

[1 & 2 GEO. 6.] *London Midland and* [Ch. xxvii.]  
*Scottish Railway Act, 1938.*



## CHAPTER xxvii.

An Act to empower the London Midland and Scottish Railway Company to construct works and to acquire lands to amend the superannuation scheme of the Company and for other purposes. [2nd June 1938.] A.D. 1938.

**W**HEREAS it is expedient that the London Midland and Scottish Railway Company (in this Act referred to as "the Company") should be empowered to construct the works in this Act mentioned and to acquire the lands in this Act described:

And whereas by the Newcastle-under-Lyme Canal (Lease) Act 1864 the canal authorised by the Act 35 George III chapter 87 together with the railway described in the said Act of 1864 as the canal extension railway were vested by way of lease in the North Staffordshire Railway Company for ever subject to the payments and the yearly rent specified in the said Act of 1864: 27 & 28 Vict. c. cxviii.

And whereas the undertaking of the said North Staffordshire Railway Company is now vested in the Company:

And whereas it is expedient to authorise the Company to stop up and discontinue a portion of the said canal and that the provisions hereinafter contained with respect to the site of the said portion of canal should be enacted:

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— And whereas it is expedient that the provisions relating to the superannuation scheme of the Company should be amended :

And whereas it is expedient that the period now limited for the construction of a certain work by the Company should be extended :

And whereas it is expedient that the agreements respectively set forth in the Second and Third Schedules to this Act should be confirmed :

And whereas it is expedient that the Company should be empowered to apply their funds to the purposes of this Act and that the other powers in this Act mentioned should be conferred :

And whereas plans and sections showing the lines and levels of the works by this Act authorised and plans of the lands which may be taken or used under the powers of this Act and a book of reference to those plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited with the clerks of the county councils of the several counties and town clerks of the several county boroughs respectively within which the said works will be constructed and the said lands are situate which plans sections and book of reference are in this Act respectively referred to as the deposited plans sections and book of reference :

And whereas the objects of this Act cannot be attained without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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 all purposes as the London Midland and Scottish Railway Act 1938.

Interpretation.

2. In this Act unless there be something in the subject or context repugnant to such construction the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated

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herewith have in relation to the relative subject-matter the same respective meanings And— A.D. 1938.

“ the Company ” means the London Midland and Scottish Railway Company;

“ the Act of 1864 ” means the Newcastle-under-Lyme Canal (Lease) Act 1864; 27 & 28 Vict. c. cxviii.

“ the canal ” means so much of the Newcastle-under-Lyme Canal leased by the Act of 1864 as has not been stopped up and discontinued in pursuance of section 34 (Stopping up and discontinuance of portion of Newcastle Canal) of the North Staffordshire Railway Act 1921 and section 5 (Confirmation of agreement transfer to corporation of western portion of canal and extinction of rights &c.) of the Stoke-on-Trent Corporation Act 1935; 11 & 12 Geo. 5. c. cxvii.

“ the Superannuation Fund Act ” means the London Midland and Scottish Railway (Superannuation Fund) Act 1924; 25 & 26 Geo. 5. c. cxi. 14 & 15 Geo. 5. c. li.

“ the superannuation scheme ” means the scheme established by and scheduled to the Superannuation Fund Act as amended by section 21 (Amendment of London Midland and Scottish Railway Superannuation Scheme) of the London Midland and Scottish Railway Act 1935; 25 & 26 Geo. 5. c. xcix.

all distances and lengths stated in any description shall be read and have effect as if the words “ or thereabouts ” were inserted after each such distance and length.

3. The following Acts and Part of an Act so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act are incorporated with and form part of this Act (that is to say):— Incorporation of general Acts.

The Lands Clauses Acts (except sections 127 to 131 inclusive of the Lands Clauses Consolidation Act 1845): 8 & 9 Vict. c. 18.

Provided that (1) notwithstanding anything contained in the Lands Clauses Consolidation Act 1845 any question of disputed compensation under this Act or any Act incorporated herewith (other than a question required to be determined by two justices) shall be determined by a single

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arbitrator to be agreed upon between the Company and the person claiming the compensation or in default of such agreement appointed by the Board of Trade on the application of either party (2) the bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be under the common seal of the Company and shall be sufficient without the addition of the sureties mentioned in that section:

8 & 9 Vict.  
c. 20.  
26 & 27 Vict.  
c. 92.

The Railways Clauses Consolidation Act 1845:

Part II (relating to extension of time) of the Railways Clauses Act 1863.

Protection  
of gas and  
water mains  
of local  
authorities.

4. The provisions of sections 18 to 23 of the Railways Clauses Consolidation Act 1845 shall for the purposes of this Act extend and apply to the gas and water mains pipes and apparatus of any local authority or gas or water board and shall be construed as if "local authority" "gas board" and "water board" were mentioned in those sections in addition to "company" or "society" Provided that any penalties recovered under section 23 shall be appropriated to that fund of the local authority or gas or water board to which their revenues in respect of gas or water (as the case may be) are appropriated.

Power to  
construct  
works.

5. Subject to the provisions of this Act the Company may make (and in so far as the same are shown on the deposited plans and sections in the lines and according to the levels so shown) the works hereinafter described with all necessary works and conveniences connected therewith and may exercise the powers hereinafter mentioned and may enter upon take and use the lands delineated upon the deposited plans and described in the deposited book of reference relating thereto (that is to say):—

In the county borough of Blackpool—

An extension on the east side thereof of the bridge which carries the Blackpool Central to Blackpool South railway of the Company over Rigby Road;

A diversion of Rigby Road extending between points in that road one hundred and twenty-eight yards and two hundred and eighty-five

yards respectively measured in an easterly direction from the junction of that road with Blundell Street; A.D. 1938.  
—

An opening under Waterloo Road on the east side of the existing bridge carrying the said road over the Blackpool Central to Blackpool South railway of the Company.

6. In constructing the works by this Act authorised the Company may deviate from the lines of any of the said works shown on the deposited plans thereof to the extent of the limits of deviation marked thereon and may deviate from the levels of any of the said works shown on the deposited sections to any extent not exceeding five feet upwards or downwards. Power to deviate in construction of works.

7. Subject to the provisions of this Act the Company in addition to the other lands which they are by this Act authorised to acquire may for any purposes connected with or ancillary to their undertaking enter upon take use and appropriate all or any of the lands hereinafter described or referred to and delineated on the deposited plans and described in the deposited book of reference relating thereto (that is to say) :— Power to acquire lands.

In the county of Warwick—

Lands in the borough of Rugby—

- (a) On both sides of and adjoining the London to Birmingham railway of the Company extending from the road from Holbrook Grange to Rugby for a distance of five hundred and twenty-four yards eastwards;
- (b) On the north side of and adjoining the said railway extending from the road from Holbrook Grange to Rugby for a distance of seventy yards westwards;
- (c) On the north side of and adjoining the said railway extending from a point on the boundary of the Company's property two hundred and forty-seven yards measured in a westerly direction from the road from Holbrook Grange to Rugby for a distance of one hundred and sixty yards westwards to the borough boundary.

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Lands in the parish of Long Lawford in the rural district of Rugby—

- (a) On the north side of and adjoining the said railway extending from the said borough boundary to School Street;
- (b) On the south side of and adjoining the said railway extending from a point on the boundary of the Company's property one hundred and forty-five yards measured in a westerly direction from the road from Holbrook Grange to Rugby to School Street;
- (c) On the south side of and adjoining the said railway between School Street and Chapel Street;
- (d) On the north side of and adjoining Railway Street between points respectively forty yards and fifty yards measured in an easterly direction from Main Street;
- (e) Partly adjoining Main Street and partly adjoining Railway Street extending for a distance of sixty-six yards measured in a westerly direction along Railway Street from Main Street;
- (f) On the south side of and adjoining the said railway extending from Chapel Street for a distance of one thousand yards westwards to the parish boundary;
- (g) On the north side of and adjoining the said railway extending from Chapel Street for a distance of one thousand and four yards westwards to the said parish boundary.

Lands in the parish of Church Lawford in the rural district of Rugby—

- (a) On the south side of and adjoining the said railway between the said parish boundary and a point sixty yards east of the road from Rugby to Church Lawford;
- (b) On the north side of and adjoining the said railway extending from the said parish boundary to the road from Rugby to Church Lawford;

- (c) On both sides of and adjoining the said railway between the road from Rugby to Church Lawford and the road from Bourton-on-Dunsmore to Church Lawford; A.D. 1938.
- (d) On both sides of and adjoining the said railway between the said road from Bourton-on-Dunsmore to Church Lawford and the road from Church Lawford to Wolston Heath;
- (e) On the south side of and adjoining the said railway extending from the said road from Church Lawford to Wolston Heath for a distance of eight hundred and ninety yards westwards to the parish boundary;
- (f) On the north side of and adjoining the said railway extending from the said road from Church Lawford to Wolston Heath for a distance of eight hundred and eighty-three yards westwards to the said parish boundary.

Lands in the parish of Wolston in the rural district of Rugby—

- (a) On both sides of and adjoining the said railway extending from the said parish boundary to Fosse Way;
- (b) On both sides of and adjoining the said railway extending from Fosse Way to the Brandon and Bretford parish boundary along the old course of the river Avon four hundred and forty-seven yards west of the road from Marston Mill to Wolston;
- (c) On the north side of and adjoining the said railway extending from the river Avon for a distance of one hundred and ninety-six yards eastwards;
- (d) On the south side of and adjoining the said railway extending from the river Avon for a distance of thirty yards eastwards.

Lands in the parish of Brandon and Bretford in the rural district of Rugby—

- (a) On the south side of and adjoining the said railway extending from the said Brandon

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- and Bretford parish boundary for a distance of fifty-seven yards westwards;
- (b) On the south side of and adjoining the said railway extending from a point ninety-three yards west of the road from Brandon to Wolston to the road from Brandon to Baginton;
  - (c) On the north side of and adjoining the road from Wolston to Brandon and Wolston station of the Company between the boundaries of the field or enclosure numbered 110 on the 1/2500 Ordnance map of Warwickshire No. XXVII.3 (second edition 1905);
  - (d) On the north side of and adjoining the said road to Brandon and Wolston station extending from the road junction at the Royal Oak inn for a distance of three hundred and thirty-three yards westwards;
  - (e) On the north side of and adjoining the said railway extending between the road from Brandon to Baginton and a point sixteen yards west of the goods shed at Brandon and Wolston station;
  - (f) On both sides of and adjoining the said railway between the said road from Brandon to Baginton to the parish boundary at the junction of the said railway with the sidings to the Binley colliery.

Lands partly in the parish of Binley in the rural district of Rugby and partly in the parish of Baginton in the rural district of Warwick on the north-east side of and adjoining the said railway between points twenty-three yards and three hundred and thirty-three yards respectively north-west of the said railway junction.

Lands in the parish of Baginton in the rural district of Warwick—

On the south-west side of and adjoining the said railway between points one hundred and seventeen yards and seven hundred and seventy-five yards respectively south-east of the road from Binley to Willenhall.



Lands in the parish of Hampton-in-Arden in the rural district of Meriden— A.D. 1938.

On the north-east side of and adjoining the said railway of the Company extending between points on the boundary of the Company's property three hundred and twenty-one yards and eight hundred and ninety-two yards respectively measured in a south-easterly direction from the road from Knowle to Meriden.

In the city and county borough of Coventry—

- (a) Lands on the north-east side of and partly adjoining the said railway between points one hundred and fifty-six yards and six hundred and thirty-four yards respectively south-east of the road from Binley to Willenhall;
- (b) Lands on the south-west side of and adjoining the said railway extending from the road from Binley to Willenhall for a distance of one hundred and fourteen yards south-eastwards;
- (c) Lands on the south-west side of and adjoining the said railway between the said road from Binley to Willenhall and Humber Road;
- (d) Lands on the north-east side of and adjoining the said railway extending from a point forty-five yards north-west of the said road from Binley to Willenhall to Humber Road;
- (e) Lands on the south side of and adjoining the said railway extending from Humber Road for a distance of five hundred and twenty yards westwards;
- (f) Lands on the north side of and adjoining the said railway extending from Humber Road for a distance of one hundred and ninety-four yards westwards;
- (g) Lands on the south side of and adjoining the said railway extending from London Road for a distance of three hundred yards eastwards;

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- (h) Lands on the north side of and adjoining the said railway extending from London Road for a distance of four hundred and fifty-six yards eastwards;
- (i) Lands on the north side of and adjoining the said railway extending from Green Lane for a distance of seventy-eight yards westwards;
- (j) Lands on both sides of and adjoining the said railway extending from the bridge constructed to carry the Coventry bye-pass road over the said railway for a distance of three hundred and sixty-seven yards east therefrom.

In the city and county borough of Birmingham—

- (a) Lands on the south-west side of and adjoining the London to Birmingham railway of the Company between Mackadown Lane and Garretts Green Lane;
- (b) Lands on the north-east side of and adjoining the said railway extending from Mackadown Lane for a distance of four hundred and forty-seven yards north-westwards.

In the city and county borough of Stoke-on-Trent—

Lands on the east side of and adjoining Fowlea Brook extending between points on the said brook thirty yards and ninety yards respectively measured in a north-westerly direction along the said brook from the footpath from Peel Street to Longport.

In the county of Worcester—

Lands in the borough of Evesham on the west side of and adjoining the Ashchurch to Evesham railway of the Company extending between the points where the footpath leading from Great Hampton to Hampton ferry and the footpath from Charlton to Hampton ferry respectively meet the boundary of the Company's property and in connection therewith the Company may divert six yards to the west on the land so to be acquired so

much of the said footpath from Great Hampton to Hampton ferry as runs parallel with and adjoins the west side of the said railway. A.D. 1938.

8. Notwithstanding anything contained in this Act or shown on the deposited plans and sections the following provisions for the protection of the Fylde Water Board (in this section referred to as "the board") shall have effect:— For protection of Fylde Water Board.

- (1) The board are hereby empowered if they reasonably deem necessary by reason of any works or improvements of the Company by this Act authorised to alter the situation of or relay any water mains valves hydrants service-pipes stop-cocks stopcock-boxes meters meter-boxes and appliances of any description (all of which before-mentioned matters and things are collectively and/or separately referred to hereafter as "mains and apparatus") and also to provide and lay where they reasonably deem it necessary any substituted mains and apparatus in order to maintain the supply of water during the construction of any such works alterations or improvements as aforesaid and the Company shall pay to the board the cost of such alterations and relaying and also of the provision and laying of substituted mains and apparatus as certified by the engineer of the board:
- (2) The Company shall give the board fourteen days' notice before the commencement of any of the works under this Act:
- (3) The board shall after the receipt of the said notice from the Company unless otherwise agreed serve notice upon the Company with a plan showing the required alterations and relaying of mains and apparatus and for the laying of substituted mains and apparatus and the board shall if possible within fourteen days after the service of such notice and plan commence to execute the works matters and things therein specified and shall complete the same with all reasonable dispatch:

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- (4) Nothing in this Act contained shall authorise the Company to erect or construct any buildings or works other than bridges over the site of any mains and apparatus Provided that the foundations piers and abutments of any bridges which may be erected by the Company shall not be erected upon or over the site of any such mains or apparatus but shall leave sufficient working room to enable the board to carry out the duty of inspection maintenance repair or renewal of any mains and apparatus :
- (5) The Company shall make compensation to the board for any damage done to any mains and apparatus by reason or in consequence of the construction of the works and improvements under this Act :
- (6) If any difference shall arise between the parties as to the meaning or intent of anything herein contained or as to anything done by either party or as to the fact of damage to any mains and apparatus and the compensation payable by the Company in respect thereof the same shall be referred to a single arbitrator to be agreed between the parties or failing such agreement to be appointed by the President of the Institution of Civil Engineers on the application of either party.

For protection of  
Leicestershire and  
Warwickshire  
Electric  
Power  
Company.

9. For the protection of the Leicestershire and Warwickshire Electric Power Company (in this section referred to as "the power company") the following provisions shall unless otherwise agreed in writing between the power company and the Company apply and have effect :—

- (1) If the Company shall at any time under the powers of this Act purchase or lease any lands on which the power company have erected or laid and are using any electric line or other works in exercise of facilities conferred on the power company by an agreement with or licence from the owner of such lands the Company shall grant to or procure for the power company similar facilities on terms and conditions not less favourable than those contained in such agreement or licence :

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- (2) The Company shall take all reasonable precautions to prevent interference with any electric line and other works of the power company upon across under above or adjoining any such lands and so as to cause no interruption to any supply of electricity afforded by the power company : A.D. 1938.
- (3) If it should be necessary to alter divert or reconstruct any such electric line or other works the reasonable costs and expenses incurred by the power company in so doing shall be paid by the Company to the power company :
- (4) If any injury or interruption as aforesaid shall arise from or in any way be due to any of the acts works and operations of the Company the Company shall make compensation to the power company in respect thereof the amount of such compensation unless agreed upon to be determined by arbitration as hereinafter provided :
- (5) The provisions of this section shall be in addition to and not in substitution for the rights and powers of the power company under the Electricity (Supply) Acts 1882 to 1936 and any statutory modification thereof :
- (6) The expression "electric line" shall have the same meaning as in the Electricity (Supply) Acts 1882 to 1936 and for the purpose of this section shall include poles standards guards stays wires cables and apparatus used by the power company in connection therewith :
- (7) Any difference which shall arise between the Company and the power company shall be referred to and determined by an arbitrator to be appointed failing agreement on the application of either party after notice in writing to the other by the President of the Institution of Civil Engineers and subject thereto the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such arbitration.

10.—(1) Notwithstanding anything contained in this Act the Company shall not except with the consent of the mayor aldermen and citizens of the city of Coventry (in this section called "the corporation") use the lands

For protection of Coventry Corporation.

A.D. 1938. — numbered 14 18 19 24 and 28 in the city of Coventry on the deposited plans for any purposes other than the widening of the London to Birmingham railway of the Company and the Company shall construct any embankments or other works in or upon the said lands with such clean materials as the corporation may reasonably require for the purpose of protecting the water taken from the said lands for the purposes of water supply.

(2) Any difference which shall arise between the corporation and the Company or their respective engineers under this section shall be referred to and determined by an arbitrator to be agreed upon between the parties or failing agreement to be appointed on the application of either party after notice in writing to the other of them by the President of the Institution of Civil Engineers and subject thereto the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such reference and determination.

Period for compulsory purchase of lands.

11. The powers granted by this Act for the compulsory purchase of lands shall cease on the first day of October one thousand nine hundred and forty-one.

Repair of roads where level not permanently altered.

12. Notwithstanding anything contained in section 46 of the Railways Clauses Consolidation Act 1845 the Company shall not be liable to maintain the surface of any road or public highway which shall be altered or interfered with under the powers of this Act or the immediate approaches thereto except so far as the level of such road public highway or approaches is permanently altered so as to increase the gradient :

Provided that nothing in this section shall relieve the Company from any liability which they were under immediately before the passing of this Act for the maintenance of the surface of any such road highway or approach.

Stopping up roads and footpaths in case of diversion.

13. Where this Act authorises the diversion of a road or footpath or the making of a new road or footpath and the stopping up of an existing road or footpath or portion thereof such stopping up shall not take place until such new road or footpath is completed to the satisfaction of the road authority and is open for public use or in case of difference between the Company and the road authority

until two justices shall have certified that the new road or footpath has been completed to their satisfaction and is open for public use. A.D. 1938.

Before applying to the justices for their certificate the Company shall give to the road authority of the district in which the existing road or footpath is situate seven days' notice in writing of their intention to apply for the same.

As from the completion to the satisfaction of the road authority of the new road or footpath or as from the date of the said certificate as the case may be all rights of way over or along the existing road or footpath or portion authorised to be stopped up shall be extinguished and the Company may subject to the provisions of the Railways Clauses Consolidation Act 1845 with respect to mines lying under or near the railway appropriate and use for the purposes of their undertaking the site of the road or footpath or portion thereof stopped up as far as the same is bounded on both sides by lands of the Company :

Provided that the Company shall make full compensation to all parties interested in respect of any private rights of way extinguished by virtue of this section and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

14. Any road or footpath or portion of road or footpath made diverted or altered under the authority of this Act (except the stone iron or other structure carrying any such road or footpath over any railway of the Company which structure shall unless otherwise agreed be maintained by and at the expense of the Company) shall when made and completed unless otherwise agreed be maintained by and at the expense of the body or persons liable to maintain roads or footpaths of the same nature and in the same parish and district or borough as the road or footpath or portion of road or footpath in question.

Provision  
as to repair  
of roads and  
footpaths.

15. The Company may enter into and carry into effect agreements with the parties having the charge management or control of the roads streets footpaths or highways or any of them portions whereof shall under the provisions of this Act be altered or stopped up or interfered with in reference to the construction or

Power to  
make  
agreements  
with road  
authorities.

A.D. 1938. — contribution towards the costs of such alteration or of any new road street footpath or highway to be substituted therefor and in reference to any other matters relating thereto and if so agreed the Company may delegate to such parties as aforesaid the power of constructing and maintaining all or any of such alterations or new roads streets footpaths or highways in which they may be interested including the structure of any bridge over or under any railway and the purposes of this section shall be deemed to be purposes for which a local or road authority may incur expenditure and borrow money.

Extinction of private rights of way.

16. All private rights of way over any lands which the Company are authorised by this Act to acquire compulsorily shall as from the date of the acquisition of such lands by the Company be extinguished. Provided that the Company shall make full compensation to all persons interested in respect of any such rights and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Power to certain owners to grant easements.

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

Power to acquire easements compulsorily in certain cases.

18. Notwithstanding anything contained in this Act or in any Act wholly or partly incorporated herewith the Company shall not be required to purchase any railway river canal navigation watercourse drain or sewer or any part thereof respectively which may be crossed or interfered with in constructing any of the works authorised by this Act but may acquire such easements and rights in over or under any such railway river canal navigation watercourse drain or sewer as they may require for making maintaining working and using any such work and may give notice to treat in



respect of such easements and rights describing the nature thereof and (subject to the foregoing provisions of this section and to the other provisions of this Act) the provisions of the Lands Clauses Acts shall apply to and in respect of the acquisition of such easements and rights as fully as if the same were lands within the meaning of those Acts.

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19. And whereas in the exercise by the Company of the powers of this Act it may happen that portions only of certain properties shown or partly shown on the deposited plans will be sufficient for the purposes of the Company and that such portions or some other portions less than the whole can be severed from the remainder of the said properties without material detriment thereto Therefore the following provisions shall have effect:—

Owners may be required to sell parts only of certain properties.

- (1) The owner of and persons interested in any of the properties whereof the whole or part is described in the First Schedule to this Act and whereof a portion only is required for the purposes of the Company are in this section included in the term "the owner" and the said properties are in this section referred to as "the scheduled properties":
- (2) If for twenty-one days after the service of notice to treat in respect of a specified portion of any of the scheduled properties the owner shall fail to notify in writing to the Company that he alleges that such portion cannot be severed from the remainder of the property without material detriment thereto he may be required to sell and convey to the Company such portion only without the Company being obliged or compellable to purchase the whole the Company paying for the portion so taken and making compensation for any damage sustained by the owner by severance or otherwise:
- (3) If within twenty-one days the owner shall by notice in writing to the Company allege that such portion cannot be so severed the tribunal to whom the question is referred shall in addition to the other questions required to be

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determined by it determine whether the portion of the scheduled property specified in the notice to treat can be severed from the remainder without material detriment thereto and if not whether any and what other portion less than the whole (but not exceeding the portion over which the Company have compulsory powers of purchase) can be so severed :

- (4) If the tribunal determine that the portion of the scheduled property specified in the notice to treat or any such other portion as aforesaid can be severed from the remainder without material detriment thereto the owner may be required to sell and convey to the Company the portion which the tribunal shall have determined to be so severable without the Company being obliged or compellable to purchase the whole the Company paying such sum for the portion taken by them including compensation for any damage sustained by the owner by severance or otherwise as shall be awarded by the tribunal :
- (5) If the tribunal determine that the portion of the scheduled property specified in the notice to treat can notwithstanding the allegation of the owner be severed from the remainder without material detriment thereto the tribunal may in its absolute discretion determine and order that the costs charges and expenses incurred by the owner incident to the determination of any matters under this section shall be borne and paid by the owner :
- (6) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without material detriment thereto (and whether or not they shall determine that any other portion can be so severed) the Company may withdraw their notice to treat and thereupon they shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice :
- (7) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without

material detriment thereto but that any such other portion as aforesaid can be so severed the Company in case they shall not withdraw the notice to treat shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice or such portion thereof as the tribunal shall having regard to the circumstances of the case and their final determination think fit. A.D. 1938.

The provisions of this section shall be in force notwithstanding anything in the Lands Clauses Consolidation Act 1845 contained and nothing contained in or done under this section shall be held as determining or as being or implying an admission that any of the scheduled properties or any part thereof is or is not or but for this section would or would not be subject to the provisions of section 92 of the Lands Clauses Consolidation Act 1845.

The provisions of this section shall be stated in every notice given thereunder to sell and convey any of the scheduled properties.

20. The Company and their surveyors officers contractors and workmen may from time to time at all reasonable times in the day upon giving in writing for the first time twenty-four hours' and afterwards from time to time twelve hours' previous notice enter upon and into the lands houses and buildings authorised by this Act to be taken and used or any of them for the purpose of surveying and valuing the said lands houses and buildings without being deemed trespassers and without being subject or liable to any fine penalty or punishment on account of entering or continuing upon any part of the said lands houses and buildings. Power to enter upon property for survey and valuation.

21.—(1) The tribunal to whom any question of disputed purchase money or compensation under this Act is referred shall if so required by the Company award and declare whether a statement in writing of the amount of compensation claimed has been delivered to the Company by the claimant giving sufficient particulars and in sufficient time to enable the Company to make a proper offer and if the tribunal shall be of opinion that no such statement giving sufficient particulars and in sufficient time shall have been delivered and that the Company have been prejudiced thereby the Costs of arbitration in certain cases.

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*Scottish Railway Act, 1938.*

A.D. 1938. — tribunal shall have power to decide whether the claimant's costs or any part thereof should be borne by the claimant Provided that it shall be lawful for the High Court to permit any claimant after seven days' notice to the Company to amend the statement in writing of the claim delivered by him to the Company in case of discovery of any error or mistake therein or for any other reasonable cause such error mistake or cause to be established to the satisfaction of the High Court after hearing the Company if they object to the amendment and such amendment shall be subject to such terms enabling the Company to investigate the amended claim and to make an offer de novo and as to postponing the hearing of the claim and as to costs of the inquiry and otherwise as to the High Court may seem just and proper under all the circumstances of the case Provided also that this subsection shall be applicable only in cases where the notice to treat under the Lands Clauses Consolidation Act 1845 either contained or was endorsed with a notice of the effect of this subsection.

(2) If the Company shall make an offer of purchase money and compensation at least ten days before the commencement of the hearing before the tribunal and the claimant fails within ten days from the making of the offer to notify the Company in writing that he accepts the same all the costs and expenses of the Company of and incidental to the arbitration including any fees and expenses of the arbitrator incurred by them after the date of the offer shall in the event of the claimant subsequently accepting such offer be borne by him Provided that this subsection shall be applicable only in cases where the offer contained a notice of the effect of this subsection.

Compensa-  
tion in case  
of recently  
acquired  
interest.

22. For the purposes of determining any question of disputed compensation payable in respect of lands taken under the powers of this Act the tribunal shall not award any sum of money for or in respect of any improvement alteration or building made or for or in respect of any interest in the land created after the first day of November one thousand nine hundred and thirty-seven if in the opinion of the tribunal the improvement alteration or building or the creation of the interest in respect of which the claim is made was not

reasonably necessary and was made or created with a view to obtaining or increasing compensation under this Act. A.D. 1938. —

**23.** If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Company after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to two justices having jurisdiction in the place in which the lands are situate for the correction thereof and if it appear to the justices hearing the application that the omission misstatement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described and if the lands are situate in a county borough such certificate or a copy thereof shall be deposited with the town clerk and if the lands are situate in an administrative county such certificate or a copy thereof shall be deposited with the clerk of the county council and a duplicate thereof shall be deposited with the clerk of the county district in which the lands are situate and if the lands are situate in a rural parish having a parish council also with the clerk of that council and such certificate or copy and duplicate respectively shall be kept by such clerks respectively with the other documents to which the same relate and thereupon the deposited plans or book of reference shall be deemed to be corrected according to such certificate and it shall be lawful for the Company to take the lands and execute the works in accordance with such certificate.

Correction of errors in deposited plans and book of reference.

**24.—(1)** The Company shall be deemed not to be an owner or occupier for the purposes of section 150 of the Public Health Act 1875 in respect of any land acquired or used by the Company under or in pursuance of the powers or for the purposes of this Act (a) upon which any street as defined by the Public Health Acts and not being a highway repairable by the inhabitants at large shall wholly or partially front adjoin or abut and (b) which shall at the time of the laying out of such street be used by the Company solely as a part of their lines of railway or sidings stations or works and shall have no direct communication with such street.

As to private street expenses in certain cases. 38 & 39 Vict. c. 55.

A.D. 1938.

(2) The expenses incurred by any urban authority under the powers of the said section which but for this provision the Company would be liable to pay shall be repaid to the urban authority by the owners of the premises fronting adjoining or abutting on the said street other than the Company and in such proportions as shall be settled by the surveyor of the urban authority.

(3) In the event of the Company subsequently making a communication with such street they shall notwithstanding such repayment as last aforesaid pay to the urban authority the expenses which but for the foregoing provision the Company would in the first instance have been liable to pay.

(4) The urban authority shall divide among the owners for the time being other than the Company the amount so paid by the Company to the urban authority less the costs and expenses attendant upon such division in such proportion as shall be settled by the said surveyor whose decision shall be final and conclusive.

(5) This section shall not apply to any street existing at the passing of this Act.

Stopping  
up and dis-  
continuance  
of portion of  
Newcastle  
Canal.

**25.**—(1) Notwithstanding anything contained in the Act of 1864 the Company may stop up and discontinue in the city and county borough of Stoke-on-Trent—

So much of the canal as lies between its existing western termination at the north side of Church Street and a point on the canal fifty-eight yards measured along the canal in a south-westerly direction from the south-west side of the bridge carrying Copeland Street over the canal.

(2) All public rights of way and navigation and other rights or easements (whether public or private) in over or relating to the portion of the canal by this section authorised to be stopped up shall be extinguished and the said portion shall be abandoned as a canal or navigation Provided that the Company shall make full compensation to all parties interested in respect of any such private rights or easements and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

(3) From and after the date when the said portion of the canal is stopped up and discontinued the lands forming the site thereof and vested in the Company by virtue of the Act of 1864 may be appropriated by the Company for the general purposes of their undertaking or disposed of by them free from any rentcharge thereon provided that nothing in this Act contained shall be deemed to prejudice or affect the right of the Newcastle-under-Lyme Canal Company to the payment to that company of the rent reserved and made payable by the Company to that company under the provisions of the Act of 1864 or to relieve the Company of their liability to continue the payment of the rentcharges set out in the schedule to that Act. A.D. 1938.

(4) The net proceeds arising on the sale of any land under this section shall be applied only to purposes to which capital is properly applicable.

26. The superannuation scheme is hereby amended by the addition of and shall take effect as though there were inserted therein the following provision as new rule 29A :—

Amendment  
of London  
Midland and  
Scottish  
Railway  
Superan-  
nation  
Scheme.

- (i) The committee may at their discretion and with the approval of the directors make arrangements with a contributing member on or before retirement for payment in lieu of a part of the benefits which such member is entitled to receive from the fund on retirement of an annuity or annuities payable after his death to his widow children and dependants or any of them ;
- (ii) Any such arrangement may be varied at any time by agreement between the member and the committee acting with the approval of the directors ;
- (iii) While any such arrangement is in force such arrangement shall have effect as if the annuity to be paid in accordance therewith were an annuity required in express terms to be paid under this scheme ;
- (iv) If an annuitant who has entered into such an arrangement shall die leaving him surviving a person or persons entitled by reason of an arrangement to an annuity any sum which

A.D. 1938.

but for this rule would be payable under rule 32 shall be retained in the fund and upon the death of such person or all such persons there shall be deducted from any such sum the amount received by way of annuity by such person or persons and the sum (if any) remaining after such deduction shall be payable to the legal personal representative of such person or the last survivor of such persons as the case may be and the provisions of the second clause of rule 32 shall apply to such payment as if such person or last survivor were an annuitant within the meaning of that clause.

Extension  
of time for  
completion  
of work.  
21 & 22  
Geo. 5.  
c. xlix.

**27.** The period now limited by the London Midland and Scottish Railway Act 1931 for the completion of Work No. 3 authorised by section 5 of the said Act is hereby extended until the first day of October one thousand nine hundred and forty-three and the said Act shall be read and construed as if the period limited by this section for the completion of the said work had been the period limited by the said Act for the completion thereof.

Confirming  
agreement  
with Ronald  
Robert  
Wynn  
Griffith.

14 & 15 Vict.  
c. xxi.

**28.** The agreement dated the thirty-first day of December one thousand nine hundred and thirty-six and made between the Reverend Ronald Robert Wynn Griffith of the first part Christopher Haworth Burne and Bertie Cunynghame Dwyer-Hampton of the second part and the Company of the third part as set forth in the Second Schedule to this Act is hereby confirmed and made binding upon all the parties thereto and the Company are hereby released from the obligations imposed by section 44 of the Bangor and Caernarvon Railway Act 1851 and the agreement dated the thirteenth day of March one thousand eight hundred and fifty-one therein referred to and from all liability arising thereunder.

Confirming  
agreement  
with com-  
missioners  
and  
trustees of  
port of  
Lancaster.

**29.** The agreement (in this section called "the scheduled agreement") dated the eighth day of November one thousand nine hundred and thirty-seven and made between the Company of the one part and the commissioners and trustees of the port of Lancaster of the other part as set forth in the Third Schedule to this Act is hereby confirmed and made binding upon all the parties thereto and section 55 (Agreement with commissioners and



trustees of port of Lancaster confirmed) of the London and North-western Railway (New Railways &c.) Act 1878 shall take effect as though the agreement dated the twenty-first day of June one thousand eight hundred and seventy-eight therein referred to had been varied in the manner set forth in the scheduled agreement.

A.D. 1938.

—  
41 & 42 Vict.  
c. clxxxii.

**30.**—(1) The provisions of section 54 (Power as to building on or over lands) of the London Midland and Scottish Railway Act 1924 shall extend and apply to any lands or premises which have from time to time been acquired or held or which under the powers of this Act may hereafter be acquired or held by the Company.

Application of certain sections of London Midland and Scottish Railway Acts 1924 and 1933.

(2) The provisions of section 31 (Power to hold sell or otherwise dispose of lands) of the London Midland and Scottish Railway Act 1933 shall extend and apply to any land from time to time acquired or held or which under the powers of this Act may hereafter be acquired or held by the Company.

14 & 15  
Geo. 5. c. liv.  
23 & 24  
Geo. 5.  
c. xxxiii.

(3) The provisions of this section shall extend and apply to the Company and any other company in respect of land or premises vested in them jointly and to any joint committee incorporated or constituted by Act of Parliament on which the Company may be represented in respect of land or premises vested in such joint committee.

**31.** Proceedings for the recovery of any demand made under the authority of this Act or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in any county court having otherwise jurisdiction in the matter provided that the demand does not exceed the amount recoverable in that court in an action founded on contract or tort.

Recovery of demands.

**32.** 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 passed before or after the passing of this Act 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.

Provision as to general Railway Acts.

A.D. 1938.

Extent of Act.

**33.** This Act shall not extend to Northern Ireland.

Saving rights of Duchy of Lancaster.

**34.** 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 His Majesty in right of His 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 His Majesty His heirs or successors in right of His said duchy.

Costs of Act.

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

The SCHEDULES referred to in the  
 foregoing Act.

A.D. 1938.

**THE FIRST SCHEDULE.**

**PROPERTIES OF WHICH PORTIONS ONLY MAY BE TAKEN  
 COMPULSORILY.**

Area.	No. on deposited plans.	Description of property in book of reference.
County borough of Blackpool.	7	Covered car park.
	8	Yard.
Borough of Rugby - -	6	Garden ground and sheds.
	8	Building land.
	9	Garden ground.
	10	Garden ground.
Parish of Long Lawford - -	9	Garden and shed.
Parish of Wolston - -	14	Orchard and rough land.
	15	Garden ground.
	19	Garden.
	21	Orchard.
Parish of Brandon and Bretford.	3	Garden ground telephone posts and wires.
	4	Inn approach.
	5	Garden ground and shed.
	6	Park land.
	7	Plantation.
	31	Garden.
	35	Field kennels and footpath.
	37	Garden.
City and county borough of Coventry.	6	Rough land and sheds.
	23	Hospital yard.
	41	Garden and shed.
	46	Garden and sheds.
	47	Garden and shed.
	48	Garden.
	52	Rough land and shed.
	64	Factory buildings and rough land.
Borough of Evesham - -	3	Orchard.
	4	Orchard.

A.D. 1938.

THE SECOND SCHEDULE.

THIS AGREEMENT is made the thirty-first day of December one thousand nine hundred and thirty-six between THE REVEREND RONALD ROBERT WYNN GRIFFITH of Masters House St. John's Hospital Lichfield in the county of Stafford (hereinafter referred to as "the Grantor" which expression shall include his successors in title and assigns and all persons claiming through or under them) of the first part CHRISTOPHER HAWORTH BURNE of 6 New Square Lincoln's Inn in the county of London Esquire and BERTIE CUNYNGHAME DWYER-HAMPTON of Henllys Beaumaris Anglesey a Lieutenant-Colonel (retired) in H.M. Army D.S.O. D.L. J.P. (hereinafter referred to as "the Trustees") of the second part and THE LONDON MIDLAND AND SCOTTISH RAILWAY COMPANY (hereinafter referred to as "the Company") of the third part and is supplemental (1) to an agreement dated the thirteenth day of March one thousand eight hundred and fifty-one between John Griffith Griffith of the one part and the Bangor and Caernarvon Railway Company (which is now vested in the Company) of the other part and made binding by section 44 of the Bangor and Caernarvon Railway Act 1851 and (2) to an agreement dated the third day of December one thousand nine hundred and twenty-six between Percy Wynn Griffith of the one part and the Company of the other part :

WHEREAS the Company desire to be released from the obligations imposed upon them by the said statute arising under the agreement dated the thirteenth day of March one thousand eight hundred and fifty-one and also from the terms of the agreement dated the third day of December one thousand nine hundred and twenty-six :

And whereas the Company agree to pay to the Trustees at the request of the Grantor the sum of five hundred pounds by way of compensation and in full settlement and satisfaction for obtaining such release as aforesaid :

[1 & 2 GEO. 6.] *London Midland and* [Ch. xxvii.]  
*Scottish Railway Act, 1938.*

Now it is hereby agreed by and between the parties hereto as follows :— A.D. 1938.

1. That in consideration of the sum of five hundred pounds paid by the Company to the Trustees at the request of the Grantor (the receipt whereof the Trustees hereby acknowledge) the Grantor in exercise of the power conferred on him by section 58 of the Settled Land Act 1925 and with the consent hereby testified of the Trustees hereby releases the Company for ever hereafter from the obligations imposed upon them by the said statute arising under the agreement dated the thirteenth day of March one thousand eight hundred and fifty-one and from the terms of the agreement dated the third day of December one thousand nine hundred and twenty-six and from all liability arising thereunder.

2. That the said sum of five hundred pounds is accepted by the Trustees in full settlement and satisfaction for the release hereby effected.

3. That this agreement shall be confirmed by special Act of Parliament of the Railway Company.

4. It is hereby certified that the transaction hereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds five hundred pounds.

In witness whereof the parties have hereunto set their respective hands and seals the day and year first above written.

Signed sealed and delivered by }  
the above named RONALD } R. R. WYNN  
ROBERT WYNN GRIFFITH } GRIFFITH. L.S.  
in the presence of }

R. J. HICHETT  
The Masters House  
St. John's Hospital  
Lichfield.  
Chauffeur.

Signed sealed and delivered by }  
the above named CHRIS- } C. H. BURNE.  
TOPHER HAWORTH BURNE } L.S.  
in the presence of }

RICHARD M. SNOW  
Clerk to Messrs. Lawrence Graham & Co.

A.D. 1938. Signed sealed and delivered by  
the above named BERTIE } B. C. DWYER-  
CUNYNGHAME DWYER - } HAMPTON.  
HAMPTON in the presence of }

L.S.

JENNIE ROBERTS  
"Henllys"  
Beaumaris.  
Private nursing.

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### THE THIRD SCHEDULE.

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AN AGREEMENT made the eighth day of November one thousand nine hundred and thirty-seven between THE LONDON MIDLAND AND SCOTTISH RAILWAY COMPANY (hereinafter called "the Company") of the one part and THE COMMISSIONERS AND TRUSTEES OF THE PORT OF LANCASTER (hereinafter called "the Commissioners and Trustees") of the other part supplemental to an agreement (hereinafter called "the principal agreement") made the twenty-first day of June one thousand eight hundred and seventy-eight between the London and North Western Railway Company (the predecessors of the Company) of the one part and the Commissioners and Trustees of the other part and scheduled to and confirmed by the London and North Western Railway (New Railways &c.) Act one thousand eight hundred and seventy-eight:

WHEREAS the Company and the Commissioners and Trustees have agreed to vary the terms and conditions of the principal agreement in the manner hereinafter appearing:

Now therefore these presents witness and it is hereby agreed by and between the Company and the Commissioners and Trustees as follows:—

1. Clauses 2 and 3 of the principal agreement shall cease to have effect so far as regards any liability to the Company by the Commissioners and Trustees.

[1 & 2 GEO. 6.] *London Midland and* [Ch. xxvii.]  
*Scottish Railway Act, 1938.*

A.D. 1938.

2. In Clause 4 of the said principal agreement the words  
“ subject however to the rights powers and privileges of the  
“ Company in upon or over the same intended to be given to  
“ and vested in them by these presents and the proposed Act of  
“ Parliament ” shall cease to have effect as from the first day of  
January one thousand nine hundred and thirty-seven.

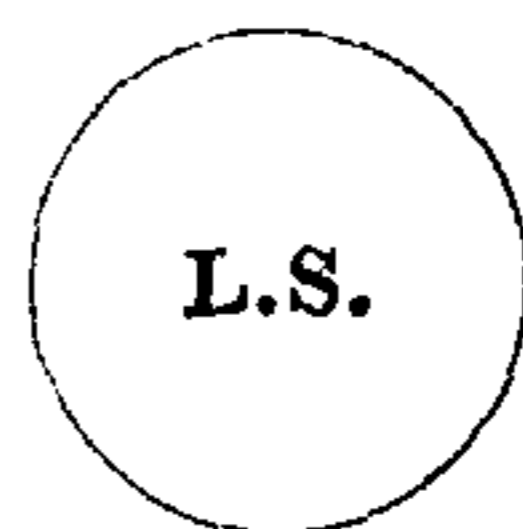
3. Clauses 8 9 and 12 of the principal agreement shall cease  
to have effect and shall be deemed to have ceased to have effect  
as from the said first day of January one thousand nine hundred  
and thirty-seven.

4. This agreement is conditional upon an Act of Parliament  
being passed during the next ensuing session of Parliament  
confirming this agreement and making the same binding upon the  
parties hereto and in case no such Act shall be passed during  
the said session this agreement shall become null and void.

5. The several persons executing these presents as Commis-  
sioners and Trustees are not to be held personally liable for any  
act done or omitted to be done thereunder or in anywise in  
reference thereto.

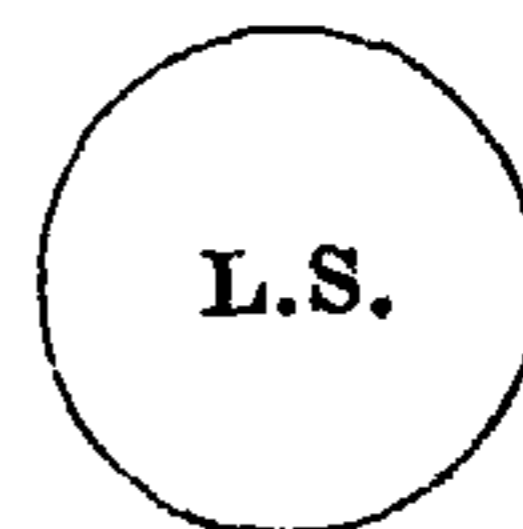
In witness whereof the Company have caused their common  
seal to be hereunto affixed and the Commissioners and Trustees  
have hereunto set their hands and seals the day and year first  
above written.

Passed under the common seal  
of the LONDON MIDLAND  
AND SCOTTISH RAILWAY in  
the presence of



O. GLYNNE ROBERTS.

Signed sealed and delivered  
by the RIGHT HONOURABLE  
THE EARL PEEL in the  
presence of



GEO. G. PARKINSON  
Blunt How  
Eden Park  
Lancaster:  
Secretary.

[Ch. xxvii.] *London Midland and* [1 & 2 GEO. 6.]  
*Scottish Railway Act, 1938.*

A.D. 1938.

Signed sealed and delivered by  
ROBERT EDWARD BAMBER ED-  
WARD GORRILL SMITH DAVID  
STUART CROSS JAMES BIBBY  
SHAW THOMAS EDMUND BIRK-  
BECK WILLIAM CHALMERS HAL-  
LIDAY WILLIAM PARKINSON  
JOHN GALLIENNE SWAINSON  
THOMAS KELLET PYE THOMAS  
TILL CALEB WOLFENDALE  
ROBERT GARDNER A.C. HAINES  
and JAMES GEORGE EDGAR  
CLARK in the presence of

W. H. SATTERTHWAITE  
Solicitor  
Lancaster.

R. E. BAMBER  
Mayor of Lancaster. (L.S.)

E. G. SMITH. (L.S.)

D. S. CROSS. (L.S.)

JAMES B. SHAW. (L.S.)

T. E. BIRKBECK. (L.S.)

W. C. HALLIDAY. (L.S.)

W. PARKINSON. (L.S.)

JNO. G. SWAINSON. (L.S.)

THOS. K. PYE. (L.S.)

T. TILL. (L.S.)

C. WOLFENDALE. (L.S.)

ROBERT GARDNER. (L.S.)

A. C. HAINES. (L.S.)

J. G. E. CLARK. (L.S.)

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