CHAPTER cxxx.

An Act to extend the time for the compulsory purchase of Lands for and for the completion of the Railways of the East and West Yorkshire Union Railways Company and for other purposes. [24th July 1888.]

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WHEREAS by the East and West Yorkshire Union Railways Act 1883 (in this Act called "the Act of 1883") the East and West Yorkshire Union Railways Company (in this Act called "the Company") were incorporated for the purpose of making and maintaining railways in the West Riding of the county of York with a share capital of one million two hundred thousand pounds and with power to borrow not exceeding in the whole four hundred thousand pounds:

And whereas by the East and West Yorkshire Union Railways Act 1886 (in this Act called "the Act of 1886") the Company were authorised to abandon certain of the railways authorised by the Act of 1883 and to construct other railways in substitution therefor and to execute further works and the periods respectively limited by the Act of 1883 for the compulsory purchase of the land for and for the completion of the railways authorised by that Act so far as the same were not authorised to be abandoned by the Act of 1886 were extended:

And whereas it is expedient that the periods now limited for the compulsory purchase of land for and for the completion of (A) the railways and works authorised by the Act of 1883 as amended by the Act of 1886 and (B) the railways and works authorised by the Act of 1886 be respectively extended:

And whereas the Company have issued part of their authorised capital and are proceeding with the construction of their authorised railway between the Great Northern Railway at Lofthouse and Rothwell but have not purchased any lands for or commenced the construction of any other part of their authorised works:

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And whereas it is expedient that the Company be authorised to divide their undertaking as hereinafter provided into separate undertakings with separate and distinct capitals proprietaries and borrowing powers:

And whereas it is expedient that the Company and the other Companies hereinafter in that behalf mentioned be empowered to enter into traffic and other agreements as hereinafter provided:

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:—

Short title.

1. This Act may be cited as the East and West Yorkshire Union Railways Act 1888.

Incorporation of Acts.

2. The clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (that is to say):—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;

The forfeiture of shares for non-payment of calls;

The remedies of creditors of the Company against the shareholders;

The consolidation of the shares into stock;

The making of dividends;

The giving of notices; and

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

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

Extending period limited for purchase of lands for works of 1883.

4. The powers granted by the Act of 1883 as amended by the Act of 1886 for the compulsory purchase and taking of lands for the purposes of such and such parts of the railways and works authorised by the Act of 1883 as are not required by the Act of 1886 to be abandoned are hereby extended and may be exercised at any time within but shall not be exercised after the expiration of two years from the second day of August one thousand eight hundred and eighty-eight.

Extending period limited for completion of works of 1883.

5. The period limited by the Act of 1883 as amended by the Act of 1886 for the completion of such and such parts of the railways and works authorised by the Act of 1883 as are not by the Act of 1886 required to be abandoned is hereby extended for a period of two years from the second day of August one thousand eight hundred and ninety-one.

Extending period limited for purchase of lands for works of 1886.

6. The powers granted by the Act of 1886 for the compulsory purchase and taking of lands for the purposes of the railways and works authorised by that Act are hereby extended and may be exercised at any time within but shall not be exercised after the expiration of two years from the twenty-fifth day of June one thousand eight hundred and eighty-nine.

Extending period limited for completion of works of 1886.

7. The period limited by the Act of 1886 for the completion of the railways authorised by that Act is hereby extended for a period of two years from the twenty-fifth day of June one thousand eight hundred and ninety-one.

For the further protection of the Aire and Calder navigation.

8. Whereas Railway No. 2 authorised by the Act of 1883 is intended to be carried across the main line of canal of the Aire and Calder navigation belonging to the undertakers of the navigation of the rivers of Aire and Calder in the West Riding of the county of York (hereinafter called "the undertakers") and across the River Aire which forms part of the said navigation and also across the Selby Canal of the undertakers and by section 11 of the said Act certain provisions were made for the protection of the undertakers

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and their said navigations and canal which it is expedient to amend Be it therefore enacted as follows:—

(1) Sub-sections 3 and 4 of section 11 of the Act of 1883 are hereby repealed and in lieu thereof the following provisions shall apply:

(A) The bridge carrying the said Railway No. 2 over the said main line of canal shall be constructed and maintained by the Company as an opening bridge having a clear span over the said canal and the towing path thereof of not less than seventy feet and the foundations of the abutments of such bridge shall be carried down to a depth of not less than eighteen feet below the ordinary top water level of the canal at the point of crossing:

(B) The bridges carrying the said railway over the River Aire and the Selby Canal and the towing paths thereof respectively shall be constructed and maintained by the Company as fixed bridges with spans of the following dimensions that is to say in the case of the bridge over the River Aire of one span of not less than one hundred and twenty feet or of two spans of not less than seventy feet each and in the case of the Selby Canal of a span not less than eighty feet:

(C) The spans of the bridges shall be measured in each case at right angles to the abutments of the bridges and such abutments shall be placed in such position and direction as shall be fixed by the engineer of the undertakers:

(D) No part of the soffit or under side of the arch span or girders of the said bridge over the said main line of canal shall be less than fifteen feet above the ordinary top water level of the said canal at the point of crossing and no part of the soffit or under side of the arches spans or girders of the bridges over the said River Aire and Selby Canal shall be less than thirteen feet six inches above the ordinary top water level of the said river and canal at the respective points of crossing:

(E) Notwithstanding the provisions of this section requiring the said bridge over the main line of canal to be constructed and maintained as an opening bridge the said bridge need not be worked by the Company as an opening bridge until the other railway bridges now existing across the said main line of canal between Leeds and Goole are

made to open but upon such other bridges being made to open the Company shall thenceforth at all times work the said bridge as an opening bridge for the passage of vessels not otherwise capable of passing through the same and such bridge shall be so worked according to such regulations restrictions and arrangements and generally in such manner as the Board of Trade may from time to time on the application of either the Company or the undertakers prescribe having due regard to the relative importance at the time of the railway and canal communication.

(2) All the other provisions of section 11 of the Act of 1883 shall remain in full force and be applicable (mutatis mutandis) to the construction and maintenance of the said bridges in manner herein provided in the same manner as they would have applied to the bridges mentioned in that Act.

(3) Nothing in this Act shall (except as aforesaid) affect the rights powers privileges or authorities of the undertakers under the Act of 1883 or otherwise.

Restrictions on displacing persons of labouring class.

9. (1) The Company shall not under the powers of the Act of 1883 or the Act of 1886 as respectively extended by this Act purchase or acquire in any city borough or other urban sanitary district or in 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 as regards houses purchased or acquired under the powers of the Act of 1883 as amended by this Act were on the fifteenth day of December one thousand eight hundred and eighty-two or as regards houses purchased or acquired under the powers of the Act of 1886 as amended by this Act were on the fifteenth day of December one thousand eight hundred and eighty-five occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until—

(A) They shall have obtained the approval of the Local Government Board to a scheme for providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of December one thousand eight hundred and eighty-two or on the fifteenth day of December one thousand eight hundred and eighty-five as the case may be or for such number of persons as the Local Government Board shall after inquiry deem necessary having regard to the number of persons on or after the respective fifteenth day of December aforesaid residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the

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immediate neighbourhood of such houses or to the place of employment of such persons and to all the circumstances of the case; and

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

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

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

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

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

(5) If the Company acquire or appropriate any house or houses for the purposes of the railways in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any such house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court of Justice and shall be carried to and form part of the Consolidated Fund of the United Kingdom:

Provided that the Court may if it think fit reduce such penalty.

(6) For the purpose of carrying out any scheme under this section the Company may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require and for the purpose of any such purchase sections 176 and 297 of the Public Health Act 1875 shall be incorporated with this Act and shall apply to the purchase of lands by the Company for the purposes of any scheme under this section in the same manner in all respects as if the

Company were a local authority within the meaning of the Public Health Act 1875 and the scheme were one of the purposes of that Act.

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

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

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

(8) So much of section 157 of the Public Health Act 1875 as provides that the provisions of that section and of sections 155 and 156 of the same Act shall not apply to buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament shall not apply to buildings erected or provided by the Company for the purpose of any scheme under this section.

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

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

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(11) The expression "labouring class" in this section includes mechanics artisans 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.

Power to apply money.

10. The Company may apply for any of the purposes of this Act to which capital is properly applicable any sums which by the Act of 1883 they are authorised to raise by shares stock debenture stock or borrowing and which are not by that Act made applicable to any special purpose or being so made applicable are not required for such special purpose.

Company may create part of capital as separate capital.

11. The Company may before creating any further part of the capital authorised by the Act of 1883 or borrowing any part of the sum of four hundred thousand pounds by that Act authorised to be borrowed resolve and determine at a general meeting specially called for the purpose with notice of the object of the meeting that any one or more of the following portions of the authorised railways and works of the Company (that is to say):—

(A) That portion of Railway No. 1 authorised by the Act of 1883 which lies to the westward of the point marked three miles one furlong on the plans deposited for and referred to in the said Act and which is not authorised to be abandoned under the Act of 1886 and Railway No. 5 authorised by the Act of 1883 and Railways Nos. 1C 1D 1E and 1F authorised by the Act of 1886:

(B) That portion of Railway No. 1 which lies to the eastward of the said point marked three miles one furlong on the deposited plans above-mentioned and Railways Nos. 2 4 and 4A authorised respectively by the Act of 1883:

(C) Railway No. 5A authorised by the Act of 1883:

shall be a separate undertaking or separate undertakings of the Company and that the capital necessary for the purposes of such undertaking or undertakings (the amount of such capital to be then and there determined but not to exceed an amount bearing to the whole of the authorised capital of the Company the same proportion which the estimate of expense of the railways forming such separate undertaking bears to the estimate of expense of the whole of the authorised railways of the Company) shall be a separate capital or separate capitals of the Company and in the event of the Company

so determining the Company may create every such capital as a separate capital and the Company shall at the same or some subsequent general meeting convened in like manner and before the creation of any further part of the capital authorised by the Act of 1883 resolve and determine:—

(A) What proportion of the general charges of the Company or what annual or other sum in lieu thereof shall be paid and borne out of the revenue of each separate undertaking to be so constituted and the same shall thenceforth be paid accordingly out of such revenue; and

(B) What maximum or other dividend shall be paid upon each such separate capital or any part thereof and in what manner and to what purposes any surplus profits of each such separate undertaking after paying such maximum dividend if any such be fixed shall be applied.

As to separate capital.

12. In the event of any such separate capital being created the following provisions shall have effect (that is to say):—

(A) The Company shall keep separate and distinct accounts of their receipts credits payments and liabilities on account of each such separate capital and the revenue of each such separate undertaking:

(B) The expenses of maintaining and working each such separate undertaking shall be borne and paid by the Company out of the revenue of that undertaking solely unless the Company shall at some such general meeting as aforesaid otherwise resolve and determine:

(C) Of the sum of four hundred thousand pounds which by the Act of 1883 the Company are empowered to borrow on mortgage the Company may from time to time borrow on mortgage of each such separate undertaking any sum or sums not exceeding in the whole one-third of the nominal amount of the separate capital of such separate undertaking but no sum of money shall be borrowed under this section until the whole capital in respect of which it is to be borrowed 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 portion of 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 such portion of capital has been paid on account thereof before or at the time of the issue or acceptance thereof and the Company have proved to such justice as aforesaid

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before he so certifies that such shares were issued and accepted bonâ fide and are held by the persons or corporations to whom the same were 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:

(D) The Company shall apply the revenue arising from each separate undertaking as follows:—

(1) In payment of the proportion of the expenses properly attributable to the working of such separate undertaking:

(2) In payment of any rentcharges for land on such separate undertaking:

(3) In payment of the interest on all mortgages or debenture stock granted or issued by the Company on or in respect of such separate undertaking:

(4) In payment of dividends on the separate capital of such undertaking or upon so much thereof as may be from time to time paid up or if any maximum rate shall be attached thereto by the Company as aforesaid dividends at such maximum rate:

(5) To such purposes as the Company may have determined as hereinbefore provided to apply the surplus profits of such separate undertaking:

(E) All mortgages or debenture stock to be granted or issued by the Company in respect of the separate capital of such separate undertaking shall be a charge exclusively upon the separate undertaking and shall not comprise or affect any other property or undertaking of the Company and no other mortgages or debenture stock granted or issued by the Company after such separate undertaking is constituted shall be a charge thereon:

(F) The mortgages from time to time granted by the Company in respect of any such separate capital shall on the face thereof distinctly denote that each such mortgage is a mortgage only upon the particular separate undertaking:

(G) Shares and stock in any such separate capital shall not confer on owners thereof any right of voting or interference at any meeting of the Company on the affairs of the Company not relating to matters affecting such separate undertaking except for the election of directors and in any matters affecting the said shareholders or stockholders respectively for both of which

matters such shareholders and stockholders shall have the same right of voting as the shareholders and stockholders in the general capital of the Company:

(H) Shares and stock in each separate capital shall be entitled to dividends (not exceeding such maximum rate if any as shall be attached thereto by the Company as aforesaid) only out of the profits of the separate undertaking applicable for dividends and the certificates of such shares or stock shall distinctly denote that such shares or stock are entitled to dividends (at such maximum rate if any as aforesaid) only out of those profits:

(I) It shall not be lawful for the holders of shares or stock in the general or in any other separate capital of the Company to interfere with the expenditure of the separate capital of any separate undertaking or in any other matter affecting such capital or undertaking.

Separate capital to be deemed for certain purposes the capital of the Company.

13. The separate capital of any separate undertaking for the time being of the Company shall as regards all matters claims and proceedings affecting or connected with such separate undertaking and for the purposes of all agreements entered into by the Company with respect to the purchase or acquisition of lands which may be required for such separate undertaking be deemed to be the only capital of the Company and notwithstanding anything contained in the Act of 1883 or in the Lands Clauses Consolidation Act 1845 the Company may put in force the powers of those Acts or any Act incorporated therewith in relation to the compulsory taking of land for the purposes of any separate undertaking of the Company for the time being Provided that the whole of the capital or estimated sum for defraying the expenses of such separate undertaking shall previously have been subscribed under contract binding the parties thereto their heirs executors and administrators for the payment of the several sums by them respectively subscribed.

Power to enter into working agreements.

14. The Company on the one hand and the Great Northern Railway Company and the Midland Railway Company (in this Act referred to as "the two Companies") or either of them on the other hand may subject to the provisions of Part III. of the Railways Clauses Act 1863 as amended or varied by the Regulation of Railways Act 1873 from time to time enter into and carry into effect and rescind agreements with respect to the following purposes or any of them (that is to say):—

The working management and maintenance by the two Companies or either of them of the railways and works of the Company or any part or parts thereof respectively:

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The management regulation interchange collection transmission and delivery of traffic upon or coming from or destined for the railways of the contracting companies or either of them:

The supply and maintenance under any agreement for the railways of the Company being worked and used by any other company of engines stock plant and machinery necessary for the purposes of any such agreement:

The fixing collection payment appropriation apportionment and distribution of the tolls rates charges income and profits arising from the respective railways and works of the contracting companies or either of them or any part thereof:

The employment of officers and servants:

The appointment of joint committees for the purposes of any such agreements.

Tolls on traffic conveyed partly on the railway and partly on other railways.

15. During the continuance of any agreement to be entered into under the provisions of this Act for the working or use of the railways of the Company or any part thereof the railways of the contracting companies shall for the purposes of short distance tolls and charges be considered as one railway and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railways of one of the contracting companies and partly on the railways of the other contracting company for a less distance than three miles tolls and charges may only be charged as for three miles and in respect of passengers for every mile or fraction of a mile beyond three miles tolls and charges as for one mile only and in respect of animals and goods for every quarter of a mile or fraction of a quarter of a mile beyond three miles tolls and charges as for a quarter of a mile only and no other short distance charge shall be made for the conveyance of passengers animals or goods partly on the railways of one of the contracting companies and partly on the railways of the other contracting company.

For protection of the Hull Barnsley and West Riding Junction Railway and Dock Company.

16. Nothing in this Act shall alter lessen prejudice or affect the rights of the Hull Barnsley and West Riding Junction Railway and Dock Company under the provisions of the Act of 1883 or the agreement set forth in the second schedule annexed thereto or under the Act of 1886 over or with respect to the railways of the Company and the Hull Barnsley and West Riding Junction Railway and Dock Company shall have and may exercise the rights conferred upon or exercisable by them under the said agreement and Acts as well over and in repect to the portion or portions of the railways of the Company forming any separate undertaking or undertakings as over the whole of the railways of the Company authorised by the above-

mentioned Act of 1883 and the substituted railways authorised by the Act of 1886.

Provision as to general Railway Acts.

17. Nothing in this Act contained shall exempt the Company or any other company mentioned in this Act or their respective 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 any Act relating to any such company.

Costs of Act.

18. 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.

London: Printed for Her Majesty's Stationery Office,
By Eyre and Spottiswoode, Printers to the Queen's most Excellent Majesty.

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