CHAP. lxxxv.

An Act to authorise the making of a Railway from Scarborough to Whitby in the north riding of the county of York; and for other purposes. [29th June 1871.] A.D. 1871.

WHEREAS the making and maintaining of railways from the town of Scarborough to the town of Whitby, and other works in connexion therewith, all in the north riding of the county of York, would be of local and public advantage:

And whereas the several persons in this Act mentioned, with others, are willing at their own expense to carry the undertaking into execution on being incorporated into a Company for the purpose:

And whereas plans and sections of the railways by this Act authorised showing the lines and levels thereof, and the lands which may be taken under the powers of this Act, and a book of reference to the plans containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of those lands, have been deposited with the clerk of the peace for the north riding of the county of York, and these plans and sections and book of reference are in this Act referred to as the deposited plans, sections, and book of reference:

And whereas the objects of this Act cannot be attained 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 for all purposes be cited as "The Scarborough and Whitby Railway Act, 1871."

Provisions of general Acts herein named incorporated.

2. "The Company's Clauses Consolidation Act, 1845," Part I. (relating to cancellation and surrender of shares) of "The Company's

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Clauses Act, 1863," " The Lands Clauses Consolidation Act, 1845, 1860, and 1869," " The Railways Clauses Consolidation Act, 1845," and Part I. (relating to construction of a railway) of " The Railways Clauses Act, 1863," (save so far as any of the sections and provisions of those Acts and parts respectively are expressly excepted or varied by this Act,) and " The Harbour, Docks, and Piers Clauses Act, 1847," clause 28, are incorporated with and form part of this Act; and in construing the two last-mentioned enactments the words " works " and " railways " shall be taken to mean the wharfs, shipping, and landing places in connexion with railway No. 2 hereinafter described, as well as the railway authorised by this Act.

Interpretation of terms.

3. The several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression " the Company " shall mean the Company incorporated by this Act; the expression " the railway " or " the undertaking " shall mean the railways and other works or undertaking by this Act authorised, or any part thereof; and the expression " superior courts " or " court of competent jurisdiction," or any other like expression in this Act or any Acts wholly or partially 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 simple contract debt, and not a debt or demand created by statute.

Incorporation of Company.

4. William Foster Rooke, William Henry Hammond, and Robert Forster, and all other persons who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, are by this Act united into a company for the purpose of making and maintaining the railways, and for all other the purposes of this Act, and for those purposes shall be incorporated by the name of " the Scarborough and Whitby Railway Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

Power to make railways according to deposited plans.

5. Subject to the provisions of this Act, the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the railways herein-after described, with all proper stations, approaches, works, and conveniences connected therewith, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for that purpose. The

railways herein-before referred to and authorised by this Act are,— A.D. 1871.

No. 1. A railway, nineteen miles six furlongs and nine chains, commencing in the township of Scarborough in the parish of Scarborough in the north riding of the county of York, in a piece of ground called Gallows Close, belonging or reputed to belong to George Fenwick Brown, and in his occupation, situate five chains or thereabouts from the south-west front of the west parade, taken in a north-westerly direction, and thence passing from, in, through, or into the several parishes, townships, extra-parochial and other places following, or some of them, that is to say, Scarborough, Falsgrave, Newby, Thoxenby, Scalby, Burniston, Cloughton, Cloughton Newlands, Staintondale, Fylingdales, Hawsker-cum-Stainsacre, and Whitby, all in the north riding of the county of York, and terminating in the said township of Hawsker-cum-Stainsacre and parish of Whitby in a parcel of land called or known as Larpool Hall Park, and belonging or reputed to belong to Captain Edmund Henry Turton, and in his occupation, and at a point distant two chains or thereabouts in a north-westerly direction from the north-west end of Crowdy Hall, and abutting on Larpool Lane :

No. 2. A railway, one furlong four and a half chains, commencing from and out of the said intended railway (No. 1), and its termination in Larpool Hall Park, and terminating in a certain parcel of land abutting upon the river Esk, at or near Gideon's timber pond, and belonging or reputed to belong to the said Edmund Henry Turton, and in his occupation, all in the said township of Hawsker-cum-Stainsacre and parish of Whitby, with all proper and necessary stations, wharfs, shipping and landing places, approaches, and other works connected therewith.

Authorising sale of lands belonging to the duchy of Lancaster, and providing for the application of purchase money.

6. And whereas part of the lands which may be required for the purposes of this Act belong to the Queen's most Excellent Majesty in right of her duchy of Lancaster : Be it enacted, that it shall be lawful for the chancellor and council of Her Majesty's duchy of Lancaster for the time being to agree with the said Company for the absolute sale in fee simple of the lands or any part thereof of or belonging to Her said Majesty in right of her said duchy which shall be required for the purposes of this Act, at or for such price or compensation in money, and upon such terms and conditions, as shall be settled and agreed upon between the said chancellor and council and the said Company ; and upon payment of such price or compensation, by any deed or writing under the seal of the duchy in the name of Her said Majesty, her heirs and successors, to convey

A.D. 1871. the same lands and the fee simple and inheritance thereof to the said Company, their successors and assigns, for the purposes of this Act; and the purchase money or consideration for the same lands shall be paid into the hands of the receiver general of the revenues of the said duchy, and receipts and acquittances shall be given by him for the same, and the same either shall and may be invested in the purchase of bank annuities, according to the powers and provisions contained or referred to in an Act passed in the forty-eighth year of the reign of His late Majesty King George the
48 G. 3. c. 73. Third, intituled "An Act to improve the land revenue of the Crown "in England, and also of His Majesty's duchy of Lancaster," with respect to the purchase money to be paid for property belonging to the Crown within the survey and receipt of the said duchy under the therein recited Acts, or the same or any part thereof may either without any previous investment, or after such, and either alone or together with any other moneys which shall for the time being have arisen or shall hereafter arise from the sale of lands and hereditaments, part of the possessions of the said duchy, be laid out according to the provisions of an Act passed in the fifty-seventh
57 G. 3. c. 97. year of His said Majesty King George the Third, intituled "An Act "for ratifying articles of agreement entered into by the Right "Honourable Henry Hale, Viscount Gage, and the Commissioners "of His Majesty's Woods and Forests and Land Revenues, and for "the better management and improvement of the land revenues "of the Crown," or the said moneys, and also any such other moneys, whether previously invested or not, or any part thereof respectively, may be laid out in the purchase of lands which in the judgment of the said chancellor and council shall be deemed convenient to be held with any possession of the said duchy, as the chancellor and council for the time being of the said duchy shall direct by any order or orders in that behalf; and the said chancellor and council shall for the purposes of this Act have and be entitled to all such powers and provisions in reference to the moneys (if any) so invested in bank annuities, and so to be laid out and invested as aforesaid, as under or by virtue of the said recited Act of the fifty-seventh year of King George the Third they are entitled to concerning any sums or funds of or belonging to the duchy of Lancaster in the same Act particularly mentioned or referred to, and the lands and hereditaments (if any) so purchased on behalf of the said duchy as aforesaid shall be conveyed and assured to the use of Her Majesty, her heirs and successors, in right of her said duchy of Lancaster, and shall vest in Her said Majesty, her heirs and successors in the same right, and as fully and effectually, as the lands to be conveyed to the said Company were vested in her

immediately before such conveyance, and be held with the like incidents and be subject to the same application to all intents and purposes, as the said lands so to be conveyed to the said Company were held by her immediately before such conveyance; and every such conveyance to the use of Her Majesty, her heirs and successors, may be in the form marked X in the schedule to this Act annexed, or as near thereto as may be.

Concerning the sale and working of mines belonging to the duchy of Lancaster.

7. And whereas the Queen's most Excellent Majesty in right of her duchy of Lancaster is entitled, either in possession or subject to leases granted by the said duchy, to the mines, minerals, and quarries lying and being in or under part of the lands required for the purposes of this Act, or in the neighbourhood thereof: Be it therefore enacted, that it shall be lawful for the chancellor and council of Her Majesty's duchy of Lancaster, either before or after the making of the railway or any part thereof, to agree with the said Company for the absolute sale of the said mines, minerals, and quarries, or any part or parts thereof, subject nevertheless, and without prejudice to the lease or leases (if any) for the time being subsisting thereof, at or for such price or consideration in money, and upon such terms and conditions, and with such reservations, exceptions, and restrictions in all respects as may be agreed upon between the said chancellor and council and the said Company, and it shall be lawful for the said chancellor and council also to enter into any arrangement or agreement with the said Company concerning the working by Her said Majesty, her successors and assigns, of the said mines, minerals, or quarries, or any of them, or any part or parts thereof, whether the same may be in, under, or upon the line of the railway or in the neighbourhood thereof, and the purchase or consideration money for the same mines, minerals, or quarries, or part or parts thereof, shall be paid into the hands of the receiver general of the revenues of the said duchy, and receipts and acquittances shall be given by him for the same, and the same shall be paid and applied by him in the manner and for the purposes in and by this Act directed and provided concerning any moneys which shall come to his hands by virtue of this Act: Provided always, that nothing in this Act contained shall extend to prevent or hinder Her said Majesty or her lessees from working, but on the contrary it shall be lawful for Her said Majesty and her lessees to work, as well before as after the making of the railway, any such mines, minerals, or quarries, or any part or parts thereof, whether the same shall be situate in, under, or upon the line of the said railway or in the neighbourhood thereof, nor to make Her said Majesty, her heirs or successors, in any way liable for any damage which may be done to

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or on the railway by the working of any such mines, minerals, or quarries, unless the said chancellor and council shall have expressly agreed in writing with the said Company that the said duchy shall become so liable, and then to the extent (if any) only and in the manner in such agreement specified and provided: Provided also, that it shall not be lawful for the Company by reason of any such conveyance to work, get, or use any such mines, minerals, or quarries (except so far as may be necessary in making the railway), unless they shall in the conveyance or assurance thereof be expressly authorised by the said chancellor and council so to do, and then to the extent only which shall be so authorised.

For enrolment of all deeds of conveyance of land belonging to the duchy of Lancaster.

8. And every deed or writing whereby any lands, hereditaments, estate, right, or interest shall be conveyed or assured by the said chancellor and council of Her said Majesty's duchy of Lancaster, by virtue of the powers of this Act, shall be enrolled in the Court of the Duchy Chamber of Lancaster within six calendar months from the date thereof.

Not to take lands belonging to the duchy of Lancaster without consent.

9. Nothing contained in this Act, or in any of the Acts herein referred to or incorporated herewith, shall authorise the Company to take, use, or in any manner interfere with any lands or hereditaments, or of any rights of whatsoever description, belonging or reputed to belong to the Queen's most Excellent Majesty in right of her duchy of Lancaster, without the consent in writing of the chancellor for the time being of the duchy of Lancaster on Her said Majesty's behalf first had and obtained.

Capital.

10. The capital of the Company shall be one hundred and twenty thousand pounds, in twelve thousand shares of ten pounds each.

Shares not to issue until one fifth paid up.

11. The Company shall not issue any share, nor shall any 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 in respect thereof.

Calls.

12. Two pounds a share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and three fourths of the amount of the share shall be the utmost aggregate amount of the calls in any year upon any share.

Power to divide shares.

13. Subject to the provisions of this Act, the Company, with the authority of three fourths of the votes of the shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose, may from time to time divide any share in their capital into half shares, of which one shall be called "preferred half shares," and the others shall be called "deferred

half shares:" Provided always, that the Company shall not divide any share under the authority of this Act unless and until not less than sixty per centum upon such share has been paid up, and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share (being the whole amount payable thereon), and the residue to the credit of the preferred half share.

Dividend on half shares.

14. The dividend which would from time to time be payable on any divided share if the same had continued an entire share shall be applied in payment of dividends on the two half shares, in manner following, (that is to say,) first in payment of dividend after such rate, not exceeding six per centum per annum, as shall be determined at a general meeting of the Company specially convened for the purpose, on the amount for the time being paid up on the preferred half share, and the Company shall not pay any greater amount of dividend on the two half shares than would have been from time to time payable on the entire share if the same had not been divided.

Dividend on preferred shares to be paid out of the profits of the year only.

15. Each preferred half share shall be entitled out of the profits of each year to the dividend which may have been attached to it by the Company as aforesaid, in priority to the deferred half share bearing the same number, but if in any year ending the thirty-first day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half share for that year, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the Company.

Half shares to be registered and certificates issued.

16. Forthwith after the creation of any half shares the same shall be registered by the directors, and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued; and the directors shall issue certificates of the half shares accordingly, and shall cause an entry to be made in the register of the entire shares of the conversion thereof: Provided always, that the directors shall not be bound to issue a certificate of any half share until the certificate of the existing share be delivered to them to be cancelled, unless it be shown to their satisfaction that the certificate is destroyed or lost, and on any certificate being so delivered up the directors shall cancel it.

Terms of issue to be stated in certificates.

17. The terms and conditions on which any preferred half share or deferred half share created under this Act is issued shall be stated in the certificate of each such half share.

Forfeiture of preferred shares.

18. The provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the forfeiture of shares for nonpayment

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of calls shall apply to all preferred half shares to be created under the authority of this Act, and every such preferred half share shall for that purpose be considered a whole share, distinct from the corresponding deferred half share: Provided always, that until any forfeited preferred half share shall be sold by the directors of the Company, all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards payment of any expenses attending the declaration of forfeiture thereof, and of the arrears of calls for the time being due thereon, with interest.

Preferred shares not to be cancelled, &c.

19. No preferred half share created under the authority of this Act shall be cancelled, or be surrendered to the Company.

Half shares to be half shares in capital.

20. The several half shares under this Act shall be half shares in the capital of the Company, and every two preferred or deferred half shares held by the same person shall confer such right of voting at meetings of the Company, and (subject to the provisions herein-before contained) shall confer and have all such other rights, qualifications, privileges, liabilities, and incidents as attach and are incident to an entire share.

Power to borrow on mortgage.

21. The Company may from time to time borrow on mortgage any sum not exceeding in the whole forty thousand pounds, but no part thereof shall be borrowed until the whole of the capital of one hundred and twenty thousand pounds is subscribed for, issued, and accepted, and one half thereof is paid up, and the Company have proved to the justice who is to certify under the 40th section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that the whole of the capital has been subscribed for, issued, and accepted, and that one half thereof has been paid up, and 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 that such capital was issued bonâ fide and is held by the subscribers or their assigns, and that such subscribers or their 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.

Arrears may be enforced by appointment of a receiver.

22. The mortgagees of the Company may enforce the payment of the 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 principal, or principal and interest, the amount owing to the mortgagees by whom

the application for a receiver shall be made shall not be less than four thousand pounds in the whole.

Debenture stock.

23. The Company may create and issue debenture stock.

Receipts for persons under disability.

24. The receipt of the guardian of any shareholder being a minor, or of the committee of any shareholder being an idiot, lunatic, or person non compos mentis, shall be a sufficient discharge to the Company for any money payable to such shareholder.

Application of moneys.

25. All moneys raised under this Act, whether by shares or borrowing, shall be applied for the purposes of this Act only.

First ordinary meeting of the Company.

26. The first ordinary meeting of the Company shall be held within six months next after the passing of this Act.

Number of directors.

27. The number of directors shall be five, but it shall be lawful for the Company from time to time to reduce the number, provided that the reduced number be not less than four.

Qualification of directors.

28. The qualification of a director shall be the possession by him in his own right of not less than fifty shares.

Quorum of directors.

29. The quorum of a meeting of directors shall be four, and if the number of directors be reduced to four the quorum shall be three.

First directors.

30. William Foster Rooke, William Henry Hammond, and Robert Forster, and two other duly qualified persons to be nominated on that behalf by them, or a majority of them, shall be the first directors of the Company, and shall continue in office until the first ordinary meeting after the passing of this Act. At that meeting the shareholders present personally or by proxy may either continue in office the directors appointed by this Act, or any of them, or may elect a new body of directors, or directors to supply the places of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election; and at the first ordinary meeting to be held every year after the first ordinary meeting, the shareholders present personally or by proxy shall, subject to the powers herein-before contained for reducing the number of directors, elect persons to supply the places of the directors then retiring from office, agreeably to the provisions in "The Companies Clauses Consolidation Act, 1845," contained; and the several persons elected at any such meeting, being neither removed nor disqualified nor having resigned, shall continue to be directors until others are elected in their stead in the manner provided by the same Act.

Newspaper for advertisement.

31. The newspaper for advertisement shall be any newspaper published and circulated in the north riding of the county of York.

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Powers for compulsory purchases limited.

32. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Lands for extraordinary purposes.

33. The quantity of lands to be taken by the Company by agreement for the extraordinary purposes mentioned in "The Railways Clauses Consolidation Act, 1845," shall not exceed five acres.

Inclination of roads.

34. Subject to the provisions in "The Railways Clauses Consolidation Act, 1845," and Part I. (relating to the construction of a railway) of "The Railways Clauses Act, 1863," contained, the Company may, in altering for the purposes of this Act the roads next herein-after mentioned, make the same of any inclinations not steeper than the inclination herein-after mentioned in connexion therewith respectively; that is to say,

No. on deposited plans.	Parish.	Description of road.	Intended inclination.
82	Scalby - -	Public road -	1 in 12.
187	„ - -	„ „ -	1 in 12 on one side, and level on the other side.
26	Whitby - -	„ „ -	1 in 5.
113	„ - -	„ „ -	1 in 7.
186	„ - -	„ „ -	1 in 12.

Height and span of bridges.

...make the arches of the bridges for carrying the railway over the roads next herein-after mentioned of any heights and spans not less than the heights and spans herein-after mentioned in connexion with those roads respectively; that is to say,

No. on deposited plan.	Parish.	Description of road.	Height.		Span.	
			ft.	in.	ft.	in.
82	Scalby -	Public road -	15	0	20	0
117	„ -	„ „ -	15	0	20	0
26	„ -	„ „ -	15	0	20	0
113	„ -	„ „ -	15	0	20	0
144	„ -	„ „ -	15	0	20	0
166	„ -	„ „ -	15	0	20	0
186	„ -	„ „ -	15	0	20	0
294	„ -	„ „ -	15	0	20	0
326	„ -	„ „ -	15	0	20	0

Width of certain bridges.

36. The Company may make the width between the parapets of the bridges for carrying the roads next herein-after mentioned over the railway not less than the width herein-after mentioned in connexion with those roads respectively; that is to say,

No. on deposited plan.	Parish.	Description of road.	Width of roadway.
			ft. in.
11	Scarborough -	Public road -	15 0
16	Scalby - -	,, ,, -	15 0
42	,, - -	,, ,, -	15 0
76	,, - -	,, ,, -	20 0
187	,, - -	,, ,, -	15 0
261	,, - -	,, ,, -	15 0
278	,, - -	,, ,, -	15 0
259	,, - -	,, ,, -	20 0
286	,, - -	,, ,, -	15 0

Deposit money not to be repaid until line opened, or half the capital paid up and expended.

37. Whereas pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth and tenth years of Her present Majesty, chapter twenty, a sum of six thousand pounds, being five per centum upon the amount of the estimate in respect of the railway authorised by this Act, has been deposited with the Court of Chancery in England in respect of the application to Parliament for this Act: Be it enacted, that notwithstanding anything contained in the said recited Act, the said sum of six thousand pounds so deposited as aforesaid in respect of the application for this Act shall not be paid or transferred to or on the application of the person or persons, or the majority of the persons, named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them, unless the Company shall, previously to the expiration of the period limited by this Act for the completion of the railway hereby authorised to be made, either open the railway for public conveyance of passengers, or prove to the satisfaction of the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations that the Company have paid up one half of the amount of the capital by this Act authorised to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital; and if the said period shall expire before the Company shall either have opened the railway for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Lords of the said Committee, the sum of money deposited as aforesaid shall be applied in

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manner herein-after specified; and the certificate of the Lords of the said Committee that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the said recited Act to the contrary notwithstanding.

Application of deposit.

38. The said sum of money deposited as aforesaid shall be applicable, and after due notice in the "London Gazette" shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the railway or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, and for which injury or loss no compensation or inadequate compensation shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Chancery in England may seem fit; and if no such compensation shall be payable, or if a portion of the said money shall have been found sufficient to satisfy all just claims in respect to such compensation, then the said sum of money, or such portion thereof as may not be required as aforesaid, shall be paid to or on the application of the person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivor or survivors of them: Provided that until the said sum of money shall have been repaid to the depositors, or shall have become otherwise applicable as herein-before mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, be paid to or on the application of the person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivor or survivors of them.

Period for completion of railway.

39. The railway shall be completed within five years from the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for executing the railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

For protection of trustees of Whitby piers and harbour.

40. Notwithstanding anything in this Act contained, it shall not be lawful for the Company, without the previous consent in writing of the trustees acting under an Act passed in the seventh and eighth years of the reign of His late Majesty King George the Fourth,

entitled "An Act for the more effectual repairing, maintaining, and "improving the piers and harbour of the town and port of Whitby "in the county of York," to enter upon, take, use, or otherwise interfere with, either temporarily or permanently, any portion of the piers, harbour, or works of or belonging to the said trustees, or under their management or control, or within their jurisdiction. A.D. 1871.

Tolls.

41. The Company may demand and take in respect of the use of the railway any tolls not exceeding the following; (that is to say,)

For passengers.

In respect of passengers conveyed upon the railway, or any part thereof, as follows:

For every person conveyed on the railway, not exceeding twopence per mile; and if conveyed in or upon a carriage provided by the Company, an additional sum not exceeding one penny per mile.

For animals.

In respect of animals conveyed upon the railway, or any part thereof, as follows:

Class 1. For every horse fourpence, and for every mule, ass, or other beast of draught or burden threepence, per mile; and if conveyed in or upon any waggon provided by the Company, an additional sum of one penny per mile:

Class 2. For every ox, cow, bull, or neat cattle, twopence per mile; and if conveyed in or upon a waggon provided by the Company, an additional sum of one penny per mile:

Class 3. For every calf, sheep, pig, lamb, and other small animal, not exceeding one penny per mile; and if conveyed in or upon any waggon provided by the Company, an additional sum not exceeding one penny per mile.

Tonnage on articles of merchandise.

In respect of goods conveyed on the railway, or upon any part thereof, as follows:

Class 4. For all dung, compost, and all sorts of manure, and all undressed materials for the repair of public roads or highways, coals, culm, cinders, cannel, ironstone, iron ore, limestone, chalk, sand, slag, and clay (except fireclay), per ton per mile one penny; and if conveyed in a carriage belonging to the Company, an additional sum per ton per mile of one halfpenny:

Class 5. For all coke, charcoal, pig iron, bar iron, rod iron, sheet iron, hoop iron, plates of iron, wrought iron, heavy iron castings, railway chairs, slabs, billets, and rolled iron, lime, brick, tiles, slates, salt, fireclay, and stone, per ton per mile one penny; and if conveyed in a carriage belonging to the Company, an additional sum per ton per mile of one halfpenny:

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Class 6. For all sugar, grain, corn, flour, hides, dyewoods, earthenware, timber, staves, deals, and metals (except iron, nails, anvils, vices, and chains), and for light iron castings, per ton per mile twopence halfpenny; and if conveyed in a carriage belonging to the Company, an additional sum per ton per mile of one penny:

Class 7. For cotton and other wools, drugs, and manufactured goods, and all other wares, merchandise, fish, articles, matters, or things, per ton per mile threepence; and if conveyed in a carriage belonging to the Company, an additional sum per ton per mile of one penny:

Class 8. For every carriage of whatever description, not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton, conveyed on a truck or platform belonging to the Company, sixpence per mile, and a like sum of one penny halfpenny for every additional quarter of a ton, or fractional part of a quarter of a ton, which any such carriage may weigh.

Tolls for propelling power.

42. The Company may demand for the use of engines for propelling carriages on the railway any sum not exceeding one penny per mile for each passenger or animal, or for each ton of goods, or for each carriage, in addition to the several other tolls or sums by this Act authorised to be taken.

Maximum rate of charge for passengers.

43. The maximum rates of charge to be made by the Company for the conveyance of passengers upon the railway (including the tolls for the use of the railway), and for carriage and locomotive power, and every other expense incidental to such conveyance, shall not exceed the following; that is to say,

For every passenger conveyed in a first-class carriage the sum of threepence per mile:

For every passenger conveyed in a second-class carriage the sum of twopence per mile:

For every passenger conveyed in a third-class carriage the sum of one penny halfpenny per mile.

Restrictions as to charges not to apply to special trains.

44. The restriction as to the charges to be made for passengers shall not extend to any special train run upon the railway, in respect of which the Company may make such charges as they think fit, but shall apply only to the ordinary and express trains appointed from time to time by the Company for the conveyance of passengers and goods upon the railway.

Passengers luggage.

45. Every passenger travelling upon the railway may take with him his ordinary or personal luggage, not exceeding one hundred and twenty pounds in weight for first-class passengers, one hundred pounds in weight for second-class passengers, and sixty pounds in weight for third-class passengers, without any charge being made for the carriage thereof.

Maximum rates for animals and goods.

46. The maximum rate of charge to be made by the Company for the conveyance of animals and goods (except such small parcels and single articles of great weight as aforesaid) on the railway, including the tolls for the use of the railway, and for waggons or trucks and locomotive power, and for every other expense incidental to the conveyance (except a reasonable charge for loading and unloading goods at any terminal station in respect of such goods, and for delivery and collection, and any other service incidental to the business or duty of a carrier, where any such service is performed by the Company), shall not exceed the following sums; that is to say,

For everything mentioned under class one, not exceeding fourpence per mile:

For everything mentioned under class two, not exceeding threepence per mile:

For everything mentioncd under class three, not exceeding twopence per mile:

For everything mentioned under class four and class five, not exceeding one penny halfpenny per ton per mile:

For everything mentioned under class six, not exceeding threepence halfpenny per ton per mile:

For everything mentioned under class seven, not exceeding fourpence per ton per mile:

For any carriage mentioned under class eight, not weighing more than one ton, not exceeding sixpence per ton per mile, and if weighing more than one ton, for every quarter of a ton or fractional part of a quarter of a ton beyond the first ton not exceeding one penny halfpenny per mile.

Regulations as to tolls.

47. The following provisions and regulations shall apply to the fixing of all tolls and charges payable under this Act; that is to say,

For all passengers, animals, or goods conveyed on the railway for a less distance than four miles, the Company may demand tolls and charges as for four miles:

For a fraction of a mile beyond four miles, or beyond any greater number of miles, the Company may demand tolls on animals and goods for such fraction in proportion to the number of quarters of a mile contained therein, and if there be a fraction of a quarter of a mile such fraction shall be deemed a quarter

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of a mile; and in respect of passengers every fraction of a mile beyond an integral number of miles shall be deemed a mile:

For a fraction of a ton the Company may demand toll according to the number of quarters of a ton in such fraction, and if there be a fraction of a quarter of a ton such fraction shall be deemed a quarter of a ton:

With respect to all articles, except stone and timber, the weight shall be determined according to the usual avoirdupois weight:

With respect to stone and timber, fourteen cubic feet of stone, forty cubic feet of oak, elm, mahogany, teak, beech, or ash, and fifty cubic feet of any other timber, shall be deemed one ton weight, and so in proportion for any smaller quantity.

Tolls for small parcels and single articles of great weight.

48. With respect to small packages not exceeding five hundred pounds in weight, and single articles of great weight, notwithstanding anything in this Act, the Company may demand and take any tolls not exceeding the following; (that is to say,)

For the carriage of small parcels on the railway or any part thereof:

For any parcel not exceeding seven pounds in weight, threepence:

For any parcel exceeding seven but not exceeding fourteen pounds in weight, fivepence:

For any parcel exceeding fourteen but not exceeding twenty-eight pounds in weight, sevenpence:

For any parcel exceeding twenty-eight but not exceeding fifty-six pounds in weight, ninepence:

For any parcel exceeding fifty-six but not exceeding five hundred pounds in weight, any sum the Company may think fit.

Defining terminal station.

49. No station is to be considered a terminal station in regard to any goods conveyed on the railway unless such goods have been received thereat direct from the consignor, or are not directed to be delivered thereat to the consignee.

Company may take increased charges by agreement.

50. Nothing in this Act shall prevent the Company from taking any increased charges over and above the charges by this Act limited for the conveyance of animals or goods of any description, by agreement with the owners or persons in charge thereof, either by reason of any special service performed by the Company in relation thereto, or in respect to the conveyance of animals or goods other than small parcels by passenger trains.

Interest or dividend not

51. The Company shall not, out of any money by this Act authorised to be raised by calls or by borrowing, pay interest or

dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always, that this Act shall not 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."

to be paid on calls.

52. 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 execute any other work or undertaking.

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

53. Nothing in this Act contained shall extend or be construed to extend to alter, lessen, prejudice, defeat, or impeach any of the powers, rights, or privileges of the lord of the manor of Whitby and liberty of Whitby Strand, or his jurisdiction within the same manor and liberty, or his powers, rights, and privileges within and over the port of Whitby, except so far as the same are inconsistent with the purposes of this Act, or are by this Act expressly altered, lessened, prejudiced, defeated, or impeached.

Saving rights of the lord of the manor.

54. Nothing contained in this Act or in any of the Acts herein referred to shall authorise the said 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 right in respect thereof belonging to the Queen's most Excellent Majesty in right of her Crown, without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give), neither shall anything in the said Act or Acts contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exercisable by the Queen's Majesty, her heirs or successors.

Saving rights of the Crown in the foreshore.

55. Nothing contained in this Act or in any of the Acts herein referred to shall authorise the Company to take, use, or in any manner interfere with any land or hereditaments, or any rights of whatsoever description belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, without the consent in writing of the same Commissioners, or one of them, on behalf of Her Majesty first had and obtained for that purpose (which consent such Commissioners are

Saving rights of the Crown.

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hereby respectively authorised to give), neither shall anything in the said Act or Acts contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exercisable by the Queen's Majesty, her heirs or successors.

Saving rights of the Crown and the duchy of Lancaster.

56. Provided always, and be it enacted, that nothing in this Act contained shall extend to prejudice, diminish, alter, or take away any of the rights, privileges, powers, or authorities vested in or enjoyed by the Queen's most Excellent Majesty, her heirs and successors, as well in right of her Crown as in right of her duchy of Lancaster.

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

57. Nothing in this Act contained shall be deemed or construed to exempt the railway by this Act authorised to be made 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, fares, and charges, or of the rates for small parcels, authorised by this Act.

Expenses of Act.

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

SCHEDULE.

Form X.

Conveyance to Her Majesty in right of her duchy of Lancaster.

These are to witness, that in consideration of the sum of pounds paid to *A.B.* of by *C.D.*, the receiver general of the revenues of the duchy of Lancaster on behalf of Her Majesty, he the said *A.B.* doth by these presents grant, convey, and assure unto the said *C.D.*, his heirs and assigns, all that to have and to hold the same unto the said *C.D.*, his heirs and assigns, to the use of Her said Majesty, her heirs and successors, in right of her said duchy. In witness, &c.

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