CHAPTER ccxiii.

An Act for authorising the Construction of Railways in the East Riding of the County of York to be called the Beverley and East Riding Railway and for other purposes. [30th August 1889.] A.D. 1889.

WHEREAS the construction of the railways and works hereinafter described would be of public and local advantage:

And whereas the persons herein-after named with others are willing to carry the undertaking into execution and it is expedient that they be incorporated into a company (in this Act called "the Company") and the requisite powers conferred upon them:

And whereas it is expedient that the Company should be empowered to pay interest out of capital as herein-after provided:

And whereas plans and sections of the said railways showing the lines and levels thereof with a book of reference to the plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands through which the said railways will pass were duly deposited with the clerk of the peace for the east riding of the county of York and are herein-after referred to as the deposited plans sections and book of reference:

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:—

1. This Act may be cited for all purposes as the Beverley and East Riding Railway Act 1889. Short title.

2. The Companies Clauses Consolidation Act 1845 Part I. (relating to cancellation and surrender of shares) and Part III. Incorporation of general Acts.

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(relating to debenture stock) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 the Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883 (herein-after referred to as "the Lands Clauses Acts") the Railways Clauses Consolidation Act 1845 and Part I. (relating to construction of a railway) of the Railways Clauses Act 1863 are (except where expressly varied by this Act) incorporated with and form part of this Act.

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 Company" means the Company incorporated by this Act the expressions "the railway" or "the railways" and "the undertaking" mean respectively the railways and the undertaking by this Act authorised and for the purposes of this Act 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 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.

Company incorporated.

4. Sir Henry de Burgh Lawson Baronet Charles Hobson Simeon Kaye and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking and their executors administrators successors and assigns respectively shall be and are hereby united into a company for the purpose of making and maintaining the railways and for other the purposes of this Act and for those purposes shall be and are hereby incorporated by the name of "the Beverley and East Riding 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.

5. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the railways herein-after described with all proper stations sidings 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 book 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) 4 furlongs and 2·50 chains in length commencing in the parish of St. Martin (Beverley) in a field belonging to the charitable trustees of the borough of Beverley and occupied by Richard Hodgson at a point on the southern fence of the said field dividing it from Grove Hill Lane 30 yards or thereabouts westward of the south-eastern corner of the said field passing thence through the parishes of St. Martin (Beverley) and St. Nicholas (Beverley) and terminating in the north-eastern angle of a field in the said parish of St. Nicholas (Beverley) belonging to James Cape Heselton and occupied by John Todd immediately to the southward of a field belonging to Matthew Denton and occupied by Samuel Peacock :
2. A railway (No. 2) 3 furlongs and 2 chains in length wholly in the said parish of St. Nicholas (Beverley) commencing by a junction with the down line (from Scarborough to Hull) of the North-eastern Railway Company and terminating by a junction with the intended Railway No. 1 at the termination thereof before described :
3. A railway (No. 3) 12 miles and 4·50 chains in length commencing in the parish of St. Nicholas (Beverley) by a junction with the Railways Nos. 1 and 2 at the termination thereof before described and terminating at Inholms Bridge in the parish of Beeford at or near the junction of Inholms Lane with Bridlington Balk at a point on the southern side of that junction :

Provided that notwithstanding anything on the deposited plans the Company shall if the Board of Trade in writing so require them construct the bridge over the River Hull with a headway of thirteen feet.

Capital.

6. The capital of the Company shall be one hundred and eleven thousand pounds in eleven thousand one hundred shares of ten pounds each.

Shares not to be issued until one fifth paid.

7. The Company shall not issue any share created under the authority of this Act nor shall any such share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share is paid in respect thereof.

Calls.

8. One fifth of the amount of a share shall be the greatest amount of a call and three months at least shall be the interval

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between successive calls and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Power to divide shares.

9. 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-share" and the other shall be called "deferred half-share" but 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.

Dividends on half-shares.

10. 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 once for all 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 remainder if any in payment of dividend on the deferred half-share and the Company shall not pay any greater amount of dividend on the two half-shares than would have from time to time been 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.

11. 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.

12. 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. But the directors shall not be bound to issue a certificate of any

half-share until the certificate of the existing entire share be delivered to them to be cancelled unless it be shown to their satisfaction that such 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.

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

Forfeiture of preferred shares.

14. The provisions of the Companies Clauses Consolidation Act 1845 with respect to the forfeiture of shares for non-payment of calls shall apply to all preferred half-shares created under the authority of this Act and every such preferred half-share shall for that purpose be considered an entire share distinct from the corresponding deferred half-share and until any forfeited preferred half-share shall be sold by the directors 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 or surrendered.

15. 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.

16. The several half-shares under this Act shall be half-shares in the capital of the Company and every two half-shares (whether preferred or deferred or one of each) 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.

Receipt in case of persons not sui juris.

17. If any money is payable to a shareholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to borrow.

18. The Company may in respect of the capital which they are by this Act authorised to raise from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole thirty-seven thousand pounds but no part thereof shall be borrowed until the whole capital of one hundred and eleven thousand pounds is 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 the whole of such capital has 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

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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 persons or corporations to whom the same was issued or their executors administrators successors or assigns and that such persons or corporations their executors administrators successors or assigns are legally liable for the same and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which shall be sufficient evidence thereof.

For appointment of a receiver.

19. 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 four thousand pounds in the whole.

Debenture stock.

20. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 but notwithstanding anything therein contained the interest of all debenture stock and of all mortgages at any time created and issued or granted by the Company under this Act or any subsequent Act shall subject to the provisions of any subsequent Act rank pari passu (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Application of moneys.

21. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only to the purposes of this Act to which capital is properly applicable.

First ordinary meeting.

22. The first ordinary meeting of the Company shall be held within eight months after the passing of this Act.

Number of directors.

23. The number of directors shall be five but the Company may from time to time reduce and increase the number provided that the number be not less than three or more than five.

Qualification of directors.

24. The qualification of a director shall be the possession in his own right of not less than thirty shares.

25. The quorum of a meeting of directors shall be three. Quorum.

26. Sir Henry de Burgh Lawson Baronet Charles Hobson Simeon Kaye and two other persons to be nominated by them or the majority of them and consenting to such nomination shall be the first directors of the Company and shall continue in office until the first ordinary meeting held after the passing of this Act At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act or nominated as aforesaid or any of them or may elect a new body of directors or directors to supply the place of those not continued in office the directors appointed by this Act or nominated as aforesaid being if they continue qualified eligible for re-election And at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the powers herein-before contained for reducing or increasing 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 and the several persons elected at any such meeting being neither removed nor disqualified nor having died or resigned shall continue to be directors until others are elected in their stead in manner provided by the same Act. First directors. Election of directors.

27. The Company may take by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 any quantity of land not exceeding five acres but nothing in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them upon any land taken under the powers of this section. Lands for extraordinary purposes.

28. 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. Period for compulsory purchase of lands.

29. 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 carry the same with a single line only whilst the railway shall consist of a single line and afterwards with a double line only across and on the level of the roads next hereinafter mentioned (that is to say):— Power to cross certain roads on the level.

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No. on Deposited Plan.	Parish.	Description of Road.
	RAILWAY No. 1.	
6	St. Martin (Beverley) - - -	Public.
1	St. Nicholas (Beverley) - - -	
	RAILWAY No. 3.	
43	St. Nicholas (Beverley) - - -	Public.
16	Long Riston - - - -	Public.
10	Brandesburton - - - -	Public.
1	North Frodingham - - -	Public.

Provisions respecting level crossings.

30. In altering any of the before-mentioned roads or the public footpath known as Goths Lane in the borough of Beverley for the purpose of crossing the same on the level the Company shall make the inclinations of the altered portions not steeper than 1 in 40 Provided that Railway No. 1 shall not be carried across Cherry Tree Lane on the level or otherwise unless the corporation of Beverley shall consent in writing to such crossing and then only in such manner as the corporation shall approve.

The Company shall erect and maintain a footbridge over the railway at such of the before-mentioned level crossings as shall be situated at or close to a station for the use of the public using the road and of passengers to or from the railway.

Every level crossing shall be made as nearly at right angles to the railway as in each case may be reasonably practicable.

Height and span of bridge.

31. The Company may make the arch of the bridge for carrying the railway over the road next herein-after mentioned of any height and span not less than the height and span herein-after mentioned in connexion therewith (that is to say) :—

No. on Deposited Plan.	Parish.	Description of Road.	Height.	Span.
	RAILWAY No. 3.			
2	St. John (Beverley) -	Public - -	12 feet	16 feet.

Width of certain roadways.

32. The Company may make the roadway over the bridges by which the following roads will be carried over the railway of such

width between the fences thereof as the Company think fit not being less than the respective widths herein-after mentioned in connexion therewith respectively (that is to say):—

No on Plan.	Parish.	Description of Roadway.	Width of Roadway.
	RAILWAY No. 3.		
19	Routh - - -	Public - -	20 feet.
18	Catwick - - -	Public - -	20 feet.
29	Brandesburton - -	Public - -	20 feet.

For protection of the North-eastern Railway Company.

33. The following provisions shall apply and have effect for the protection of the North-eastern Railway Company (herein-after called "the North-eastern Company"):—

(1.) The junction between the Railway No. 2 by this Act authorised and the North-eastern Railway shall be made at such point and shall be effected in such manner as shall be required and approved by the engineer of the North-eastern Company and such connecting lines of approach sidings and other works shall from time to time be made and maintained by the Company as shall in the opinion of the engineer of the North-eastern Company be required for the proper accommodation of all the traffic passing over or interchanged at such junction and the provisions of Part I. of the Railways Clauses Act 1863 as to junctions shall apply to such connecting lines sidings and works.

(2.) The Company shall not purchase or take compulsorily any land or property of the North-eastern Company but they may purchase and take and the North-eastern Company shall sell and grant to the Company an easement or right of constructing and maintaining the said junction in accordance with the provisions of this Act nor (save only so far as may be absolutely necessary for the purpose of constructing and maintaining the said junction and the works connected therewith in accordance with the provisions of this Act) shall the Company or any person in the execution of this Act in any manner either temporarily or permanently enter upon use or interfere with any railway or property of the North-eastern Company except with their consent in writing first obtained.

(3.) The Company shall indemnify the North-eastern Company against all damages losses and expenses which may be incurred by that company by reason of or in connexion with any injury

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to their railway or property or any obstruction of or interference with or injury to the traffic on such railway caused by the acts omissions or defaults of any person whatsoever or by inevitable accident during the construction of or any repairs connected with the said junction or in any way consequent upon or connected with the making maintaining or using the said junction.

Provision as to bridge over River Hull.

34. The bridge at or near Grovehill by this Act authorised for carrying the railway across the River Hull and the works connected therewith shall subject to the provisions of this Act be so constructed and maintained by the Company as to have an opening span of a clear width of not less than 50 feet in the centre of the navigable channel of the river and as in no way to interfere with the towing-paths and subject as aforesaid the said bridge and works shall be constructed in such manner as the Board of Trade shall previously approve of or deem necessary such approval to be signified in writing under the hand of the secretary or of an assistant secretary of the Board of Trade And during the building or repairing and for ever after the construction of the said bridge the Company shall not obstruct the navigation of the said river at and about the site of the said bridge or prevent vessels navigating thereon having sufficient and convenient room to navigate and pass through the said bridge without interruption and the Company shall at all times by night as well as by day make due provision for the opening of the said bridge when required for admitting the passage of barges boats and other vessels through the same and no such barge boat or other vessel shall be unreasonably or unduly detained by any delay in opening the said bridge.

As to mode of construction of bridge.

35. The Company in building the bridge to carry Railway No. 3 across the River Hull shall not construct any stone or other solid pier abutment or embankment between the banks of the said river or execute any work so as to narrow or diminish the channel or waterway of the said river or obstruct or impede the flow of water therein save and except that they may place not more than four iron pillars within the new west bank of the river as widened in the manner herein-after provided in line with the waterway each pillar having an outside diameter of not exceeding three feet And may also place on the east side of the river a central column for an opening bridge which shall not project into the river beyond the line of the top of the east bank as it now exists And may further place such pillars not exceeding one foot in diameter as may be necessary for supporting the rollers and roller-track of such opening

bridge on the said east side so that the same do not project into the river beyond eight feet measured from the inner edge of the top of the said east bank as it now exists The said bridge shall be of sufficient clear height above the top of the banks of the widened river as not to interfere with the maintenance and repair thereof and the foundations of all works to be made by the Company in connexion with the said bridge shall be placed at such depths as will admit of dredging the bed of the said river by the Beverley and Barmston Drainage Commissioners and the Holderness Drainage Trustees in this Act respectively referred to to the extent of their respective powers and the said works shall be so constructed and maintained as not to weaken or endanger the stability of the banks or in any way injure the slopes or banks of the widened river.

To compensate for any diminution of the sectional area of the waterway by reason of the aforesaid works the Company shall before commencing to construct the said bridge or placing any pillar or other work connected therewith within the said banks or either of them increase the width of the said river not less than 10 feet on the west side thereof and remove the present west bank for a distance of not less than 100 feet north and 100 feet south of the bridge making the slopes of the new river bank the same as those of the existing bank.

The Company shall construct and complete and thereafter maintain the new river bank and all works connected therewith to the reasonable satisfaction of the said commissioners and shall also in building the said bridge interfere as little as may be with the east bank of the river and shall make good all injury or damage thereto and maintain the said east bank under and for a distance of not less than 10 feet north and 10 feet south of the said bridge to the reasonable satisfaction of the said trustees and shall also at all times thereafter keep open the river as so widened as aforesaid at and under the said bridge and for a distance of 100 feet on each side thereof.

The design of the said bridge shall be submitted to the said commissioners and the said trustees respectively or their respective engineers for approval six weeks at least before the works are commenced and in case of any difference arising between the Company and the said commissioners and trustees or either of them as to the design of the said bridge or the due completion thereof or the carrying out of the widening of the river as herein-before provided or as to any other matter in this section the same shall be determined by an engineer to be appointed by the Board of Trade

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on the application of the said parties or any of them and the decision of such engineer shall be final.

If at any time during the construction of the railway or any works connected therewith or after the completion thereof any injury or damage shall be occasioned or arise to either bank of the widened river by or in consequence of the railway or the works connected therewith or in consequence of the improper or defective construction of the railway or works or any improper materials used in the construction thereof or from the failure of the Company to properly maintain the said banks or either of them the Company shall make good such injury or damage immediately after the discovery thereof and shall execute such works for the prevention of any such future injury or damage to such banks as shall be reasonably required by the said commissioners or the said trustees (as the case may be) and in default by the Company after notice from the said commissioners or trustees the said commissioners or the said trustees (as the case may be) may themselves execute the necessary works and recover the cost thereof with full costs of action from the Company in any court of competent jurisdiction.

In altering the road numbered 2 on the deposited plans in the parish of St. John Beverley for the purpose of carrying the same under the railway the Company shall not take use cut away or remove any part of the east bank of the River Hull westward of the centre line of the present road.

For the protection of the main drain and works of the Beverley and Barmston Drainage Commissioners.

36. For the protection of the commissioners for putting in execution the Beverley and Barmston Drainage Acts 1798 and 1880 (in this section called "the commissioners") the following provisions shall have effect:—

(*a*) The Company shall not purchase or take otherwise than by agreement any land or property of the commissioners now forming the site of their main drain or works connected therewith but the Company may acquire and the commissioners shall grant to them an easement for making and maintaining the railway over or through such lands.

(*b*) In carrying the railway across the main drain of the commissioners the Company shall construct a bridge with a single arch over the said drain having a span of not less than thirty-five feet and a clear headway of not less than sixteen feet above ordnance datum.

(*c*) Before commencing the construction of such bridge over the said main drain designs showing the details and mode of construction thereof shall be furnished by the Company to

the clerk of the commissioners and the approval of the commissioners to the designs shall be obtained by the Company before commencing any works affecting the said main drain and all such works shall be executed to the reasonable satisfaction of an engineer to be appointed by the commissioners whose reasonable fees and expenses both for examination of plans and sections superintendence of works or otherwise in respect of any matters referred to in this section shall be defrayed by the Company.

(*d*) The works shall be so executed by the Company as not to endanger the stability of or in any way injure the slopes or banks of the said main drain or impede the flow of water therein.

(*e*) The Company shall not construct any of their works within a distance of 20 yards measured from the centre line of the said main drain without first obtaining for that purpose the written consent of the commissioners.

(*f*) If at any time during the construction of the railway or any works connected therewith or after the same shall have been completed any injury or damage shall be occasioned or arise to any of the drains banks or slopes belonging to the commissioners in consequence of the improper or defective construction of the railway or works or any improper materials used in the construction thereof the Company shall make good and repair such injury or damage immediately after the discovery thereof and also make full compensation to the commissioners for such injury or damage and shall execute such works for the prevention of any such future injury or damage as shall be reasonably required by the commissioners.

(*g*) In case any question or difference shall at any time arise between the Company and the commissioners as to the construction or effect of this section or any part thereof or the performance or observance non-performance or non-observance of any of the provisions thereof or any matters connected therewith or consequent thereon or as to whether any agreement or consent of the commissioners under this section is unreasonably withheld every such question or difference shall be settled by arbitration in the manner provided by the Railways Clauses Consolidation Act 1845 with respect to the settlement of disputes by arbitration.

(*h*) Except as by this Act expressly provided nothing in this Act contained shall be construed to take away lessen prejudice alter or affect any of the rights privileges property powers or authorities of the commissioners.

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For the protection of the drains and watercourses of the Holderness Drainage Trustees.

37. For the protection of the trustees acting in execution of an Act passed in the second year of the reign of His late Majesty King William the Fourth intituled "An Act to alter and enlarge "the powers of two Acts passed in the fourth and sixth years of "the reign of His Majesty King George the Third for draining "and improving certain low grounds and carrs in Holderness in "the east riding of the county of York" and of the two said several Acts (in this section called "the trustees") the following provisions shall have effect:—

(1.) The Company shall not purchase or take otherwise than by agreement any lands or property of the trustees now forming the site of their watercourses or drains or works connected therewith but the Company may acquire and the trustees shall grant them easements for making and maintaining the railway over or through such lands.

(2.) Where Railway No. 3 crosses over any watercourse or drain of the trustees it shall be carried on girders and no pile pier or other work shall be made or placed within the banks or slopes of such watercourse or drain and all works necessary for the support of such girders shall be erected parallel to the said watercourse or drain and the bridge or bridges for carrying the railway across such watercourse or drain shall be of such dimensions as regards height and span as may in the opinion of the trustees or their engineer be necessary to avoid injury to the watercourse or drain and interference with the flow of the water therein and the design of the bridge shall in each case be submitted to the trustees or their engineer for approval six weeks at least before the work is commenced.

(3.) The works shall be so executed and maintained by the Company as not to injure or endanger the stability of the watercourses and drains or the slopes or banks thereof or impede the flow of water therein and the Company shall at all times maintain and keep the banks and slopes of such watercourses and drains under the bridges in proper condition and repair to the satisfaction of the trustees or their engineer and in default thereof the trustees may from time to time repair the same and recover the expense thereof from the Company with full costs of action in any court of competent jurisdiction.

(4.) Except as by this Act expressly provided nothing in this Act contained shall be construed to take away lessen prejudice alter or affect any of the rights privileges property powers or authorities of the trustees.

For protection of Commissioners of Sewers.

38. For the protection of the Commissioners of Sewers for the east parts of the east riding of the county of York (in this section

called "the commissioners") the following provisions shall have effect:—

missioners of Sewers.

(*a*) In case the Company shall divert alter or interfere with any watercourse or outfall for water or defence against water within or subject to the jurisdiction of the commissioners the Company shall make efficient provision for the full and uninterrupted passage and discharge at all times of the waters of and from such watercourse or outfall for water and for defence against water of the low lands within the level of the said east parts and every alteration or diversion of or interference with any such watercourse or outfall for water or defence against water by the Company shall be made and completed by them to the reasonable satisfaction of the commissioners or their surveyor for the time being.

(*b*) During the construction of any bridges or culverts over the said watercourses or during any repairs thereof the Company shall not do or permit any act which may interfere with the ordinary free passage of the waters down the said watercourses to their respective outfalls or which shall occasion any injury to the existing drainage works and in case of any such interruption or damage the Company shall indemnify the commissioners for the same respectively.

(*c*) The foregoing provision for the indemnification of the commissioners shall not prejudice their right to restrain the Company from executing any works by this section prohibited.

(*d*) The Company shall in respect of any lands and hereditaments held by them on the level of the commissioners be subject to the taxation of the commissioners for the maintenance repair and cleansing of drains ditches sewers watercourses and outfalls for water and the bridges culverts tunnels and other works connected therewith within the level of the commissioners and upon the lands and works of the Company in the same manner as if the Company had been originally subject thereto by reason of tenure.

(*e*) Nothing in this Act contained shall extend or be construed to prejudice or affect the powers or authorities of the Commissioners but all such powers and authorities shall be in full force as to the making new watercourses and outfalls for water and defences against water.

Power to take easements &c. by agreement.

39. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement of water)

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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.

Restriction on taking houses of labouring class.

40. (1.)—The Company shall not under the powers of this Act without the consent of the Local Government Board purchase or acquire in any 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.

(2.) 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 of such persons who may be residing with them.

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

41. And whereas in the construction of the railways and works hereby authorised or otherwise in exercise of the powers of this Act it may happen that portions only of the lands houses or other buildings or manufactories shown on the deposited plans may be sufficient for the purposes of the same and that such portions may be severed from the remainder of the said properties without material detriment thereto Therefore notwithstanding section 92 of the Lands Clauses Consolidation Act 1845 the owners of and other persons interested in the houses or other buildings or manufactories described in the schedule to this Act and whereof parts only are required for the purposes of this Act 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 such properties without material detriment thereto be required to sell and convey to the Company the portions only of the premises 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 parties interested therein by severance or otherwise.

Deposit money not to be repaid

42. Whereas pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her

present Majesty chapter twenty a sum of four thousand three hundred and fifty-six pounds two and three-quarters per centum consolidated stock being equal in value to five per centum upon the amount of the estimate in respect of the railway has been deposited with the Paymaster-General for and on behalf of the Supreme Court of Judicature in England in respect of the application to Parliament for this Act which sum is referred to in this Act as the deposit fund Be it enacted that notwithstanding anything contained in the said Act the deposit fund 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 (which persons survivors or survivor are or is in this Act referred to as the depositors) unless the Company shall previously to the expiration of the period limited by this Act for completion of the railway open the same for the public conveyance of passengers Provided that if within such period as aforesaid the Company open any portion of the railway for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of the railway opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the railway so opened bears to the entire length of the railway hereby authorised the High Court of Justice in England shall on the application of the depositors or the majority of them order the portion of the deposit fund specified in the certificate to be transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of this Act having passed anything in the above-mentioned Act to the contrary notwithstanding.

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except so far as railway is opened.

43. If the Company do not previously to the expiration of the period limited by this Act for the completion of the railway complete and open the same for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been transferred to the depositors 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 or any portion thereof or who 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 has been paid and

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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 And if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and accordingly be transferred 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 transferred to such receiver or to the liquidator or liquidators of the Company or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof Provided that until the deposit fund has been transferred to the depositors or has 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 depositors.

Period for completion of works.

44. 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.

Tolls:

45. The Company from time to time may lawfully demand and take in respect of the use of the railways any tolls not exceeding the following (that is to say):—

For passengers:

In respect of passengers and animals conveyed on the railways:

For any person twopence per mile and if conveyed in or upon a carriage belonging to the Company an additional sum of one penny per mile:

For animals:

Class 1. For any horse mule or other beast of draught or burden threepence per mile and if conveyed in or upon a carriage belonging to the Company an additional sum per mile not exceeding one penny:

Class 2. For any ox cow bull or head of neat cattle twopence per mile and if conveyed in or upon a carriage belonging to the Company an additional sum per mile not exceeding one penny:

Class 3. For any calf pig sheep lamb or other small animal one penny per mile and if conveyed in or upon a carriage belonging to the Company an additional sum per mile not exceeding one halfpenny:

For goods.

In respect of goods and minerals conveyed upon the railways:

Class 4. For all coals culm cinders cannel ironstone iron ore limestone chalk sand slag and clay (except fireclay) dung compost and all sorts of manure and all undressed materials for the repair of public roads or highways per ton per mile one penny and if conveyed in carriages 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 hoop iron plates of iron wrought iron heavy iron castings railway chairs slabs billets and rolled iron lime bricks tiles slates salt fireclay and stone copper ore lead ore tin ore antimony and manganese and all other ores minerals and semi-metals per ton per mile one penny halfpenny and if conveyed in carriages belonging to the Company an additional sum per ton per mile of one halfpenny:

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 carriages 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 carriages belonging to the Company an additional sum per ton per mile of one penny:

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 sixpence per mile and a sum of one penny halfpenny per mile 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.

46. The toll which the Company may demand for the use of engines for propelling carriages on the railway shall not exceed one penny per mile for each passenger or animal or for each ton of goods in addition to the several other tolls or sums by this Act authorised to be taken.

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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):—

Short distances.

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

Fractional parts of a mile.

For a fraction of a mile beyond three miles or beyond any greater number of miles the Company may demand tolls and charges 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 of a mile and in respect of passengers every fraction of a mile beyond an integral number of miles shall be deemed a mile:

Fractional parts of a ton.

For a fraction of a ton the Company may demand tolls 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:

General weight.

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

Weight of stone and timber.

With respect to stone and timber fourteen cubic feet of stone forty cubic feet of oak 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 articles of great weight or length.

48. With respect to small parcels 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—

For any parcel not exceeding seven pounds in weight threepence:

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

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

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

And for any parcel exceeding fifty-six pounds but not exceeding five hundred pounds in weight the Company may demand any sum which they may think fit:

Provided always that articles sent in large aggregate quantities although made up in separate parcels such as bags of sugar coffee

meal and the like shall not be deemed small parcels but that term shall apply only to single articles in separate packages:

For the carriage of single articles of great weight on the railway—

For the carriage of any one boiler cylinder or single piece of machinery or single piece of timber or stone or other single article the weight of which including the carriage shall exceed four tons but shall not exceed eight tons the Company may demand such sum as they think fit not exceeding sixpence per ton per mile:

For the carriage of any one boiler cylinder or single piece of machinery or single piece of timber or stone or other single article the weight of which with the carriage shall exceed eight tons the Company may demand such sum as they think fit:

For the carriage of any single consignment of timber stone machinery or other single article which on account of the length thereof may require more than one carriage the Company may demand such sum as they think fit.

Maximum rates for passengers.

49. The maximum rate 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 carriages 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 per mile.

Maximum rates for animals and goods.

50. 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 every animal in Class 1 fourpence per mile:

For every animal in Class 2 threepence per mile:

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For every calf sheep or pig in Class 3 one penny per mile and for every lamb or other small animal three farthings per mile:
For everything in Class 4 one penny halfpenny per ton per mile:
For everything in Class 5 twopence per ton per mile:
For everything in Class 6 threepence per ton per mile:
For everything in Class 7 fourpence per ton per mile:
And 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 per mile sixpence and if weighing more than one ton one penny halfpenny for every additional quarter of a ton or fractional part of a quarter of a ton which such carriage may weigh:

Provided always that when a separate waggon or truck shall be retained or engaged by any one person for the conveyance of cattle or sheep belonging to him or under his charge the aggregate of the tolls to be paid for such waggon or truck capable of containing six cattle or twenty-five sheep and not containing more than that number shall not exceed ninepence per mile.

Passengers luggage.

51. Every passenger travelling upon the railway may take with him his ordinary 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.

Terminal station.

52. No station shall 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 directed to be delivered thereat to the consignee.

Foregoing charges not to apply to special trains.

53. The restrictions 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.

Company may take increased charges by agreement.

54. 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 of the conveyance of animals or goods (other than small parcels) by passenger trains.

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For protection of proprietor of Leven Canal.

55. If after the opening of the railway for public traffic and so long as the Leven Canal shall be duly maintained and kept open for navigation it shall happen that in any year the quantity of coal lime timber artificial and other manures grain seeds and agricultural produce carried over the Leven Canal calculated on the average of the three years preceding such opening (excluding materials carried thereon for the construction of the railway during that period) has been diminished the Company shall account for and pay to the proprietor for the time being of the Leven Canal or his lessee such sum not exceeding in any case the sum arising from the tolls and rates received by the Company for the conveyance of such goods and merchandise on the railway as shall be required to make up the receipts derived in that year from the said items of traffic to the average yearly amount of the receipts derived from such goods and merchandise carried on the said canal during such period of three years.

Within two months after the expiration of any year in which any such deficiency shall have arisen the proprietor of the Leven Canal for the time being or his lessee shall give notice thereof in writing to the Company accompanied by an account showing how such deficiency has arisen and shall if required by the Company produce the necessary books and vouchers for verifying such account within one month after the receipt of such notice and the amount of such deficiency shall be paid by the Company within six weeks after the receipt of such notice and in default thereof the proprietor or his lessee may recover the amount of such deficiency from the Company in any court of competent jurisdiction.

Application of provisions of Railway and Canal Traffic Act 1888 as to revision of rates.

56. Section 24 of the Railway and Canal Traffic Act 1888 and any enactment which may be passed in the present or any future session of Parliament extending or modifying that enactment shall with any necessary modifications apply to the Company in all respects as if it were one of the companies to which the provisions of the said enactment in terms applied Provided that the time within which the revised schedule of maximum rates and charges prescribed by the said section shall be submitted to the Board of Trade shall be three years from the date of the passing of this Act or such further time as the Board of Trade may permit.

Power to pay interest on capital during construction.

57. Notwithstanding anything in this Act or in any Act or Acts incorporated therewith contained it shall be lawful for the Company out of any money by this Act authorised to be raised to pay interest at such rate not exceeding three pounds per centum per annum as the directors may determine to any shareholder on the

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amount from time to time paid up on the shares held by him from the respective times of such payments until the expiration of the time limited by this Act for the completion of the works by this Act authorised or such less period as the directors may determine but subject always to the conditions herein-after stated (that is to say) :—

(A.) No such interest shall begin to accrue until the Company shall have obtained a certificate from the Board of Trade that two thirds at least of the share capital authorised by this Act in respect of which such interest may be paid has been actually issued and accepted and is held by shareholders who or whose executors administrators or assigns are legally liable for the same :

(B.) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear :

(C.) The aggregate amount to be so paid for interest shall not exceed eight thousand pounds and the amount so paid shall not be deemed share capital in respect of which the borrowing powers of the Company may be exercised but such borrowing powers shall be reduced to the extent of one third of the amount paid for interest as aforesaid :

(D.) Notice that the Company have power to so pay interest out of capital shall be given in every prospectus advertisement or other document of the Company inviting subscriptions for shares and in every certificate of shares :

(E.) The half-yearly accounts of the Company shall show the amount of capital on which and the rate at which interest has been paid in pursuance of this section :

Save as herein-before set forth 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.

Saving rights of the Crown in the foreshore.

58. Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade 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 this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the Queen's Majesty Her heirs or successors.

Saving rights of Crown under Crown Lands Act.

59. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved by sections 21 and 22 of the Crown Lands Act 1866 and belonging to or exerciseable on behalf of Her Majesty Her heirs or successors.

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

60. 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.

61. Nothing in this Act contained shall exempt the Company or the railways from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised by this Act.

Costs of Act.

62. 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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SCHEDULE referred to in the foregoing Act.

LANDS AND BUILDINGS OF WHICH PORTIONS ONLY MAY BE REQUIRED.

Parish.	No. on Deposited Plans.
RAILWAY No. 1.	
St. Nicholas (Beverley) - - - - - -	5
RAILWAY No. 3.	
St. Nicholas (Beverley) - - - - - -	45 52 56

Printed by Eyre and Spottiswoode,
FOR
T. Digby Pigott, Esq., the Queen's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
EYRE AND SPOTTISWOODE, East Harding Street, Fleet Street, E.C.; or
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