient evidence of such notice having been sent to the address stated in such receipt In the event of no answer being received to any such circular within the said period as aforesaid the Whitby Company shall advertise once in each of the "London Gazette" the "Times" newspaper and

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a paper published in the county of York the name and last known and registered place of abode of every proprietor whose proportion shall not have been claimed or received at the time of publishing any such advertisement And within twelve months after the date of any such advertisement the Whitby Company may apply by petition in a summary way to the High Court of Justice Chancery Division that such unclaimed share or shares may be applied after payment thereout of any expenses incurred in carrying out the provisions of this section as the directors of the Whitby Company think fit.

Receipt of three directors of Whitby Company to be discharge.

25. A receipt in writing under the hands of any three of the directors for the time being of the Whitby Company for any money payable to them under this Act shall effectually discharge the Company from the money therein expressed to be received and the Company shall not be bound to see to the application thereof or be answerable for the misapplication or non-application thereof.

Company may borrow in lieu of Whitby Company.

26. On and after the passing of this Act the mortgage debt of the Whitby Company amounting to seventy-two thousand four hundred and eighty-five pounds shall be added to and form part of the mortgage debt of the Company and the powers of the Company for borrowing and re-borrowing on mortgage may from time to time be exercised so as to include the borrowing and re-borrowing as part of their general mortgage debt of the sum of one hundred and sixteen thousand three hundred pounds which the Whitby Company are authorised to borrow and the powers of the Company with reference to the creation and issue of debenture stock may be exercised with respect to the same.

Vesting of Whitby Company's undertaking to be an amalgamation under 26 & 27 Vict. c. 92.

27. The dissolution and vesting of the Whitby Company and their undertaking provided for by this Act shall be deemed an amalgamation within the meaning of Part V (relating to amalgamation) of the Railways Clauses Act 1863.

Confirming agreement with Corporation of Middlesbrough.

28. The agreement set forth in the First Schedule to this Act and made between the Company of the one part and the mayor aldermen and burgesses of the borough of Middlesbrough of the other part is hereby confirmed and full effect shall be given thereto accordingly and all expenses which may be incurred by the said mayor aldermen and burgesses thereunder shall be defrayed in the same manner as other expenses incurred by them in the maintenance and lighting of highways in the said borough.

Confirming agreement with Cor-

29. The agreement set forth in the Second Schedule to this Act and made between the Company of the one part and the mayor

aldermen and citizens of the city and county of Newcastle-upon-Tyne of the other part is hereby confirmed and full effect shall be given thereto accordingly.

Incorporation of Newcastle-upon-Tyne.

30. Notwithstanding anything contained in sections twenty-four and twenty-five of the North-eastern Railway Company's Act 1875 the Company may occupy retain and use as part of their undertaking the land belonging or reputed to belong to his Grace the Duke of Northumberland which is now in the occupation of the Company situate between Cut Throat Lane and Cross Lane in the parish of Tynemouth in the county of Northumberland and the site of the coal depôts adjoining thereto upon such terms and conditions as have been or may be agreed upon between the Company and the said Duke and the said sections twenty-four and twenty-five of the North-eastern Railway Company's Act 1875 so far as they relate to the said land are hereby repealed.

Amendment of sections twenty-four and twenty-five of the North-eastern Railway Company's Act 1875.

31. The Company may abandon and discontinue the maintenance of so much of the existing Tynemouth extension of their Blyth and Tyne Railway in the parish of Tynemouth as is situate between the road at Whitley Hill Heads and Cut Throat Lane and may surrender to the said Duke of Northumberland all their estate and interest in the lands belonging to the said Duke now or lately occupied by the Company for the purposes of such portion of railway and in certain lands adjoining the railway leading to the said coal depôts also belonging to the said Duke no longer required for railway purposes part of which have been thrown into and now form part of the public park adjoining the said railway upon such terms and conditions as have been or may be agreed upon between the Company and the said Duke.

Abandonment of portion of Tynemouth Extension Railway and surrender of lands to Duke of Northumberland.

32. The Company may contribute to any pension fund (which expression as used in this Act means and includes any society which may be formed and registered under the Friendly Societies Acts for the payment of pensions and retiring allowances to the servants of the Company or persons employed on any railway owned by the Company jointly with any other company or for the payment of allowances to the widows or children of such servants or persons) out of the revenues of the Company any sums not exceeding for any one half year the amount which during the same half year may have been contributed to such fund by the servants of the Company and other contributors to such fund Provided always that nothing enacted herein or in section fifteen of the North-eastern Railway Company's Act 1878 shall take away or affect the right or power of the Company to grant out of their own proper funds superannuation pension or other allowances to any of their officers or servants.

Power to contribute to pension fund.

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Power to pay interest on deposits.

33. The Company may receive on deposit and pay interest on any moneys belonging to the superannuation fund established under the North-eastern Railway Company's Act 1878 or to any pension fund which may be formed for the purposes mentioned in this Act and the moneys of any such pension fund may be invested on deposit at interest with the Company and if so invested shall be a charge upon the undertaking.

Power to modify scheme for superannuation fund.

34. The scheme for a superannuation fund established under the North-eastern Railway Company's Act 1878 may from time to time anything in such Act to the contrary notwithstanding be altered by the resolution of the majority of contributing members of such fund present at a general meeting duly called for such purpose provided the resolution be confirmed by the majority of such members present at a subsequently held general meeting duly called and by the committee of management of such fund and by the directors of the Company Provided that no superannuation allowance actually granted at the date of any such alteration shall be reduced unless such reduction shall have been recommended as necessary by an actuary approved by the Lords of the Treasury to certify annuity tables under the Friendly Societies Act 1875.

Power to apply moneys raised under existing Acts to purposes of this Act.

35. The Company may appropriate and apply to all or any of the purposes or objects of this Act being purposes to which capital is properly applicable any of the moneys which under and by virtue of any existing Acts they have raised or are authorised to raise and which may not be required for the purposes to which they are by those Acts made specially applicable.

Power to raise additional capital.

36. The Company may raise by the creation and issue of new shares or stock the sum of one hundred thousand pounds in addition to the moneys which they are or may be authorised to raise by any other Act or Acts of Parliament and such new shares or stock may be created and issued either wholly or partially as ordinary or wholly or partially as preference shares or stock and either alone or together with any other moneys or capital which the Company may be then authorised so to raise.

Shares not to be issued until one-fifth part thereof is paid up.

37. The Company shall not issue any such new shares nor shall any such new shares vest in the person accepting the same unless and until a sum not being less than one fifth of the amount of such new shares is paid in respect thereof.

Rights of voting for new shares or stock to be in pro-

38. The new shares or stock by this Act authorised shall unless otherwise provided by the prescribed terms of issue or creation thereof confer on the respective holders or proprietors thereof rights of voting and qualifications in proportion to the aggregate nominal

value of such shares or amount of such stock and not in proportion to the number of such shares and for such purposes every entire sum of fifty pounds of such nominal value of shares or amount of stock shall be equivalent to one share or sum of fifty pounds in the capital stocks of the Company And no shareholder shall vote or be entitled to be present at the meetings of the Company in respect of any number of such new shares or any amount of such new stock which with any other shares or stock held by him in the Company shall constitute a less interest in the capital stocks of the Company than fifty pounds in nominal value.

portion to the nominal amount thereof.

39. The Company may by the resolution creating or authorising the creation of any of the new preference shares or stock by this Act authorised determine that such new shares or stock shall rank pari passu with any other shares or stock of the Company of the same class created subsequently to the passing of that resolution under the powers of any existing Act or of this Act or of any subsequent Act and also if so determined with any other preference shares or stock which shall have been created and issued subject to such a contingency.

New preference shares or stock to rank pari passu with others if so determined.

40. The Company may by the resolution creating or authorising the creation of any of the new preference shares or stock by this Act authorised attach thereto a condition that the same may be redeemed on the terms then determined and for the purpose of such redemption and for the redemption of any other shares or stock of the Company liable to be redeemed the Company may from time to time create and issue new shares or stock to an amount not exceeding the aggregate amount of the shares or stock proposed to be redeemed:

New preference shares or stock may be created subject to redemption.

Provided that the Company may subject to the provisions of this Act attach to the new shares or stock to be created for such redemption any rights or privileges which by this Act they may attach to the shares or stock for which such new shares or stock are to be substituted but so that the dividend payable in respect thereof shall in case such new shares or stock are made preferential not exceed four pounds ten shillings per centum per annum.

41. The Company may in respect of the said additional capital of one hundred thousand pounds from time to time borrow on mortgage of their undertaking in addition to any other sums which they are or may be authorised to borrow by any other Act or Acts of Parliament any sum not exceeding in the whole thirty-three thousand pounds:

Power to borrow.

But no part thereof shall be borrowed until shares for so much of the additional capital of one hundred thousand pounds which they

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are by this Act authorised to raise as is to be raised by means of shares are issued and accepted and one half thereof is paid up and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for the whole of the capital to be raised by means of shares have been issued and accepted and that one half thereof has been paid up and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one half of so much of the said additional capital as is to be raised by means of stock is fully paid up and the Company have proved to such justice as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted and to the extent aforesaid 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 means of shares that such persons or corporations or their executors administrators successors or assigns are legally liable for the same:

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.

Receipt in case of persons not sui juris.

42. If any money is payable to a shareholder or debenture holder in 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.

For appointment of a receiver.

43. Every provision in any Act passed before the present session of Parliament whereby the 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 Company of arrears of principal money or interest or principal money 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:

The mortgagees of the undertaking 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.

Existing mortgages to have priority.

44. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament passed prior to the passing of this Act and which shall be subsisting at the time of the passing thereof shall during the continuance of such mortgages and subject to the provisions of the Acts under which such mortgages were respectively granted have priority over any mortgages 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 Company.

Application of moneys.

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

Interest not to be paid on calls paid up.

46. 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.

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

47. 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.

48. Nothing in this Act contained shall exempt the Company or the railway from the provisions of any general Act relating to railways or 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 or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised by this Act.

Costs of Act.

49. 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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SCHEDULES referred to in the foregoing Act.

FIRST SCHEDULE.

An Agreement made this fourteenth day of August one thousand eight hundred and eighty-eight between the North-eastern Railway Company (herein-after called "the Company") of the one part and the Mayor Aldermen and Burgesses of the borough of Middlesbrough as the urban sanitary authority of the said borough (herein-after called "the Corporation") of the other part.

Whereas the Company are the owners of the Middlesbrough Dock and certain land situate between the entrance channel thereto and the road within the borough of Middlesbrough known as the Cargo Fleet Road And whereas it is alleged by the Corporation that there is a public right of way known as the Sailors Trod over the said land for persons on foot passing between the north side of the said entrance channel and the Cargo Fleet Road And whereas it would be of great public advantage that the course of such footpath should be as nearly as possible in a direct line between the bridge over the said entrance channel and the existing subway under the Middlesbrough and Redcar branch of the Company's railway and the Corporation and the Company have accordingly agreed as follows :—

1. The Company at their own expense shall form and construct a footway eight feet wide on the land coloured red on the plan hereto annexed so much of the said footway as is marked "subway" on the said plan being carried under the Company's sidings by means of a subway to be constructed by and at the expense of the Company having a clear headway of seven feet and the Company shall fence off the said footway on each side.

2. In the event of the Company desiring at any time hereafter to alter the position of the said footway or to extend the said subway so as to make room for more sidings they shall be at liberty to do so provided that such alterations shall be considered by the said Corporation to provide a footway substantially as convenient for the public as the said footway herein-before described.

3. The said footway and subway shall be completed and fenced off to the reasonable satisfaction of the Corporation The masonry of the subway and the fencing of the footway shall be maintained by the Company and the surface of the footway shall be maintained by the Corporation who shall also light the same if necessary.

4. On the completion by the Company of the said works the Company agree that the public shall be entitled to use the said footway and subway and the

roadway over the said dock lock bridge and the existing road shown on the said plan at the south end of the said footway in passing on foot between the north side of the said dock lock bridge and the Cargo Fleet Road it being expressly understood that the use of the roadway over the said dock lock bridge as a footway shall continue to be as heretofore subject to the opening and use of the said bridge by the Company whenever required for the purposes of the dock traffic Provided always that the said dock lock bridge shall not (except through unavoidable cause) be closed against the public for a longer period than ten minutes at any one time.

5. The Corporation hereby agree that the said footway shall be adopted and fixed in lieu of the said Sailors Trod footpath between the north side of the said dock lock bridge and Cargo Fleet Road and the Corporation in exercise of every power and authority thereto enabling do hereby further declare and agree that the said footway is accepted in substitution for any public rights of footway over any other part of the said land of the Company.

In witness whereof the Company and the Corporation have hereunto affixed their respective common seals the day and year first above written.

The common seal of the North-eastern Railway Company was hereunto affixed in the presence of

J. SHILLITO,
Secretary's Office,
North-eastern Railway,
York.

Seal of the North-eastern Railway Company.

The corporate common seal of the Corporation was affixed hereto in the presence of

GEO. BAINBRIDGE,
Town Clerk.

Seal of the Middlesbrough Corporation.

SECOND SCHEDULE.

An Agreement made the seventeenth day of April one thousand eight hundred and eighty-nine between the North-eastern Railway Company (herein-after called "the Company") of the one part and the Mayor Aldermen and Citizens of the city and county of Newcastle-upon-Tyne (herein-after called "the Corporation") of the other part supplemental to an agreement bearing date the second day of May one thousand eight hundred and eighty-three made between the same parties scheduled to the North-eastern Railway (General) Act 1883 and herein-after referred to as "the principal agreement."

Whereas by a Bill now being promoted in Parliament by the Company whereof the short title when the same is passed into law will be the North-eastern Railway Act 1889 powers are sought to authorise the Company to purchase take and use certain lands and buildings in the parish of St. Nicholas

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and parish or parochial chapelry of St. John or one of them situate on the south side of the Company's railway near their central station in Newcastle-upon-Tyne aforesaid delineated on the plans and described in the books of reference deposited with the clerk of the peace for the county of Northumberland in connexion with the said Bill and to hold and retain any of such lands which they have already purchased:

And whereas the said lands include within their limits the site of Forth Street and Regent Street and parts of Sussex Street and South Street and also the sites of certain other streets and parts of streets which the Company propose to stop up and appropriate to the purposes of their undertaking and which said streets and parts of streets are shown on the plan signed in duplicate by Christopher Newman Wilkinson on behalf of the Company and by Hill Motum on behalf of the Corporation one copy whereof is deposited with the Company and the other copy whereof is deposited with the Corporation and are thereon coloured yellow:

And whereas the Corporation are willing to consent thereto upon the terms and conditions following:—

(1) In substitution for the streets and portions of streets proposed to be stopped up and in lieu (so far as it extends) of the proposed new street referred to in Article 5 of the principal agreement the Company shall make the new street 40 feet wide extending from Clavering Place to the Forth Banks as shown on the said plan and marked thereon "proposed street 40 feet wide" and coloured red The Company shall not stop up Forth Terrace or Forth Street until the said new street has been made and completed nor shall the Company stop up any of the other streets or parts of streets herein-before mentioned until they have acquired all the property thereon:

(2) The provisions of Article 2 of the principal agreement are hereby cancelled and in lieu of the works therein agreed to be made the Company shall make and maintain an archway as shown on the said plan having a width of not less than 25 feet and a clear headway of 13 feet throughout its entire length and efficiently lighted by day and by night and kept drop-dry so as to form a communication in a straight line between the north end of the postern and the said new street at its junction with Orchard Street:

(3) The said new street and the street within the said archway shall be made and completed by the Company to the satisfaction of the Corporation and on the completion thereof the same shall be adopted by the Corporation as public streets and all liability of the Company for the repair and maintenance of the same shall cease:

(4) In consideration of the premises and as part of the general arrangements the Corporation agree to convey to the Company all the estate and interest of the Corporation in so much of the sites of Forth Street and other streets as are proposed to be stopped up And the Corporation also agree that the additional portion of their land containing an area of 88 square yards or thereabouts including a portion of the site of the old town wall as shown on the said plan and thereon marked "property of the Corporation" which will be required for the purpose of forming thereon the said new street shall be given up by the Corporation for the purpose aforesaid without the

Company being required to purchase the same and the Company agree to convey to the Corporation so much of the site of the said new street as shall not belong to the Corporation or form part of any street now existing:

(5.) This agreement is made subject to such alterations as Parliament may think fit to make therein.

In witness whereof the Company and the Corporation have hereunto respectively affixed their common seals the day and year first above written.

The common seal of the North-eastern Railway Company was affixed hereunto in the presence of

J. SHILLITO,
14,753 C.N.W.
Secretary's Office,
North-eastern Ry.
York.

Seal of the North-eastern Railway Company.

The common seal of the mayor aldermen and citizens of the city and county of Newcastle-upon-Tyne was hereunto affixed in the presence of

THOMAS RICHARDSON,
Mayor.

HILL MOTUM,
Town Clerk.

Seal of the Corporation of Newcastle-upon-Tyne.

THIRD SCHEDULE.

Form of Deed of Transfer.

In pursuance of and subject to the provisions of the North-eastern Railway Act 1889 the Whitby Redcar and Middlesborough Union Railway Company hereby transfer and convey unto the North-eastern Railway Company the undertaking of the Whitby Redcar and Middlesborough Union Railway Company to hold the same unto the North-eastern Railway Company.

In witness whereof the said companies have hereunto affixed their respective common seals this day of one thousand eight hundred and eighty-nine.

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for
T. Digby Pigott, Esq., the Queen's Printer of Acts of Parliament.

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