CHAPTER ccx.

An Act to incorporate a Company for the construction of the Rotherham and Bawtry Railway; and for other purposes. A.D. 1881.

[22nd August 1881.]

WHEREAS the construction of railways between Rotherham and Bawtry in the west riding of the county of York and in the county of Nottingham would be of public and local advantage:

And whereas the persons in this Act named are willing with others at their own expense to construct such railways and are desirous of being incorporated into a company for the purpose:

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 have been deposited with the respective clerks of the peace for the west riding of the county of York and for the county of Nottingham and are herein-after respectively referred to as the deposited plans sections and book of reference:

And whereas since the said plans and sections were deposited it has been found expedient for the purpose of avoiding interference with certain commons or commonable lands in the parish of Maltby in the west riding of the county of York that an alteration of portions of the railways herein-after referred to as Railway No. 1 and Railway No. 3 should be authorised and an amended plan and section of that alteration and a book of reference to that plan have been deposited with the clerk of the peace for the said west riding in which riding the said alteration will be situated:

And whereas the purposes aforesaid cannot be accomplished 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

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and Commons in this present Parliament assembled and by the authority of the same as follows :—

Short title.

1. This Act may be cited for all purposes as the Rotherham and Bawtry Railway Act 1881.

Incorporation of general Acts.
8 & 9 Vict. c. 16.
26 & 27 Vict. c.118.
32 & 33 Vict. c. 48.
8 & 9 Vict. c. 18.
23 & 24 Vict. c.106.
32 & 33 Vict. c. 18.
8 & 9 Vict. c. 20.
26 & 27 Vict. c. 92.

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

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 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. The Honourable Aldred Frederick George Beresford Viscount Lumley, the Reverend Henry Gladwyn Jebb, Henry Vivian Tippet, William Aldam, George Chambers Revill and all other persons and corporations who have already subscribed or shall hereafter become proprietors in the undertaking and their executors administrators successors and assigns respectively shall be 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 incorporated by the name of "The Rotherham and Bawtry 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 books of reference as may be required for that purpose. The railways herein-before referred to and authorised by this Act are—

(1) A Railway No. 1 sixteen miles five chains and eighty links in length commencing in the parish of Rotherham in the west riding of the county of York on the south side of the high road leading from Rotherham to Sheffield and terminating in the parish of Scrooby in the county of Nottingham by a junction with the Great Northern Railway between Retford and Doncaster near the bridge carrying that railway over Bridge Lane in the town of Bawtry;

(2) A Railway No. 2 seven furlongs three chains and twenty links in length commencing by a junction with Railway No. 1 in the parish of Harworth in the said county of Nottingham and terminating in the said parish of Scrooby by a junction with the said Great Northern Railway near the northern end of the Scrooby Station;

(3) A Railway No. 3 (distinguished on the deposited plans and sections as Railway No. 6) one mile one furlong seven chains and fifty links in length wholly in the parish of Maltby in the west riding of the county of York commencing on Wood Lee Common by a junction with Railway No. 1 and terminating near to and north of the ruins of Roche Abbey;

Provided always that notwithstanding anything in this Act Railways Nos. 1 and 3 shall between the points marked respectively commencement and termination of alteration of Railway No. 1 and commencement and termination of alteration of Railway No. 3 on the said amended plan and section be made and maintained not in the line and according to the levels shown on the deposited plans and sections but in the line and according to the levels shown on the said amended plan and section and the Company shall not enter upon take or use under the powers of this Act any part of the lands in the parish of Maltby forming part of Maltby Far Common Maltby Low Common or Wood Lee Common.

Junction with Midland Railway.

6. Notwithstanding anything in this Act contained the Company shall not open any portion of their railways for public traffic until they shall have applied for powers to construct and if such powers are granted shall have constructed a convenient junction with the Midland Railway at or near Rotherham.

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Junction with Manchester Sheffield and Lincolnshire Railway.

7. The Company shall at the time when they apply for powers to construct a junction with the Midland Railway near Rotherham in the same application to Parliament apply for like powers to construct and if those powers are obtained then the Company shall forthwith construct a convenient junction with the railway of the Manchester Sheffield and Lincolnshire Railway Company at or near Rotherham.

Opening of Railway No. 1.

8. No part of Railway No. 1 shall be opened for traffic unless and until Railway No. 3 shall be also opened for traffic.

Capital.

9. The capital of the Company shall be three hundred and sixty thousand pounds in thirty-six thousand shares of ten pounds each.

Shares not to be issued until one fifth paid.

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

Calls.

11. 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 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.

Receipt for persons not sui juris.

12. 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 divide shares.

13. Subject to the provisions of this Act the Company with the authority of three fourths of the votes of the shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose may from time to time divide any share in their capital into half shares of which one shall be called "preferred half share" and the other shall be called "deferred half share" but the Company shall not so 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.

14. The dividend which would from time to time be payable on any divided share if the same had continued an entire share shall be applied in payment of dividends on the two half shares in manner following (that is to say) first in payment of dividend after such rate not exceeding six per centum per annum as shall be determined 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 half shares to be paid out of the profits of the year only.

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

Half shares to be registered and certificates issued.

16. Forthwith after the creation of any half shares the same shall be registered by the directors and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued and the directors shall issue certificates of the half shares accordingly and shall cause an entry to be made in the register of the entire shares of the conversion thereof but the directors shall not be bound to issue a certificate of any half share until the certificate of the existing entire share shall 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 on certificates.

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

Forfeiture of preferred half shares.

18. The provisions of the Companies Clauses Consolidation Act 1845 with respect to the forfeiture of shares for nonpayment of calls shall apply to all preferred half shares to be created under the authority of this Act and every such preferred half share shall for that purpose be considered 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 half shares not to be cancelled.

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

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Half shares to be half shares in capital.

20. The several half shares under this Act shall be half shares in the capital of the Company and every two 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.

Power to borrow.

21. The Company may from time to time borrow on mortgage any sum not exceeding in the whole the sum of one hundred and twenty thousand pounds but no part thereof shall be borrowed until the whole capital of three hundred and sixty 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 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.

Appointment of a receiver.

22. The mortgagees of the Company 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 principal or principal and interest the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds in the whole.

Debenture stock.

23. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 but notwithstanding anything therein contained the interest of all debenture stock at any time created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company and shall have priority over all principal moneys secured by such mortgages.

Application of moneys

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

First ordinary meeting.

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

Number of directors.

26. The number of directors shall be five but the Company may from time to time reduce the number provided that the number be not less than three.

Qualification of directors.

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

Quorum.

28. The quorum of a meeting of directors shall be three but if the number of directors be reduced to three the quorum shall be two.

First directors.

Election of directors.

29. The Honourable Aldred Frederick George Beresford Viscount Lumley, the Reverend Henry Gladwyn Jebb (so long as he shall not hold any cure of souls), Henry Vivian Tippet, George Chambers Revill and one other person to be nominated by them or the majority of them 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 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 power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office agreeably to the provisions in the Companies Clauses Consolidation Act 1845 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.

Lands for extraordinary purposes.

30. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 shall not exceed ten acres.

Period for compulsory purchase of lands.

31. 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.

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Power to take easements, &c. by agreement.

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

Protection of duchy of Lancaster.

33. And whereas it is expedient that this Act should contain certain provisions relative to lands hereditaments estates rights and interests belonging to the Queen's most Excellent Majesty in right of her duchy of Lancaster (in the rest of this section called "the duchy") as are herein-after contained. Be it therefore enacted that—

Sale of lands.

(1) With respect to any lands belonging to Her Majesty in right of the duchy which may be required for the purposes of this Act the following provisions shall (but subject and without prejudice to any lease or tenancy which at the time of any agreement authorised by this section may be subsisting in the said last-mentioned lands) have effect that is to say—the chancellor and council for the time being (herein-after called "the chancellor and council") of the duchy may agree with the Company for the absolute sale in fee simple of all or any of the said last-mentioned lands or any part thereof in consideration of any such gross sum of money or of such annual rentcharge or in consideration partly of such gross sum and partly of such annual rentcharge payable by the Company and upon such terms and conditions in all respects as shall be settled between the chancellor and council and the Company and in case the same lands shall be subject jointly with any other lands to any lease or tenancy for a life or lives or a term of years unexpired the chancellor and council may agree as well with the Company as also with the lessee or tenant for the apportionment of the rent payable in respect of the lands comprised in such lease or tenancy between the lands agreed to be sold and such other lands. And upon payment of such (if any) agreed gross sum and upon such (if any) agreed rentcharge being secured in manner herein-after provided the chancellor and council may grant and assure the same lands and the fee simple and inheritance thereof to the Company their successors and assigns for the purposes of this Act and

(if the same lands shall be subject jointly with any other lands to any such lease or tenancy as aforesaid) may apportion or concur with all other necessary parties in apportioning the rent payable in respect of the lands comprised in such lease or tenancy between the lands so granted and assured and such other lands :

Enfranchisement, &c. of lands.

(2) With respect to any such lands held by copy of Court Roll or other customary tenure of any honor manor or lordship belonging to Her Majesty in right of the duchy as may be required for the purposes of this Act the following provisions (but subject and without prejudice to any lease or tenancy which at the time of any agreement authorised by this section may be subsisting of the same manor honor or lordship) shall have effect that is to say—The chancellor and council may agree with the Company for the enfranchisement of all or any of the said last-mentioned lands and for the release thereof from all or any of the customary fines rents suits and services which the same may be charged with or liable to in consideration of such gross sum of money or of such annual rentcharge or in consideration partly of such gross sum and partly of such annual rentcharge payable by the Company and upon such terms and conditions in all respects as shall be settled between the chancellor and council and the Company. And in case the same lands shall be liable jointly with any other lands to any such aforesaid rents suits or services the chancellor and council may agree as well with the Company as also with the tenant or proprietor of such other lands for the release or apportionment of such rents suits and services either with or without any consideration being paid for the same. Upon any such agreement for enfranchisement release or apportionment and upon payment of such (if any) agreed gross sum and upon such (if any) agreed rentcharge as last aforesaid being secured in manner herein-after provided the chancellor and council may release the lands so to be enfranchised or released from all customary fines rents suits and services or (as the case may be) such of them or such part or parts thereof as shall have been in that behalf agreed and the lands so released shall thenceforth be holden by the Company their successors and assigns as of the honor manor or lordship whereof they are or were holden or parcel in free and common socage. And every such release of lands if made previously to the purchase or acquisition by the Company of the estate and interest of the copyhold or customary tenant of such lands shall after such purchase or acquisition operate and take effect as if the Company

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had been in possession of the same lands at the time of the execution of such release. Provided that no such enfranchisement release or apportionment shall in any other respects affect any custom by or under which any copyhold or customary lands not required for the purposes of this Act shall be holden. And whenever any such aforesaid release of lands shall be made any other lands which were previously subject jointly with the released lands to any such rents suits and services as aforesaid shall as between the Company and Her Majesty in right of the duchy (but expressly without prejudice to any right of contribution in respect of such rents suits or services which previously to such release the tenant or proprietor of such other lands may have had against the tenant or proprietor of the released lands) thenceforth be subject to the whole of such rents suits and services or (as the case may be) to such of them or such parts or part thereof as shall not have been comprised in and intended to be extinguished by that release in the same manner in all respects as the entirety of the lands so previously subject as aforesaid would have continued subject to the whole of such rents suits and services if such release had not been made and all the rights powers and remedies subsisting previously to such release for the recovery of the whole of the said rents suits and services shall as against the lands not so released be and thenceforth remain as between the Company and Her Majesty in right of the duchy (but without prejudice as aforesaid) as available and as valid and effectual in the law to all intents for the recovery of the same rents suits and services or (as the case may be) such of them or such parts or part thereof as shall not have been comprised in and intended to be extinguished by the same release as if the said last-mentioned lands had originally been alone subject to the same rents suits and services or such of them or such parts or part thereof as last aforesaid:

Sale and working of mines.

(3) With respect to any mines minerals and quarries to which Her Majesty in right of the duchy is entitled (either in possession or subject to any lease or tenancy) in under or upon any lands required for the purposes of this Act the following provisions (but subject and without prejudice to any lease or tenancy which at the time of any agreement authorised by this section may be subsisting of the same mines minerals or quarries) shall have effect that is to say—The chancellor and council either before or after the execution of the works authorised by this Act or any part thereof may agree with the Company for the absolute sale of all or any of the said mines

minerals and quarries for such price or consideration in money and upon such terms and conditions in all respects as shall be settled between the chancellor and council and the Company and upon payment of such agreed price or consideration as last aforesaid in manner herein-after provided the chancellor and council may grant and assure such last-mentioned mines minerals and quarries unto the Company their successors and assigns for the purposes of this Act. The chancellor and council may also enter into any agreement with the Company concerning the working by Her Majesty her heirs successors and assigns of all or any of the said mines minerals or quarries whether being in under or upon any lands taken by the Company under the powers of this Act. Provided that nothing contained in this Act shall extend or operate to prevent or hinder Her Majesty her heirs successors or assigns or her or their lessees from working (subject and without prejudice only to any such agreement as last aforesaid) as well before as after the execution of the works authorised by this Act any such mines minerals or quarries whether being in under upon or in the neighbourhood of any lands taken by the Company under the powers of this Act nor shall anything in this Act contained extend or operate to make Her Majesty her heirs successors or assigns in any way liable for any damage or injury which may be done to or on the works authorised by this Act by any such working unless and except only to such extent as the chancellor and council shall have expressly agreed in writing with the Company that the duchy shall become so liable: Provided also that it shall not be lawful for the Company their successors or assigns by reason of any aforesaid grant or assurance of mines minerals or quarries to work get or use any of the same except so far as may be necessary in executing the works authorised by this Act;

Application of purchase moneys.

(4) With respect to any gross sum of money which under this section shall become payable in consideration of any sale enfranchisement or release thereby authorised the following provisions shall have effect that is to say—Each such sum shall be paid into the hands of the Receiver General of the revenues of the duchy or of his deputy or deputies and a receipt shall be given by him or them for the same and such sum shall be applicable and dealt with to all intents and purposes as if it were the purchase money of lands sold by the chancellor and council under the authority of the Duchy of Lancaster Lands Act 1855: And the chancellor and council shall for the purposes of this Act have and be entitled to the benefit of all such

18 & 19 Vict. c. 58.

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powers and provisions in reference to moneys invested in Bank Annuities under this present section as under the Duchy of Lancaster Lands Act 1855 they are entitled to concerning moneys invested in Bank Annuities under that Act;

Enrolment of deeds.

(5) Any lands hereditaments estate right or interest conveyed or assured or released by the chancellor and council by virtue of any of the foregoing provisions of this section shall be so conveyed assured or released in the name of Her Majesty her heirs or successors in right of the duchy and by deed or writing under the seal of the duchy and every such deed or writing shall be enrolled in the court of the duchy of Lancaster within six calendar months from the date thereof.

Inclinations of roads.

34. In altering for the purposes of this Act the roads next herein-after mentioned the Company may make the same of any inclinations not steeper than the inclinations herein-after mentioned in connexion therewith respectively (that is to say):—

No. on deposited Plan.	Parish.	Description of Road.	Intended Inclination.
	RAILWAY No. 1.		
14	Maltby - -	Public road -	1 in 10.
17	Whiston - -	Turnpike road -	1 in 20.

Company to provide station at Wickersley.

35. For the due accommodation of traffic to and from Wickersley and Brampton the Company shall construct and complete for public use concurrently with the opening for public use of Railway No. 1 by this Act authorised and for ever thereafter maintain a station for passengers and goods with all usual and necessary approaches sidings conveniences and accommodation at a point between five miles one furlong and five miles three furlongs on Railway No. 1 on the deposited plans and shall for ever keep the same open and at all times work the same and all traffic so as to ensure that no unreasonable delay or inconvenience shall at any time occur in the reception or transmission of passengers and goods.

Company to provide station near Carr.

36. The Company shall construct and complete for public use concurrently with the opening for public use of Railway No. 1 by this Act authorised a station for passengers and goods with all ordinary conveniences and accommodation including a siding for loading and unloading minerals stones and other produce at six miles one and a half furlongs on the deposited plans and shall for ever hereafter keep and maintain the same open and at all times work the same and all traffic so as to ensure that no unreasonable

delay or inconvenience shall at any time occur in the reception or transmission of coals minerals stone and produce of the respective estates of Thurcroft and Newhall or of the respective owners and occupiers for the time being thereof.

Protection of William Fretwell Hoyle.

37. The following provisions shall have effect for the protection of William Fretwell Hoyle of Hooton Levet Hall in the west riding of the county of York:—

(1) The Company shall when constructing Railway No. 1 authorised by this Act make and maintain a branch railway or siding on the land of the said William Fretwell Hoyle to form a junction with Railway No. 1 at or near a point to be agreed upon between the Company and the said William Fretwell Hoyle between 6 miles 7 furlongs and 7 miles 1 furlong marked on the deposited plans and in addition to such branch railway or siding as aforesaid it shall be lawful for the said William Fretwell Hoyle at any time after the passing of this Act to make and maintain a branch railway or siding at some point near to 8 miles 2 furlongs as shown on the plan signed by Richard O'Shaughnessy Esquire herein-before referred to such branch railway or siding to form a junction with the said Railway No. 1 either at the station to be made near Wood Lee Common by the Company or at some point adjacent thereto to be agreed upon by the Company and the said William Fretwell Hoyle and the Company shall supply and lay down rails thereon and shall at their own cost and expense lay in the points to form the said junctions and maintain the same with all proper signals and apparatus and shall work the same and all traffic respectively coming therefrom or going thereto with all reasonable despatch and so as to cause no unreasonable delay or inconvenience in the passing of trains to or from the said branch railways or sidings or either of them;

(2) The Company shall make and for ever maintain to the reasonable satisfaction of the said William Fretwell Hoyle or other the owner for the time being of the Hooton Levet Estate at a point under Railway No. 1 by this Act authorised a good and sufficient culvert at a point between 7 miles 2 furlongs and 7 miles 3 furlongs on the deposited plans to be agreed on between the Company and the said William Fretwell Hoyle for the purpose of protecting the pipes main or conduit supplying the mansions farms farm houses cottages and premises at Hooton Levet with water and shall construct the said culvert as that the pipes mains or conduits protected thereby shall be accessible for repairs and shall make good all damage

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occasioned thereto on the execution of the works by this Act authorised or hereafter to be caused by reason thereof.

Protection of Corporation of Rotherham.

38. For the protection of the mayor aldermen and burgesses of the borough of Rotherham (in this section called the corporation) the following provisions shall apply and have effect :—

(1) The Company shall not purchase or take otherwise than by agreement any land of the corporation at Pinch Mill Spring ;

(2) Railway No. 1 shall be so constructed that the centre line thereof shall not be nearer any part of Pinch Mill Spring than 50 yards ;

(3) Any water suitable for domestic use which may be tapped by the Company in constructing Railway No. 1 between Pinch Mill Spring and the further end of the tunnel shall be conducted by means of pipes approved by the corporation by and at the expense of the Company and shall be delivered by them to the corporation free from expense at or near Pinch Mill Spring aforesaid ;

(4) The Company shall make full compensation to the corporation for any loss the corporation may sustain by reason of any diminution in the supply of water from Pinch Mill Spring which may result from the construction of the railway or any works connected therewith or any works or operations of the Company and the amount of any such compensation shall be settled from time to time as a question of disputed compensation under the Lands Clauses Consolidation Act 1845 ;

(5) The bridge for carrying the railway across the main road from Rotherham to Sheffield numbered 1 on the deposited plans and books of reference of Railway No. 1 in the parish of Rotherham shall unless with the consent of the corporation be constructed with a span of not less than fifty feet and with a clear headway throughout of not less than eighteen feet above the present surface of the road ;

(6) All bridges to be made by the Company over any public thoroughfare within the borough of Rotherham shall be maintained in such manner as to prevent as far as reasonably practicable the percolation of water and shall if required by the corporation be properly screened by and at the expense of the Company and the roadway under the same and for a distance of seven yards on either side thereof shall be properly drained by and at the expense of the Company.

Deposit money not to be repaid except so far

39. 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 eighteen thousand pounds

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as railways are opened.

Reduced Three Pounds per Centum Annuities has been deposited with the Chancery Division of the High Court of Justice in England in respect of the application to Parliament for this Act: And whereas the sum of sixteen thousand two hundred pounds part of the said sum of eighteen thousand pounds is equal in value to five per centum upon the amount of the estimate in respect of the railways by this Act authorised and the sum of one thousand eight hundred pounds the remainder of the said sum of eighteen thousand pounds is equal in value to five per centum upon the amount of the estimate in respect of certain other railways originally proposed to be authorised by this Act but which were struck out of the Bill for this Act during its progress through Parliament: Therefore be it enacted notwithstanding anything contained in the said Act that the said sum of sixteen thousand two hundred pounds (herein-after called 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 railways 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 railways so opened bears to the entire length of the railways the Chancery Division 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 paid or 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.

Application of deposit.

40. If the Company do not previously to the expiration of the period limited by this Act for the completion of the railways 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 paid 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

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been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railways or any portion thereof or who may have been subjected to any 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 shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Chancery Division of 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 paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Chancery Division thinks fit to order on the application of the Solicitor of 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 Chancery Division if the Company is insolvent and has been ordered to be wound up or a receiver has been appointed shall wholly or in part be paid or 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 repaid 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.

Release of part of deposit money.

41. On the application of the depositors by petition in a summary way at any time after the passing of this Act the Chancery Division may and shall order that the said sum of one thousand eight hundred pounds the remainder of the said sum of eighteen thousand pounds so deposited as aforesaid over and above the deposit fund of sixteen thousand two hundred pounds and the interest and dividends thereon shall be paid or transferred to the depositors or as they shall direct.

Period for completion of works.

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

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Tolls.

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

Passengers.

In respect of passengers conveyed on the railways :—

Class 1. For every person conveyed in a first-class carriage per mile twopence ;

Class 2. For every person conveyed in a second-class carriage per mile one penny halfpenny ;

Class 3. For every person conveyed in a third-class carriage per mile one penny ;

Animals.

In respect of animals conveyed on the railways :—

Class 4. For every horse mule or ass or other beast of draught or burden conveyed in or upon any carriage per mile twopence ;

Class 5. For every ox cow bull or neat cattle conveyed in or upon any carriage per mile one penny halfpenny ;

Class 6. For every calf pig sheep or lamb or other small animal conveyed in or upon any carriage per mile one halfpenny ;

Goods.

In respect of goods conveyed on the railways :—

Class 7. For all coals coke culm slack cannel cinders lime limestone sand clay (except fire-clay) chalk dung compost and all sorts of common manure and all undressed materials for the repair of highways clay ironstone and iron ore per ton per mile one penny ;

Class 8. For all pig iron bar iron and all other similar descriptions of iron and iron castings not manufactured into utensils or other articles of merchandise undressed stones for building pitching and paving bricks tiles common slates fire-clay charcoal bats copper tin lead and other ores per ton per mile one penny halfpenny ;

Class 9. For all sugar grain corn flour potatoes guano and artificial manures hides (dried and salted) dye-woods timber staves and deals metals (except iron) tinned plates nails anvils vices hoop iron sheet iron and chains per ton per mile twopence ;

Class 10. For lace furs silk drapery millinery china glass cotton wool manufactured goods drugs and all other wares merchandise fish articles matters or things per ton per mile threepence ;

Carriages.

In respect of carriages conveyed on the railways :—

Class 11. For every carriage of whatever description not being a carriage adapted and used for travelling on a railway and

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not weighing more than one ton carried or conveyed on a truck or platform belonging to the Company if having more than two wheels per mile fourpence and if having only two wheels per ton threepence and for every additional quarter of a ton up to four tons which any such carriage weighs one penny per mile in addition if such carriage have more than two wheels and three farthings per mile in addition if the same have only two wheels.

Tolls for carriages &c.

44. The Company may for carriages supplied by them demand or take for or in respect of goods articles matters or things persons or animals comprised in either of the classes herein-before specified (in addition to the other tolls by this Act authorised) any tolls not exceeding the tolls next herein-after mentioned in connexion with the class in which such goods articles matters or things persons or animals are respectively comprised (to wit) :—

For Class 1 for each person per mile one penny;
For Class 2 for each person per mile three farthings;
For Class 3 for each person per mile one halfpenny;
For Class 4 for each animal per mile one penny;
For Class 5 for each animal per mile one penny;
For Class 6 for each animal per mile one halfpenny;
For Class 7 per ton per mile one penny;
For Class 8 per ton per mile one halfpenny;
For Class 9 per ton per mile three farthings;
For Class 10 per ton per mile one penny;
For Class 11 for each carriage per mile twopence.

Tolls for propelling power.

45. The tolls which the Company may demand for the use of engines for propelling carriages on the railways 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.

Regulations as to tolls.

46. 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 railways 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 the 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 usual 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.

47. 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 railways:—

For any parcel not exceeding seven pounds in weight threepence;

For any parcel exceeding seven pounds but not exceeding fourteen pounds in weight five pence;

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;

For any parcel exceeding fifty-six pounds but not exceeding one hundredweight three shillings and for every additional one hundredweight up to five hundredweight ninepence;

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 parcels in separate packages.

Tolls for single articles of great weight.

48. For the carriage of single articles of great weight on the railways:—

For the carriage of any single thing the weight of which including the carriage exceeds four tons but does not exceed eight tons the Company may demand or take any sum not exceeding sixpence per ton per mile;

For the carriage of any single thing the weight of which including the carriage exceeds eight tons the Company may demand and take any sum they think fit.

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Maximum rates for passengers.

49. The maximum rate of charges to be made by the Company for the conveyance of passengers including the tolls for the use of the railways 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 railways including the tolls for the use of the railways 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 of 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) :—

Class 4. For each animal fourpence per mile;

Class 5. For each animal twopence per mile;

Class 6. For every calf or pig one penny per mile and for every other small animal three farthings per mile;

Class 7. For coals conveyed on the railways for a distance not exceeding twenty miles not exceeding one penny halfpenny per ton per mile and for coals conveyed for a distance exceeding twenty miles not exceeding one penny per ton per mile and for all other articles and things not exceeding one penny halfpenny per ton per mile;

Class 8. Twopence per ton per mile;

Class 9. Threepence per ton per mile;

Class 10. Fourpence per ton per mile;

Class 11. For every carriage if having more than two wheels and not weighing more than one ton and a half fivepence and one penny farthing for every additional quarter of a ton and if having only two wheels fourpence per mile and one penny for every additional quarter of a ton.

Tolls for separate waggons.

51. Provided also that when a separate waggon or truck shall be retained by one person for the conveyance only 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 oxen or twenty-five sheep and not containing more than that number shall not exceed ninepence per mile.

Passengers luggage.

52. Every passenger travelling upon the railways 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.

53. No station shall be considered a terminal station in regard to any goods conveyed on the railways 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.

54. The restrictions as to the charges to be made for passengers shall not extend to any special train run upon the railways 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 railways.

Company may take increased charges by agreement.

55. 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 on the railways 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.

Saving rights of duchy of Lancaster.

56. Nothing contained in this Act shall extend or operate to authorise the Company to take use enter upon or in any manner interfere with any land soil water or hereditaments or any land parcel of any manor or any manorial rights or any other rights of whatsoever description belonging to Her Majesty in right of her duchy of Lancaster without the consent in writing of the chancellor for the time being of the said duchy first had and obtained (which consent the said chancellor is hereby authorised to give) or take away prejudice or diminish any estate right privilege power or authority vested in or enjoyed or exerciseable by Her Majesty her heirs or successors in right of her said duchy.

Interest not to be paid on calls paid up.

57. The Company shall not out of any money by this Act authorised to be raised by calls or by borrowing pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always that this Act shall not prevent the Company from paying to any shareholder such

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interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

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

58. 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.

59. Nothing in this Act shall exempt the Company or their 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.

Expenses of Act.

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

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