



CHAPTER lxxxii.

An Act to confer further powers upon the Hull Barnsley and West Riding Junction Railway and Dock Company and to extend the Time for the compulsory Purchase of Land for and for the completion of certain of their authorised works and for other purposes. A.D. 1885.

[16th July 1885.]

WHEREAS by the Hull Barnsley and West Riding Junction Railway and Dock Act 1880 (in this Act called "the Act of 1880") the Hull Barnsley and West Riding Junction Railway and Dock Company (in this Act called "the Company") were incorporated for the purpose of making and maintaining (amongst other things) railways in the west riding of the county of York and thence to Hull with a dock and other works in connexion therewith at Hull with a share capital of three million pounds and with power to borrow not exceeding one million pounds :

And whereas by the Hull Barnsley and West Riding Junction Railway and Dock (New Works) Act 1882 (in this Act called "the Act of 1882") the Company were authorised to extend their railways to Huddersfield and Halifax and to execute certain further works including a new road at Drax and to raise further money and by that Act the periods for the compulsory purchase of lands for and for the completion of the said railways and road were respectively limited to three and five years from the passing of that Act which received the Royal Assent on the 18th day of August 1882 :

And whereas by the Hull Barnsley and West Riding Junction Railway and Dock (Various Powers) Act 1883 (herein-after called "the Act of 1883") and the Hull Barnsley and West Riding Junction Railway and Dock Act 1884 further powers were conferred upon the Company and the aforesaid Acts of 1880 and 1882 were in some respects amended :

And whereas by the Hull Barnsley and West Riding Junction Railway and Dock (Money) Act 1884 (herein-after called "the Money Act 1884") the Company were empowered to borrow on mortgage

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A.D. 1885. in addition to any sum or sums which they were by the Acts of 1880 1882 and 1883 authorised to borrow any sums not exceeding in the whole one million five hundred thousand pounds and it was provided by that Act that all money raised thereunder should be applied only for the purposes to which capital was properly applicable of the works authorised by the Act of 1880 and of the works authorised by the Acts of 1882 and 1883 in connexion with such first-mentioned works but should not be applied in or towards the construction of the Company's authorised extensions to Halifax and Huddersfield :

And whereas the last-mentioned sum of one million five hundred thousand pounds has been duly raised and the principal works authorised by the said Act of 1880 will be shortly completed :

And whereas by reason of the difficulty in raising the necessary funds for that purpose until the completion of the aforesaid works authorised by the Act of 1880 the powers of the Company under the Act of 1882 for the compulsory purchase of lands for and for the completion of the railways and the new road at Drax by that Act authorised have remained wholly unexercised and it is expedient that the before-mentioned periods by the said Act limited for the exercise of such powers be respectively extended as in this Act provided :

And whereas it is expedient that the Company should be authorised to abandon the construction of the Railway No. 1A authorised by the Act of 1880 and to construct the new railway by this Act authorised in substitution therefor :

And whereas it is expedient that the Company's powers of lateral deviation for the Railway No. 4 authorised by the Act of 1882 should be enlarged and that the Company should be authorised to purchase and acquire additional lands for the purposes of that railway :

And whereas plans and sections showing the line and levels of the works authorised by this Act and plans also of the additional lands to be purchased compulsorily under the powers of this Act and also books of reference to such plans respectively containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the west riding of the county of York and are herein-after respectively referred to as the deposited plans sections and books of reference :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

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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 :— A.D. 1885.

1. This Act may be cited as the Hull Barnsley and West Riding Junction Railway and Dock Act 1885. Short title.

2. The clauses and provisions of the Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses Umpire Act 1883 the Railways Clauses Consolidation Act 1845 and Part I. (relating to construction of a railway) and Part II. (relating to extension of time) of the Railways Clauses Act 1863 are (except where expressly varied by this Act) incorporated with and form part of this Act. Incorporation of Acts.

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. Interpretation.

4. The recited Acts as each is respectively amended by any subsequent Act or by this Act shall be read and construed with this Act as one Act. Recited Acts and this Act to be read as one Act.

5. The powers granted by the Act of 1882 for the compulsory purchase and taking of lands for the purposes of the railways and of the new road at Drax 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 eighteenth day of August one thousand eight hundred and eighty-five. Extending period limited by Act of 1882 for purchase of lands.

6. Notwithstanding the expiration of the period referred to in section 24 of the Act of 1882 the powers granted by that Act for the compulsory purchase and taking of the lands in that section mentioned for purposes authorised by that Act are hereby revived and extended and may be exercised at any time within one year from the passing of this Act but the Company shall not enter upon take or use any part of such lands which are known as the Shay estate at Halifax and belong or are reputed to belong to Sir Henry John Selwin-Ibbetson Baronet after the expiration of the said period For protection of Shay estate of Sir H. J. Selwin-Ibbetson.

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A.D. 1885. of one year from the passing of this Act otherwise than by agreement and if the Company shall within the said period of one year enter upon take or use any part of that estate they shall take the whole thereof and pay compensation for the same under the provisions of the Lands Clauses Consolidation Act 1845 with respect to the purchase and taking of lands otherwise than by agreement and in that event the said Sir Henry John Selwin-Ibbetson shall sell the said estate to the Company accordingly.

Extending period limited by Act of 1882 for completion of works.

7. The period limited by the Act of 1882 for the completion of the railways and of the new road at Drax authorised by that Act is hereby extended for a period of three years from the eighteenth day of August one thousand eight hundred and eighty-seven.

Company to abandon Railway No. 1A authorised by Act of 1880.

8. The Company may and shall abandon and relinquish the construction of the Railway No. 1A authorised by the Act of 1880.

Compensation for damage to land by entry &c. for purposes of works abandoned.

9. The abandonment by the Company under the authority of this Act of the Railway No. 1A authorised by the Act of 1880 shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels or probing or boring to ascertain the nature of the soil or setting out the works and shall not prejudice or affect the right of the owner or occupier of any land which has been temporarily occupied by the Company to receive compensation for such temporary occupation or for any loss damage or injury which may have been sustained by such owner or occupier by reason thereof or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation Act 1845 or the Act of 1880.

Compensation to be made in respect of works abandoned.

10. Where before the passing of this Act any contract has been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to any portions of the railway authorised to be abandoned by this Act the Company shall be released from all liability to purchase or to complete the purchase of any such lands but notwithstanding full compensation shall be made by the Company to the owners and occupiers or other persons interested in such lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice and the amount and application of the compensation shall be determined in manner provided by the Lands Clauses Consolidation Act 1845 as amended by any subsequent Act for determining the amount and application of compensation paid for lands taken under the provisions thereof.

11. Subject to the provisions of this Act the Company may make and maintain in the lines or situations and according to the levels respectively shown on the deposited plans and sections the railway herein-after described with all necessary and proper viaducts rails sidings junctions turntables stations approaches bridges roads sewers gates buildings yards machinery and other works buildings 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 those purposes. The railway herein-before referred to and authorised by this Act will be situate in the west riding of the county of York and is :

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Power to
make works.

A railway 4 furlongs and 4·60 chains or thereabouts in length commencing by a junction with Railway No. 1 authorised by the Act of 1880 as now in course of construction in the parish of Royston and terminating by a junction with Railway No. 4 authorised by the Act of 1882 as intended to be constructed under the extended powers of deviation under this Act at a point on the east side of the Midland Railway about 14 chains measured along the said Midland Railway southward towards Cudworth Station from the bridge carrying the Company's aforesaid Railway No. 1 now in course of construction over the Midland Railway.

12. If the railway by this Act authorised is not completed within three years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for making and completing the same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Period for
completion
of works.

13. For the purposes of tolls rates charges and duties and for all other purposes whatsoever including the expense of construction the railway by this Act authorised shall be deemed to be part of the railways of the Company authorised by the Act of 1880.

Tolls on the
railway.

14. The powers of the Company under the Act of 1882 of lateral deviation in the construction of the Railway No. 4 authorised by that Act are hereby extended and the Company (notwithstanding anything contained in the Act of 1882 or any Act or Acts incorporated therewith) may in the construction of the said Railway No. 4 deviate westwardly (within the extended limits of lateral deviation shown upon the plans deposited for this Act) to any distance not exceeding 80 yards from the line of the said Railway as shown upon the plans deposited for and referred to in the Act of 1882 and the Company may also for the purposes of the said Railway No. 4 and in addition to any other lands which they are by this Act authorised

Extension
of limits of
deviation
and pur-
chase of
additional
lands for
Railway
No. 4 autho-
rised by Act
of 1882.

A.D. 1885. to acquire enter upon take hold and use the lands in the townships of Cudworth Carlton and Monk Bretton in the parish of Royston in the west riding of the county of York shown on the deposited plans and described in the deposited books of reference.

Limiting period for compulsory purchase of lands.

Power to take easements &c. by agreement.

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

16. 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.

Restrictions on displacing persons of the labouring class.

17. (1.) The Company shall not under the powers of this Act purchase or acquire in any city borough or other urban sanitary district or any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers 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 last 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 that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the 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 requirements shall be enforceable by a writ of Mandamus to be obtained by the Local Government Board out of the Queen's Bench Division of the High Court of Justice.

(5.) If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any 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

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A.D. 1885. 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.

(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.

Provisions
as to deposit.

18. Whereas the estimated expense of the railway by this Act authorised is less than the estimated expense of the railway authorised by this Act to be abandoned and it is expedient that the railway by

this Act authorised should for the purposes of sections 94 and 95 of the Act of 1880 be deemed to be part of the railways by that Act authorised: Therefore for the purposes of the said sections 94 and 95 the railway authorised by this Act shall be deemed to be part of the railways authorised by the Act of 1880 and the railway deposit fund mentioned in the said sections shall be deemed to include five per centum upon the amount of the estimate in respect of the railway by this Act authorised: Provided always that for the purposes of the said sections 94 and 95 the period limited for the completion of the railways shall be deemed as regards the railway by this Act authorised to be the period of three years from the passing of this Act but nothing in this section shall prejudice or alter any right of any owner or occupier of lands or other persons injuriously affected or any creditors to or over the railway deposit fund.

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19. The Company may apply for the purposes to which capital is properly applicable of the substituted railway by this Act authorised any moneys which might have been lawfully applied to the purposes of the Railway No. 1A authorised by the Act of 1880 and by this Act authorised to be abandoned and may apply for any of the other purposes of this Act to which capital is properly applicable any sums which by any of the recited Acts (other than the Money Act of 1884) they are authorised to raise by shares stock debenture stock or borrowing and which are not by the Act or Acts under which they are authorised to be raised made applicable to any special purpose or being so made applicable are not required for such special purpose.

Power to
apply money.

20. The heads of agreement dated the twenty-fourth day of January one thousand eight hundred and eighty-five made between the Midland Railway Company and the Company and set forth in the schedule to this Act are hereby confirmed and made binding upon the Companies parties thereto and full effect may and shall be given thereto accordingly and as from the passing of this Act all provisions of the agreement made between the said Companies dated the twentieth day of May one thousand eight hundred and eighty-two (which agreement was scheduled to and confirmed by the Midland Railway (Additional Powers) Act 1883) which are inconsistent with the said heads of agreement shall cease to be binding upon the Companies parties thereto but in all other respects the said agreement shall continue in full force and effect.

Confirming
heads of
agreement
in schedule.

21. Nothing in this Act contained shall exempt the Company 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

Provisions
as to general
railway
Acts.

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A.D. 1885. 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 to be taken by
the Company.

Costs of Act. **22.** All the 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.

The SCHEDULE referred to in the foregoing Act.

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HEADS OF AGREEMENT.

Joint goods sidings to be constructed to the north of the Hull and Barnsley bridge over the Midland line in accordance with the plan annexed hereto between the points A and B. The work shown in red to be carried out by the Midland Company and the cost of the works including the value of the land of the Midland and Hull and Barnsley Companies respectively to be ascertained on completion by agreement or arbitration and to be divided equally between the two companies. The sidings to be maintained by Midland Company at equal cost of two companies.

The Hull and Barnsley Railway No. 4. of the Act of 1882 to be constructed and maintained by the Hull and Barnsley Company at their own cost up to the existing boundary of their land marked C on the plan. The lines from the said boundary to the point marked D on the plan including the bridge over the turnpike road to be constructed and maintained by Midland Company at the cost of Hull and Barnsley Company and in such position as to be available for the Midland Company's goods lines should they require to widen their railway to four lines of rails.

Hull and Barnsley Company to acquire the land for two lines of rails east of those to be constructed as above provided and Midland Company to have power to call upon Hull and Barnsley Company to construct the lines on such land between the points C and D on giving them twelve months' notice within which time the Hull and Barnsley Company will construct the said lines the Midland Company repaying to them on the completion of such construction the amount charged to them for the construction of the lines coloured purple between the points C and D which thenceforward they will cease to use. Until such notice is given the lines coloured purple between C and D to remain the property of the Midland Company but the Hull and Barnsley Company to have the right of using them without payment and the cost of maintenance to be shared by the Companies in proportion to use.

The Midland Company to construct at the cost of the Hull and Barnsley Company the lines from the point marked D up to the point marked E including a temporary passenger station and the connexions with the Midland main line as shown on the plan. These lines and works to be maintained by the Hull and Barnsley Company as part of their system or by the Midland Company on their account.

The Midland Company to provide at the cost of the Hull and Barnsley Company accommodation for station to station traffic with the necessary cart road as shown upon the plan and marked F F F and a cart road from the turnpike road to the Midland Company's station and marked G H including the necessary land in both cases in substitution for the station to station

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A.D. 1885. sidings and approach road which already exist on the east side of the Midland Company's line and which will be discontinued.

The Midland Company to carry out the alterations at the Cudworth Station coloured pink on the plan and not herein-before provided for at their own cost.

The Hull and Barnsley Company to pay in advance to the Midland Company the sum of £20,000 being the estimated cost of the works which the Midland Company (by this agreement) are to construct for the Hull and Barnsley Company including their proportion of joint works.

The Hull and Barnsley Company to purchase upon usual terms between railway companies an easement over any land of the Midland Company which it may be necessary to use for the works shown upon the plan.

Either company to be at liberty to require the other upon twelve months' notice being given to concur in the provision of a joint passenger station in accordance with the agreement of May 20th 1882.

The two passenger stations at Cudworth to be worked by Midland Company's staff the Hull and Barnsley Company paying them a share of the working expenses in proportion to user. The Midland Company to do the terminal goods work at Cudworth for the Hull and Barnsley Company on payment of the usual clearing house terminals.

The Hull and Barnsley Company may construct or if required by the Midland Company at any time shall construct a junction between the two railways at a convenient point at the north end of the Cudworth Station in substitution for the authorised junction south of Cudworth if such authorised junction be not constructed.

In consideration of the abandonment of the Hull and Barnsley Company's Railway No. 1A authorised by the Act of 1880 they are to give the Midland Company the right to use the additional arch or opening constructed under their bridge for one line of rails if and when the Midland Company widen their line to four lines of rails.

If the Hull and Barnsley Railway is completed before the accounts between the two companies for works provided for by this agreement shall have been adjusted the Hull and Barnsley Company will before opening their railway for public traffic give the Midland Company such security as they may reasonably require or as may be determined by arbitration in case of difference for the payment of any balance due from them upon the adjustment of such accounts.

JOHN NOBLE.
S. SWARBRICK.

January 24th 1885.