



CHAP. cxli.

An Act to extend the time for the purchase of lands and for the construction of the Halifax and Ovenden Junction Railway, and to vest the said railway in the Lancashire and Yorkshire and the Great Northern Railway Companies. A.D. 1870.

[1st August 1870.]

WHEREAS by "The Halifax and Ovenden Junction Railway Act, 1864," (herein-after referred to as the Act of 1864,) the Company thereby incorporated were authorised to make a railway about two miles and a half in length, in and near the town of Halifax, and to raise for that purpose capital in shares of 90,000*l.* (section 6), and to borrow 30,000*l.* on mortgage (section 9), and by "The Halifax and Ovenden Railway Act, 1867," (herein-after referred to as the Act of 1867,) the Company were authorised to make certain deviations in their railway, and to raise (section 12) an additional capital of 90,000*l.* by shares, and to borrow (section 15) an additional sum of 30,000*l.* by mortgage: 27 & 28 Vict. c. cxliii. 30 & 31 Vict. c. clxxviii.

And whereas the Company have made progress in the execution of their undertaking, and have expended thereon more than one half of the capital which they were authorised by the Act of 1864 to raise in shares, and they have not borrowed any money on mortgage:

And whereas by virtue of the said Act of 1864 the Lancashire and Yorkshire Railway Company and the Great Northern Railway Company have respectively subscribed 30,000*l.* towards the undertaking authorised by the said Act, and they have paid each a sum of 24,000*l.*, being one third of the capital of the Company which has been raised by shares, and the remaining third or thereabouts (namely, 21,921*l.* 15*s.*) has been raised by independent shareholders, and the said Act authorises agreements for the working and management of the undertaking by the said two companies: And whereas with a view to the more speedy accomplishment of the said undertaking,

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And whereas by the 20th section of the said Act of 1867 the powers of the Company for the compulsory purchase of the lands required for their undertaking were limited to the 12th day of August 1870, and by the 21st and 22nd sections of the same Act the period for the completion of the works authorised by the said Acts of 1864 and 1867 respectively was limited to the 1st day of July and the 12th day of August respectively in the year 1871, and it is expedient that these periods should be extended :

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, 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 any purpose as "The Halifax and Ovenden Junction Railway Act, 1870."

Parts of
26 & 27 Vict.
c. 92. incor-
porated.

2. Part II. of "The Railways Clauses Act, 1863," relating to extension of time, and Part V. thereof, relating to amalgamation, are, except so far as the provisions thereof are expressly varied by or are inconsistent with the provisions of this Act, or the heads of agreement which form the schedules thereto, incorporated with and form part of this Act ; and in construing the provisions of "The Railways Clauses Act, 1863," relating to amalgamation, the Lancashire and Yorkshire Railway Company and the Great Northern Railway Company jointly shall for the purposes of this Act be deemed to be "the amalgamated company," and the Halifax and Ovenden Junction Railway Company shall be deemed to be the dissolved company.

Extending
time for the
purchase of
lands.

3. The powers of the said Act of 1867 with respect to the compulsory purchase or taking of lands are hereby extended from the twelfth day of August one thousand eight hundred and seventy, and shall continue in force until the first day of July one thousand eight hundred and seventy-two.

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4. The time granted by the Act of 1867 for constructing and completing the works authorised by the said Acts of 1864 and 1867 shall be extended from the months of July and August one thousand eight hundred and seventy-one until the first day of July one thousand eight hundred and seventy-three.

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Extending
time for
completion
of works.

5. Section thirty-one of the Act of 1864 and section twenty-five of the Act of 1867 are hereby repealed.

Repeal of
penalty
clauses in
recited Acts.

6. Whereas pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth year of Her present Majesty, cap. 20, the sum of 3,200*l.* was deposited in respect of the said Act of 1867, which sum is now standing to the credit of the Accountant General of the said court: Be it enacted, that, notwithstanding anything contained in the said Act of the ninth year of Her present Majesty, the said sum so remaining deposited as aforesaid 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 such Act of 1867, or of the survivors or survivor of them, unless the Company shall, previously to the expiration of the period limited by this Act for the completion of the railways authorised by the said Acts of 1864 and 1867, either open the railways for the public conveyance of passengers, or prove to the satisfaction of the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations that the Company have paid up one half of the amount of the capital by the said Acts authorised to be raised by means of shares, and have expended for the purposes thereof a sum equal in amount to such one half of the said capital; and if the said period shall expire before the Company shall either have opened the railway for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Lords of the said Committee, the sum so remaining deposited as aforesaid shall be applied in the manner herein-after specified, and the certificate of the Lords of the said Committee that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the facts so certified; and it shall not be necessary to produce any certificate of this Act having passed, anything in the said recited Act to the contrary notwithstanding.

As to deposit
of money.

7. The said sum of money deposited as aforesaid shall be applicable, and after due notice in the London Gazette shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of

Application
of moneys
recoverable
by way of
penalty.

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Time limited
for com-
pletion of
railway.

8. If the railway shall not be completed within the period limited by this Act, then on the expiration of such period the powers by the recited Acts and this Act granted to the Company for making and completing the railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Confirmation
of agreement
with Lanca-
shire and
Yorkshire
and Great
Northern
Railway
Companies.

9. The heads of agreement bearing date the thirtieth day of April one thousand eight hundred and seventy, and made between the five directors therein named of the first part, the Halifax and Ovenden Railway Company of the second part, and the Lancashire and Yorkshire and the Great Northern Railway Companies, who are therein and are in this Act referred to as the two companies, of the third part, is hereby as between the parties thereto confirmed and made binding on the said parties, and a copy of the said agreement forms Schedule A. to this Act: Provided that the following words in the fifth article of the said agreement shall be deemed to be excluded therefrom, namely, "to Lee Bridge, and they shall deal with the
" remainder of the line as they in their absolute discretion may
" determine," and in pursuance of the said agreement and subject to the conditions thereof the Halifax and Ovenden Junction Railway

Company is hereby dissolved, and its undertaking, property, and effects, and all its rights, powers, and privileges, and all its debts, duties, and liabilities, are hereby transferred to, vested in, and imposed upon the two companies. A.D. 1870.

10. Notwithstanding such dissolution the two companies may exercise the following powers: Certain powers to be exercised by the two companies.

(1.) They may, in addition to the sums which they are by the Acts of 1864 and 1867 authorised to raise for the purposes of the undertaking, raise in equal proportions the sum of 30,000*l.*, being the remainder of the additional capital of 90,000*l.* authorised to be raised by the Company under the 12th section of the said Act of 1867, and the provisions contained in the 30th, 31st, and 32nd sections of the said Act with respect to the capital which the two companies are by the same Act respectively authorised to raise, shall apply to the said additional capital of 30,000*l.*:

(2.) They may borrow in equal proportions, by mortgage of their respective undertakings, the sum of 27,000*l.* in respect of the Act of 1864, and also the sum of 30,000*l.* in respect of the Act of 1867, subject as to the last-mentioned said sum to the conditions contained in the 15th section of the last-mentioned Act; provided that all mortgages granted by the two companies respectively before the passing of this Act, and which shall be subsisting at the time of the passing thereof, shall during the continuance of such mortgages have priority over any mortgages to be granted by virtue of this Act:

(3.) The capital raised and authorised to be raised by the Acts of 1864, 1867, and this Act shall be applied to the purposes of the undertaking:

(4.) Nothing herein contained shall authorise the two companies to make any further call on the shareholders of the dissolved company.

11. The Lancashire and Yorkshire and the Great Northern Railway Companies may enter into contracts and agreements from time to time with respect to their joint interest in and with respect to the working and management of the undertaking so transferred by the said agreement, and the agreement bearing date the 1st day of June 1870, and made between the said two companies, is hereby as between the parties thereto confirmed and made binding on them, and a copy of the said agreement is contained in Schedule B. to this Act. Providing for agreements between those two companies.

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

12. Nothing herein contained shall be deemed or construed to exempt the railway of the Company or the Company from the provisions of any general Act relating to railways, or to 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 and alteration, under the authority of Parliament, of the maximum rates of fares and charges, or of the rates for small parcels, authorised to be taken by the Company.

Expenses of
Act.

13. All the costs, charges, and expenses of obtaining and passing this Act, or incident thereto, shall be paid by the Company.

SCHEDULE A.

HEADS OF AGREEMENT made the 30th day of April 1870, between Edward Akroyd, of Bankfield in Halifax in the county of York, Esquire, M.P., Sir Francis Crossley, of Belle Vue in Halifax aforesaid, Baronet, and a Knight of the Shire for the northern division of the west riding of the county of York, William Foster, of Harrowins House in Queenbury, in the parish of Halifax aforesaid, Esquire, Henry Akroyd Ridgway, of Woodlands in Halifax aforesaid, Esquire, and Robert Midgley, of Nether-ton Mill, in the parish of Halifax aforesaid, Manufacturer (herein-after called the five directors), of the first part, the Halifax and Ovenden Junction Railway Company (herein-after called the Company) of the second part, and the Lancashire and Yorkshire Railway Company and the Great Northern Railway Company (herein-after called the two companies) of the third part.

WHEREAS under the Halifax and Ovenden Junction Railway Acts, 1864 and 1867, the two companies are empowered to raise two thirds of the capital authorised by those Acts, and the individual shareholders were to contribute the remaining one third of such capital: And whereas under the Act of 1864 calls amounting to 8*l.* per share have been called up, and each of the said two companies have paid 24,000*l.*, being a call upon 3,000 shares held by each of the said two companies, and the individual shareholders have paid on the shares allotted to them in the undertaking a sum of 21,921*l.* 15*s.*: And whereas the railway authorised by the Acts is in part constructed, and it has been mutually agreed by the said five directors acting for and on behalf of the shareholders of the Company, and with the consent and approbation of the Company, testified by the common seal thereof being hereunto set and affixed, and by the two companies, testified by their respective common seals being also hereunto set and affixed, and subject in all respects to the sanction of Parliament, as follows:

1. That the undertaking of the Company shall be for the considerations herein-after mentioned transferred to and absolutely vested in the two com-

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panies jointly, including all fixed and movable property, cash (including the amount deposited in the Bank of England as security for making the railway), deeds and books of every description, the intention being that the whole of the property, rights, and powers of the Company shall be transferred to the two companies, and the control and management of the undertaking conferred on them, and that the Company shall be dissolved, and the two companies shall take upon themselves the liabilities of the Company.

2. Pending the confirmation of the agreement the Company shall take such steps as regards the acquisition of land and the construction of works, and generally in the management of the undertaking, as the companies may from time to time request.

3. Subject to clause 6 the two companies shall pay interest at 4 per centum per annum upon the said sum of 21,921*l.* 15*s.*, being the amount paid up as aforesaid by the individual shareholders in the said undertaking, and in the event of any of the shareholders hereafter making any payment in respect of calls in arrear, and before the undertaking shall become vested in the two companies, the amounts so paid, without interest, shall be added to the said purchase money, and the calls so paid, with any interest paid thereon, shall belong to the two companies.

4. That the interest on the said purchase money shall be payable by equal half-yearly payments, and shall accrue from the date at which the railway of the Company or any part thereof is open for public traffic, or used for any purpose other than the construction of the railway; provided that the time from which such interest shall begin to accrue shall not be postponed beyond the first day of January 1873, and the same shall be paid free from all deductions except income tax.

5. That no further call shall be made on the individual shareholders under the Company's Acts of 1864 and 1867, but the two companies shall provide all capital required for completing of the railway to Lee Bridge, and they shall deal with the remainder of the line as they in their absolute discretion may determine.

6. That the two companies shall have the option of paying off the said purchase money at par at any time previous to the 1st of January 1873, either in cash or debenture stock of each of the two companies, in moieties bearing interest at 4 per cent. per annum from the time of issue, interest under article 4 being duly paid to the date of payment or issue of debenture stock.

7. That the said parties hereto of the first part, or the directors for the time being appointed in the said Company by the individual shareholders thereof, shall be the parties to receive and distribute the said purchase money, and the receipt of any two of such directors for the said purchase money, whether paid in cash or debenture stock, shall effectually discharge the two companies therefrom.

8. That the companies parties hereto will consent to the insertion in the Bill now pending in Parliament of all requisite provisions for confirming and giving effect to this agreement, and for conferring on the two companies the necessary powers for holding, working, and managing the said undertaking. In witness whereof the said five directors have hereunto set their respective hands and

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Signed, sealed, and delivered by the }
 said Edward Akroyd, in the presence } EDWD. AKROYD. (L. S.)
 of C. N. WILKINSON - - - - - }

Signed, sealed, and delivered by the } FRANCIS CROSSLEY. (L. S.)
 within-named Sir Francis Crossley, } WM. FOSTER. (L. S.)
 William Foster, Henry Akroyd } HY. AKROYD RIDGWAY. (L. S.)
 Ridgway, and Robert Midgley, in } ROBT. MIDGLEY. (L. S.)
 the presence of EDMD. MINSON }
 WAVELL, junr., solr., Halifax - - }



SCHEDULE B.

AN AGREEMENT made and entered into the 1st day of June 1870, between the Lancashire and Yorkshire Railway Company of the one part, and the Great Northern Railway Company of the other part.

WHEREAS by an agreement bearing date the 30th day of April 1870, and made between Edward Akroyd, Esquire, M.P., Sir Francis Crossley, Baronet, and a Knight of the Shire for the northern division of the west riding of the county of York, William Foster, Esquire, Henry Akroyd Ridgway, Esquire, and Robert Midgley, Manufacturer (therein-after called the five directors), of the first part, the Halifax and Ovenden Junction Railway Company (therein-after called "the Company") of the second part, and the Lancashire and Yorkshire Railway Company and Great Northern Railway Company (therein-after called the two companies) of the third part: After reciting that under the Halifax and Ovenden Junction Railway Acts, 1864 and

1867, the two companies were empowered to raise two thirds of the capital authorised by those Acts, and the individual shareholders were to contribute the remaining one third of such capital, and that under the Act of 1864 calls amounting to 8*l.* per share had been called up, and each of the said two companies had paid 24,000*l.*, being a call upon 3,000 shares held by each of the said two companies, and the individual shareholders had paid on the shares allotted to them in the undertaking a sum of 21,921*l.* 15*s.*, and that the railway authorised by the Acts was in part constructed, it was (amongst other things) mutually agreed that the undertaking of the Halifax and Ovenden Junction Railway Company should be, for the considerations therein mentioned, transferred to and absolutely vested in the two companies jointly, including all fixed and movable property, cash (including the amount deposited in the Bank of England as security for the making of the railway), deeds and books of every description, the intention being that the whole of the property, rights, and powers of the Company should be transferred to the two companies, and the control and management of the undertaking conferred on them, and that the Company should be dissolved, and the two companies should take upon themselves the liabilities of the Company, and the said agreement contained various stipulations for carrying the same into effect as between the Company, the independent shareholders thereof, and the two companies: And whereas a Bill is now pending in Parliament for the purpose of extending the time for the purchase of lands required for the said railway, and for the construction of the works of the said railway, and also for the purpose of confirming the said recited agreement: And whereas it is deemed expedient that the two companies should enter into these presents for the purpose of regulating the holding, working, and management of the said undertaking so intended to be acquired by them on joint account: Now therefore these presents witness, and the Lancashire and Yorkshire and Great Northern Railway Companies (herein-after called the "two companies") do hereby covenant and agree with each other for themselves and their successors as follows:

1. That the two companies shall concur with each other and with the parties to the said recited agreement of the 30th day of April 1870, in obtaining the requisite parliamentary provisions for confirming and giving effect to the said agreement.

2. That each of the two companies shall contribute a moiety of the purchase money, whether paid in cash or debenture stock, and a moiety of all interest payable in respect thereof, and shall be subject to and bear all the liabilities of the said undertaking in equal proportions.

3. That the two companies shall provide in equal proportions the capital required for completing the undertaking in accordance with the said recited agreement.

4. That each of the two companies shall have power to work over and use with their own engines and carriages, and with the necessary drivers, firemen, guards, and servants of all descriptions, the railway, stations, sidings, approaches, works, and conveniences of every description forming the said undertaking, and the two companies shall in respect of through traffic fix their own rates and fares, and pay to a joint fund to be opened by the joint committee for the use of

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A.D. 1870. the railway and stations, sidings, approaches, works, and conveniences of every description forming the said undertaking, as under :

For all traffic using the said undertaking in connexion with the railways of either company and places beyond, a mileage proportion of the gross receipts according to the actual distance travelled, after deducting the terminals at both ends and one third of the residue of such receipts for working expenses.

The terminals to be deducted from the through traffic before division shall be as follows :

Goods carted, 3s. per ton at each end, except London carted traffic, which is to be 7s. 6d. per ton. Goods not carted, 1s. per ton at each end. Minerals, including coal and coke, not carted, 3d. per ton at each end.

No terminals to be deducted from through passenger traffic.

The joint line to be credited with a carted terminal only when the traffic is carted at joint expense.

The joint line is to be credited upon the through traffic with one terminal in addition to the payment for the use of the undertaking, and the carrying company is to be credited with the other terminal, together with its portion of the mileage receipts, and the allowance for working expenses on through traffic before mentioned.

5. That the joint committee herein-after mentioned may work the local traffic of the joint line, that is, traffic from station to station on the line and to and from the existing station at Halifax, and also handle the through traffic at the stations or sidings of the joint line handed to them by or for either of the two companies, or the local traffic, if so agreed, may be worked and the through traffic handled by either of the two companies on such terms and conditions as may from time to time be mutually agreed upon, but each of the two companies shall be at liberty to carry local traffic in any through trains that may from time to time be run over the undertaking by either of them, and shall be allowed 25 per cent. of the gross receipts upon the traffic so carried for working expenses. Local traffic of the joint line using the existing Halifax station, whether passengers, goods, or minerals, shall be charged such a sum for terminals as may from time to time be agreed on, or failing agreement be settled by arbitration.

6. That the rates and charges for all descriptions of local traffic, whether carried in local or through trains, shall be fixed from time to time by the joint committee.

7. That after providing for the payment of the cost of maintaining, managing, and working the said undertaking, the two companies shall be entitled to the net gains and profits and bear the losses of the undertaking in equal shares.

8. Within two months after the passing of the intended Act the Lancashire and Yorkshire Company shall (in writing under the hand of the chairman and secretary of that company) nominate four persons, each of whom shall be a director of the Lancashire and Yorkshire Railway Company, and the Great Northern Company shall in like manner nominate four persons, each of whom shall be a director of the Great Northern Railway Company, and the eight persons so nominated and their successors shall form a committee for the

construction, maintenance, and management of the undertaking, to be called A.D. 1870.
“the Halifax and Ovenden joint committee.”

9. Each of the two companies may from time to time at their pleasure remove by writing under the hand of their secretary all or any of the members of the joint committee nominated by them respectively, and may in like manner fill up vacancies occurring in the joint committee by removal, death, or resignation.

10. The joint committee shall hold its meetings at such place as it shall from time to time determine, and three shall be a quorum, both companies being represented; and, unless at any time or from time to time otherwise unanimously agreed at any such meeting, the chairman of successive meetings shall be alternately selected from the members representing the companies respectively, and the first business transacted at every meeting of the joint committee shall be the election of a chairman to preside at such meeting, and the proceedings of such meeting shall be determined by a majority of the persons present, the chairman having only one vote, and not a casting vote; but if any question shall arise in the joint committee whereon all the members representing one company differ from the members representing the other company, or if there shall be an equality of votes upon any question entertained by the joint committee, the question shall if required be referred to the boards of directors of the companies respectively, and if the said boards shall not within twenty-one days after the matter in difference shall have been referred to them agree thereupon, then the matter in difference shall be referred to arbitration in manner herein-after appearing.

11. The joint committee shall have and may exercise (in the names of the two companies) in respect of the undertaking all the powers conferred on the Halifax and Ovenden Junction Railway Company.

12. The joint committee may from time to time appoint and remove a secretary and treasurer, and may appoint and remove the officers, clerks, and servants from time to time employed on and with respect to the undertaking, except only the officers and servants from time to time employed by the companies or either of them in the actual conveyance of passengers, goods, minerals, animals, and things, or the management of carriages, locomotive engines or other power.

13. The joint committee shall cause proper books of account to be kept containing accurate statements of all receipts and expenditure in any way relating to the undertaking, as also books in which shall be entered the minutes of all proceedings at every meeting of the joint committee, and such books of account and minute books, as well as all other books, papers, writings, or accounts relating in any manner to the proceedings of the joint committee, or having reference to the undertaking, shall at all reasonable times of the day be open to the inspection of the directors of the companies respectively, or persons duly authorised by them or either of them, who shall also have power during such times as aforesaid to take or have made such copies thereof or extracts therefrom as they may think fit, without making any payment for the same.

14. The joint committee may from time to time make calls of money upon the two companies in respect of the amount to be contributed by them

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15. If on or before the day appointed for payment of any call, either of the companies do not pay the amount thereof to which they are liable, then the company in default shall pay for the same while in arrear interest at such rate not exceeding six pounds per centum per annum as the joint committee may appoint, provided that not less than twenty-eight days notice of every call shall be given by the joint committee.

16. If any action, suit, indictment, or other proceeding at law or in equity shall be brought or prosecuted against the two companies jointly or separately for any act or default committed or incurred wholly or for the greater part by one of the companies, the other of the companies shall be entitled to recover in any court of competent jurisdiction from the company by whom such act or default shall have been so committed or incurred the whole or a fair proportion of any damages, penalties, costs, or other payments to which the companies jointly or either of them separately shall have been adjudged or become liable by reason of any action, suit, indictment, or other proceeding at law or in equity.

17. If any difference of opinion shall arise in the joint committee in reference to the undertaking, or on any question entertained by them connected therewith, or if any question shall arise between the companies under this agreement, or as to the duties, liabilities, or obligations of either of them under the intended Act, and for the settlement of which no provision has been otherwise made, every such difference shall from time to time as the same shall arise be referred to the determination of an arbitrator to be nominated by the two companies within twenty-one days after notice and request of either of them in writing to the other of them, failing which the same shall be referred to arbitration under the provisions of "The Railway Companies Arbitration Act, 1859."

18. That the two companies will concur in endeavouring to obtain the requisite parliamentary authority for carrying into effect the provisions of this agreement and the fair incidents and consequences thereof.

In witness whereof the two companies have hereunto affixed their respective common seals.

