



CHAPTER ccxxvii.

An Act to authorise the Mersey Railway Company to make
a Branch Railway in Birkenhead and for other purposes.

A.D. 1884.

[7th August 1884.]

WHEREAS by the Mersey Railway Act 1866 (in this Act called "the Act of 1866") the Mersey Railway Company (in this Act referred to as "the Company") were incorporated and authorised to make a railway under the River Mersey to connect Liverpool with Birkenhead :

And whereas by the Mersey Railway Act 1868 (in this Act called "the Act of 1868") the powers of the Company for purchasing land and completing the railway were extended :

And whereas by the Mersey Railway Act 1871 (in this Act called "the Act of 1871") the Company were empowered to divert a portion of the railway authorised by the Act of 1866 and to connect the same with the Birkenhead joint line and also to extend it to a point in Church Street Liverpool near to the Liverpool Central Station :

And whereas by the Mersey Railway Acts 1874 1877 and 1880 the powers of the Company for purchasing land and completing the railway were extended :

And whereas by the Mersey Railway Act 1882 (in this Act called "the Act of 1882") the Company were authorised to divert a portion of their railway in Birkenhead and to extend it near to the Central Station in Liverpool and to acquire additional land for the purposes of their undertaking :

And whereas by the Mersey Railway Act 1883 (in this Act called "the Act of 1883") the Company were authorised to raise additional capital for the purposes in that Act mentioned :

And whereas the Company were authorised by the Act of 1866 to raise a share capital of three hundred and fifty thousand pounds and to borrow one hundred and sixteen thousand six hundred pounds on mortgage and by the Act of 1871 to raise three hundred thousand pounds by ordinary shares and to borrow one hundred thousand pounds on mortgage and by the Act of 1882 to raise two

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And whereas the branch railway in this Act described would be of public and local advantage and it is expedient that the Company be empowered to construct the same :

And whereas it is expedient that the Company and the other companies in that behalf in this Act mentioned be authorised to enter into and carry into effect traffic and other agreements as herein-after provided :

And whereas plans and sections showing the lines and levels of the railway and works authorised by this Act and the lands by this Act authorised to be acquired and also books of reference to such plans 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 county of Chester 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 :

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 all purposes as the Mersey Railway Act 1884.

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

- The distribution of the capital of the Company into shares ;
- The transfer or transmission of shares ;
- The payment of subscriptions and the means of enforcing the payment of calls ;
- The forfeiture of shares for non-payment of calls ;
- The remedies of creditors of the Company against the shareholders ;
- The borrowing of money by the Company or mortgage or bond ;
- The conversion of borrowed money into capital ;
- The consolidation of shares into stock ;
- The giving of notices ; and

The provision to be made for affording access to the special Act A.D. 1884.
 by all parties interested ;

Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 the Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883 herein-after called the Lands Clauses Acts the Railways Clauses Consolidation Act 1845 and Part I. (relating to construction of a railway) and Part III. (relating to working agreements) of the Railways Clauses Act 1863 are (except where expressly varied by this Act) incorporated with and form part of this Act.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction. The expression "the railway" means the railway by this Act authorised 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. Subject to the provisions of this Act the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the railway herein-after described with all proper stations approaches works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the said plans and described in the deposited books of references as may be required for that purpose. The railway herein-before referred to and authorised by this Act is :— Power to make railway.

A railway one mile two furlongs and three and a half chains in length wholly in the borough of Birkenhead in the county of Chester commencing in the extra-parochial chapelry of Birkenhead by a junction with the Mersey Railway in course of construction at a point under Hamilton Street on the east side of Hamilton Square at or near to the junction of Mortimer Terrace with Hamilton Street and terminating in the township of Claughton-cum-Grange in the parish of Bidston at a point on the eastern side of Cavendish Street about midway between Beckwith Street and Conway Street.

5. In making the railway the Company may subject to the provisions herein-after contained deviate laterally from the line thereof shown on the deposited plans to any extent within the Lateral and vertical deviations.

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Easements only to be acquired for tunnel unless otherwise agreed.

6. Where the railway is shown upon the deposited plans and sections as intended to be constructed in tunnel under any street or road in the borough of Birkenhead the Company shall not be entitled to acquire or appropriate the surface of any such street or road unless by agreement with the road authority but they may acquire and take under the powers and subject to the provisions of this Act a perpetual easement for the purpose of making maintaining repairing and using the railway in tunnel.

Company may purchase cellars &c.

7. With respect to any lands which the Company are by the provisions of this Act authorised to enter on take and use for the purposes of the railway and which are in or under the roadway or footway of any street road or highway the Company may purchase take and use and the owners of and other persons interested in any vault cellar or arch under any such street road or highway shall sell such vault cellar or arch for the purposes of the railway and the purchase of any such vault cellar or arch shall not in any case be deemed the purchase of a part of a house or other building or manufactory within section 92 of the Lands Clauses Consolidation Act 1845 Provided that nothing in this section contained nor any dealing with property in pursuance of this section shall relieve the Company from liability to compensation under any Act incorporated with this Act such compensation to be ascertained according to the provisions contained in the Lands Clauses Consolidation Act 1845.

Owners may be required to sell parts only of certain lands and buildings.

8. And whereas in the construction of the railway and works hereby authorised or otherwise in exercise of the powers of this Act it may happen that portions only of certain lands buildings or manufactories shown on the deposited plans may be sufficient for the purposes of the same and that such portions may be severed from the remainder of the said properties without material detriment thereto Therefore notwithstanding section 92 of the Lands Clauses Consolidation Act 1845 the owners of and other persons interested in the lands buildings or manufactories in the extra-parochial chapelry of Birkenhead numbered respectively 6 7 8 35 and 39 in the deposited plans and books of reference whereof parts only are required for the purposes of this Act may if such portions can in

the opinion of the jury arbitrators or other authority to whom the question of disputed compensation shall be submitted be severed from the remainder of such properties without material detriment thereto be required to sell and convey to the Company the portions only of the premises so required without the Company being obliged or compellable to purchase the whole or any greater portion thereof the Company paying for the portions required by them and making compensation for any damage sustained by the owners thereof or other parties interested therein by severance or otherwise.

9. And whereas in order to avoid in the execution and maintenance of any works authorised by this Act injury to the houses and buildings within one hundred feet of the railway it may be necessary to underpin or otherwise strengthen the same therefore the Company at their own costs and charges may and if required by the owners and lessees of any such house or building shall subject as herein-after provided underpin or otherwise strengthen the same and the following provisions shall have effect (that is to say):—

Company empowered or may be required to underpin or otherwise strengthen houses near railway.

- (1.) At least ten days notice shall unless in case of emergency be given to the owners lessees and occupiers or by the owners and lessees of the house or building so intended or so required to be underpinned or otherwise strengthened;
- (2.) Each such notice if given by the Company shall be left on the premises to be underpinned or strengthened and if given by the owners and lessees thereof shall be sent to the principal office of the Company;
- (3.) If any owner lessee or occupier of any such house or building or the Company as the case may require shall within seven days after the giving of such notice give a counter notice in writing that he or they as the case may be disputes the necessity of such underpinning or strengthening the question of the necessity shall be referred to an engineer to be agreed upon or in case of difference to an engineer to be appointed at the instance of either party by the Board of Trade;
- (4.) Such referee shall forthwith upon the application of either party proceed to inspect such house or building and determine the matter referred to him and in the event of his deciding that such underpinning or strengthening is necessary he may and if so required by such owner lessee or occupier shall prescribe the mode in which the same shall be executed and the Company may and shall proceed forthwith so to underpin or strengthen the said house or building;
- (5.) The cost of the reference shall be in the discretion of the referee;

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(6.) The Company shall be liable to compensate the owners lessees and occupiers of every such house or building for any inconvenience loss or damage which may result to them by reason of the exercise of the powers granted by this enactment ;

(7.) If in any case in which any house or building shall have been underpinned or strengthened on the requisition of the Company such underpinning or strengthening shall prove inadequate for the support or protection of the house or building against further injury arising from the execution or use of the works of the Company then and in every such case unless such underpinning or strengthening shall have been done in pursuance of and in the mode prescribed by the referee the Company shall make compensation to the owners lessees and occupiers of such house or building for such injury provided the claim for compensation in respect thereof be made within six months from the discovery thereof ;

(8.) Nothing in this enactment contained nor any dealing with any property in pursuance of this enactment shall relieve the Company from the liability to compensation under the sixty-eighth section of the Lands Clauses Consolidation Act 1845 or under any other Act ;

(9.) Every case of compensation to be ascertained under this enactment shall be ascertained according to the provisions contained in the Lands Clauses Consolidation Act 1845 ;

(10.) Nothing in this section shall repeal or affect the application of the ninety-second section of the Lands Clauses Consolidation Act 1845.

Period for compulsory purchase of lands.

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

Lands for extra-ordinary purposes.

11. The Company may from time to time purchase by agreement any quantity of land not exceeding in the whole one acre for any of the extraordinary purposes specified in the Railways Clauses Consolidation Act 1845.

Power to take easements &c. by agreement.

12. 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 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 rent-charges 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.

13. The following provisions for the protection of the Birkenhead Tramways Company (in this section called "the Tramways Company") shall be observed and carried into effect (that is to say) :—

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For the protection of the Birkenhead Tramways Company.

1. The Company shall from time to time be responsible for and make good to the Tramways Company all costs losses damages and expenses from time to time occasioned to that company from the obstruction of the tramways belonging to or leased by them and from any damage to the works rolling stock and horses of the Tramways Company arising in the execution of any of the works by this Act authorised ;

2. If by reason of any works of the Company there shall be any obstruction of or interference with any tramway or work belonging to the Tramways Company at the time of the execution of such works so as to prevent the passage of horses and carriages along the tramways of the Tramways Company without any substituted road being provided the Company shall pay to the Tramways Company by way of ascertained damages the sum of sixty pounds for every day and proportionately at the same rate for any part of a day during which that obstruction continues.

14. In this section the term " Birkenhead Railway " shall mean the Birkenhead Railway of the London and North-western Railway Company and the Great Western Railway Company (herein-after called the joint companies) and the land and premises connected therewith belonging to vested in or occupied by both or either of those companies.

For the protection of the London and North-western and Great Western Railway Companies.

The term " joint engineer " shall mean the engineer for the time being of the joint companies.

1. The railway by this Act authorised where the same will cross the Birkenhead Railway shall be carried under such railway and under the property adjoining the same belonging to the Birkenhead Railway in a tunnel and so much of such tunnel as may extend from Leta Street to Argyle Street shall be constructed according to plans sections and specifications to be approved in writing by and the works shall be executed under the superintendence and to the reasonable satisfaction in all respects of the joint engineer and at the expense of the Company and of a sufficient strength so as to enable the joint companies to widen and improve their said railway thereover by the laying down of additional rails or the construction of buildings and other works and the railway and

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the works connected therewith shall be so carried out and executed respectively by such means and in such manner only as not to interfere with the free uninterrupted and safe user of the Birkenhead Railway or the working of the traffic thereon or with the sewer which passes under the said Birkenhead Railway;

2. If it shall at any time appear to the joint engineer that any further or other works or appliances are required to prevent subsidence or injury happening to the Birkenhead Railway or to the said sewer owing to or in consequence of the execution of any of the works by this Act authorised the Company will immediately on being thereunto required in writing under the hand of the joint engineer make and execute the same at the expense of the Company;
3. The Company shall at all times at their own expense maintain the works by this Act authorised and also any further works which may be so required in substantial repair and good order and condition to the reasonable satisfaction in all respects of the joint engineer and if and whenever the Company fail so to do the joint companies may make or do in and upon as well the lands of the Company as their own lands all such works and things as the joint companies may reasonably think requisite in that behalf and the sum from time to time certified by the joint engineer to be the reasonable amount of their expenditure in that behalf shall be repaid to them by the Company and in default of repayment the amount so certified may be recovered with full costs by the joint companies from the Company in any court of competent jurisdiction;
4. Notwithstanding anything in this Act contained the Company shall be responsible for and make good to the joint companies all costs losses damages and expenses which may be occasioned to those companies or to their railway works or property or to the traffic thereon or otherwise by reason of the execution or failure of the Company's railway and the works in connexion therewith or of any act or omission of the Company or of any of the persons in their employ or of their contractors or others and the Company will effectually indemnify and hold harmless the joint companies from all claims and demands upon or against them by reason of such execution or failure and of such act or omission;
5. The Company or any person in the execution of this Act shall not in any manner either permanently or temporarily except in the enjoyment of the easement referred to in sub-section 6

enter upon take or use any of the lands or property belonging to or in the possession of or under the power of the joint companies or either of them separately or in any manner alter vary or interfere with the Birkenhead Railway or the said sewer or any of the works appertaining thereto without in every case the previous consent in writing of the Great Western Railway Company and the London and North-western Railway Company under their respective common seals ;

6. With respect to any land of the joint companies or either of them which the Company are by this Act from time to time authorised to use enter upon or interfere with the Company shall not purchase and take the same but the Company may take and the joint companies jointly or severally as the case may be shall grant accordingly an easement or right of using the same for the purpose for which but for this enactment the Company might purchase and take the same ;
7. The amount to be paid for the acquisition of such easement shall be ascertained in case of difference in the manner provided by the Lands Clauses Consolidation Act 1845 with respect to the purchase of lands otherwise than by agreement ;
8. Nothing in this Act contained shall extend to prejudice diminish alter or take away any of the rights privileges or powers of the joint companies or either of them otherwise than is by this Act expressly provided.

15. In the construction within the borough of Birkenhead (in this section called "the borough") of the railways and works by this Act authorised the following provisions shall apply and have effect unless otherwise agreed between the mayor aldermen and burgesses of the borough of Birkenhead (in this section called "the corporation") and the Company :—

For the protection of the corporation and the owners &c. of property in the borough of Birkenhead.

- (1.) Where any street or streets or public carriage road will be intersected by the railway or by any siding or work to be used by locomotives or where any part of any such siding or work will be situate within ten yards of the bridge to be built over the railway for connecting the intersected parts of such streets street or public carriage road the railway siding or work when it passes under the bridge or is within a distance of not less than ten yards on either side thereof shall be enclosed on both its sides and covered over at the top so as to prevent any smoke or steam from locomotives escaping into the open air from under or beside the bridge or for a distance of ten yards on either side thereof ;

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- (2.) Subject to the provisions of this Act the Company may from time to time make such ventilating shafts or openings from the railway into any public road or open space and at such places either within or beyond the limits of deviation shown on the deposited plans as may be agreed upon between them and the corporation and the Company may erect such balustrades or other works on the surface of the ground as may be agreed upon as aforesaid for the purposes of or connected with any such openings or shafts. Provided that the Company shall make full compensation to all owners and occupiers of premises injuriously affected by the making of any such shaft or opening ;
- (3.) Whenever by the appropriation or destruction of property by this Act authorised any gas or water mains or pipes laid for the supply of such property (except pipes inside such property) shall be rendered unnecessary the Company shall pay to the corporation the cost of laying an equivalent length of gas or water main or pipes and the cost of the works required for the discontinuance of such gas or water mains or pipes rendered unnecessary to such amount as shall be estimated by the gas engineer or water engineer of the corporation and the gas or water mains and pipes so rendered unnecessary shall be the property of the Company ;
- (4.) The cuttings bridges and tunnel or covered way of the railways authorised to be constructed shall be of such strength and durability as is proper and sufficient for the effectual support of any street or roadway under or alongside which they respectively pass and shall be constructed with retaining walls at each side of the authorised railways sufficient to secure all buildings or streets adjoining or near the railways from any damage or any loss of stability and the Company shall at their own expense and to the reasonable satisfaction of the corporation for ever hereafter maintain the said cuttings bridges tunnel or covered way and works ;
- (5.) Notwithstanding anything in this Act the Company shall not stop up Arthur Street or interfere with the levels of Arthur Street and Duke Street except with the consent of the corporation ;
- (6.) The rails of the authorised railways shall be laid bedded and maintained and from time to time renewed in such manner as shall be best suited for rendering the working of the railway as free from noise and vibration as possible and to the reasonable satisfaction of the engineer to the corporation ;

- (7.) Below the ballast there shall be a layer throughout of at least six inches in thickness of peat or tan or of such other substance as shall be reasonably satisfactory to the engineer of the corporation ;
- (8.) Where any station building any part of which shall be constructed above the surface of lands acquired or to be acquired under the authority of this Act adjoins a street such station building shall be so arranged that a space of not less than ten feet in width shall be left between the present line of the street and the station building for the whole length thereof for the purpose of the traffic to and from such station building which space shall be dedicated to the public and become part of the respective streets accordingly and shall be paved flagged and channelled at the expense of the Company to the reasonable satisfaction of the corporation ;
- (9.) The Company shall not construct any part of any station yard or siding or any approach thereto or works connected with or for the purposes of a station yard or siding upon or over any street passage or public place or so as to interfere with the use of such street passage or public place without the consent of the corporation under the hand of the town clerk ;
- (10.) The design and materials of the elevation including the roof of any building or ventilating shaft erected or rebuilt by the Company fronting to or adjoining any street shall be subject to the reasonable approval of the corporation ;
- (11.) The Company shall not divert or interfere with Arthur Street Beckwith Street Duke Street and Conway Street except as herein-after mentioned and the Company shall in the execution of the works authorised carry Arthur Street and Duke Street respectively by bridges over the railway of such form material and construction and with such screens and parapets both as regards the said bridges respectively and their immediate respective approaches as shall be reasonably satisfactory to the corporation and so that the said streets and roads respectively shall be reconstructed at the present levels and of the full existing widths thereof respectively (including footpaths) and the Company shall reinstate the footways and reinstate so much of the carriageways in the said streets and roads respectively as shall be temporarily interfered with by the Company in the construction of the authorised works The bridge over Duke Street to be capable of carrying a rolling load of twenty-five tons and the bridge over Arthur Street to be capable of carrying a rolling load of twenty tons ;

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- (12.) The company shall not without the consent of the corporation under the hand of the town clerk (which consent the corporation are hereby empowered to give subject to such provisions and conditions as the corporation may deem expedient) temporarily close any street road passage or public place or construct any works or perform any operations which may obstruct or in any way interfere with the traffic along or through such street road passage or public place;
- (13.) In the event of the Company requiring for the purpose of constructing the authorised railways or any part thereof (subject to the restrictions in this section provided) to open or in any manner interfere with any portion of the surface of the footway or carriageway of any street passage or public place then and in such case the Company shall to the reasonable satisfaction of the corporation provide a temporary bridge or roadway equal in width to the part or parts of the roadway and footway of such street passage or public place so opened or interfered with and such temporary bridge or roadway shall be constructed and maintained to the reasonable satisfaction of the corporation until the said street passage or public place and the footways thereof respectively have been restored to a good and proper state for the safety and convenience of the public ;
- (14.) Wherever any street passage or public place shall with the consent of the corporation be temporarily interfered with diverted or stopped up or obstructed by the Company in the execution of the authorised railways then in addition to the specific requirements herein-before contained proper accommodation for access to property and any additional accommodation for traffic that may be required shall be previously provided to the reasonable satisfaction of the corporation and shall thereafter during such diversion stoppage or obstruction be maintained fenced watched and lighted by the Company to the satisfaction of the corporation at the expense of the Company ;
- (15.) The Company shall not during the construction of the authorised railways cart or take any rubbish spoil or débris or cart any bricks or materials through or along any street so as to cause an obstruction except between the hours of seven o'clock in the evening and seven o'clock in the morning ;
- (16.) The Company shall not without the consent of the corporation under the hand of the town clerk construct in any street or public place any ventilating shaft or any other shaft eye opening or work into the said tunnel or covered way but shall

construct every such shaft eye opening or work at such places only either within or beyond the limits of deviation shown on the deposited plans as shall be approved by the corporation and in every respect in accordance with plans to be approved by them ;

- (17.) Before commencing the construction of any shaft eye opening or work with such consent as aforesaid in any street passage or public place the Company shall give to the corporation seven days notice in writing and the works affecting such street passage or public place shall be done by the Company under the superintendence of the borough engineer to the reasonable satisfaction of the corporation ;
- (18.) The Company shall as and when required by the corporation in writing under the hand of the town clerk remove any shaft eye opening or other work which may with the consent of the corporation have been constructed in any street passage or public place and well and sufficiently to the satisfaction of the corporation restore the surface of such street passage or public place and maintain in efficient repair the said surface so restored for the period of twelve months to the like satisfaction ;
- (19.) Whenever it may be necessary to intercept or interfere with any existing sewers or drains the Company shall before intercepting or interfering therewith construct according to plans and sections to be reasonably approved by the corporation other sewers or drains such other sewers and drains to be equally efficient in lieu of and of a capacity not less than the existing sewers or drains respectively or jointly so proposed to be intercepted or interfered with and such sewers or drains or substituted sewers or drains sewer or drain shall be constructed at such levels or gradients and shall be connected by and at the expense of the Company with such convenient and adequate outfall sewer or drain or sewers or drains as shall be reasonably approved by the corporation ;
- (20.) If by reason of the construction of the railway any additional sewers or drains or any increased length or alteration of sewers or drains or any man holes air holes or other works or conveniences connected therewith shall in the reasonable opinion of the corporation become necessary the same shall be constructed by and at the expense of the Company of such size and capacity according to such plans and sections and in such manner as shall be reasonably approved by the corporation ;
- (21.) If by reason of the construction of the railway any sewers belonging to the corporation crossed by the railway shall be

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- structurally injured or injuriously affected or in case any sewer collapses by reason of the execution of the works or working of the railway the Company shall if required by the corporation at once repair and make good such sewer to the reasonable satisfaction of the corporation ;
- (22.) The Company shall after the construction of the railway and works keep in good repair all sewers where the line or any part of the railway crosses or abuts upon the same so far as such repairs are rendered necessary by the construction or working of the railway ;
- (23.) Except as by this section otherwise expressly provided the Company shall not use gunpowder or any other explosive substance in the construction of the works ;
- (24.) The Company may with the consent of the corporation under the hand of the town clerk use gunpowder or some other explosive substance in the construction of these works and the corporation are hereby empowered from time to time to give the required consent revocable on notice and subject to such conditions as they may see fit and the Company shall be liable to any damages costs or expenses which the corporation or any person or company may sustain or be put to in consequence of the use thereof whether the Company or their contractors agents or servants are guilty of negligence or not such damages to be recovered by action in any court of competent jurisdiction ;
- (25.) In any case where any house or other building intended to remain standing shall be severed by the Company the Company shall to the satisfaction of the corporation build up or repair such house or building so as to prevent any unsightly appearance ;
- (26.) Where by reason of the construction of the railway it becomes in the opinion of the corporation necessary or desirable that any lands of the Company shall be fenced off from any street or road fronting adjoining or abutting thereon the Company shall enclose such lands with walls or suitable fencing such walls or fencing to be built or constructed of such height and description as the corporation shall reasonably require and in all other respects to the reasonable satisfaction of the corporation ;
- (27.) In construing sections eighteen to twenty-three both inclusive of the Railways Clauses Consolidation Act 1845 for the purposes of this Act so far as those sections have operation within the borough the expression "company or society" or other like expression referring to the ownership of gas or water mains or pipes shall mean the corporation ;

(28.) Wherever the gas or water mains or pipes of the corporation will be severed or interfered with for the purposes of any of the works authorised by this Act all works necessary for maintaining uninterrupted the supply of gas or water in consequence of such severance or interference including the providing and laying down of new or additional mains or pipes where reasonably considered by the corporation to be necessary shall be executed by the corporation at the expense of the Company Provided that the corporation shall within seven days after receiving notice in writing from the Company of the contemplated severance or interference commence and diligently proceed with the work so as to complete the same within a reasonable time and if they fail within seven days to commence or to diligently proceed with and within a reasonable time to complete the work the Company may themselves do the work the Company shall repay to the corporation all costs and expenses which may at any time or times within a period of five years from the completion of the railway be incurred by the corporation in repairing fractured mains or pipes or putting down new mains or pipes when such repair or putting down of new mains or pipes has been rendered necessary by subsidence of the ground or otherwise in any way owing to the construction of the railway or any of the operations of the Company in relation thereto ;

(29.) If by reason of the construction of the railways any increased length of gas or water mains or pipes shall become necessary the same shall be laid down by the corporation at the expense of the Company according to such plan and in such manner as shall be reasonably approved by the corporation ;

(30.) For the purposes of this Act any sewer drain gas or water main or service pipe tube or pipe the construction or alteration of which arises from the making of the said railways shall be considered works connected with the construction of the railway authorised as aforesaid ;

(31.) If the owner lessee or occupier of any building of which no part shall be taken shall sustain any damage or injury from the construction or working of the authorised railways such owner lessee or occupier shall be entitled to compensation in respect thereof and the amount thereof shall in case of difference be ascertained and determined in the manner provided by the Lands Clauses Consolidation Act 1845 for the settling of cases of disputed compensation ;

(32.) The Company shall not become owners of any part of the lands shown on the deposited plans or described in the deposited

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books of reference as public roads streets passages or public places but they may acquire and the corporation shall grant to them under the powers and subject to the provisions of this Act a perpetual easement for the purpose of making the said railways in cutting tunnel or covered way under such public roads streets passages and places and of maintaining repairing and using the same and the Company shall before constructing any works under any of such public roads streets passages or public places serve notice to treat upon the corporation and the amount of compensation if any shall be settled as provided in the Lands Clauses Consolidation Act 1845 in cases of disputed compensation ;

(33.) In case the Company construct their railway and station or works or any part thereof in open cutting adjoining any street or streets they shall erect and maintain between the said railways and works and such street or streets respectively a sufficient wall or walls and screens to the reasonable satisfaction of the corporation ;

(34.) The Company shall from time to time pay to the corporation all sanitary and other municipal rates leviable by or payable to the corporation upon the respective assessments of any lands or property shown upon the deposited plans or a proportion of such rates respectively from the time such lands or property shall be acquired by the Company until the railways and works are completed and assessed to such rates and the amount of such rates payable by the Company shall be computed according to the assessments of such lands or property in force at the time of the acquisition thereof by the Company notwithstanding that the buildings thereon or forming part thereof may have afterwards been taken down ;

(35.) The Company shall construct and maintain on each side and to the full length of every bridge or viaduct carrying any street over the railway and works a substantial parapet or close screen not less (except with the consent of the corporation) than eight feet in height above the level of the footway on such bridge or viaduct and shall construct a fence or close screen of the same height in continuation of the parapets to the extent of seventy-five yards on either side thereof or to the nearest buildings in the streets or to such less distance as the corporation may approve ;

(36.) Except as in this section provided every bridge viaduct or covered way intended to connect streets intersected by the railway or to carry streets or roads over the railway shall be constructed by the Company of sufficient strength and to the

satisfaction of the corporation and each bridge shall be of the full width between its parapets of the street which is intersected or of the street or road which it is intended to continue and carry over the railway including the footpaths thereof and shall have proper provisions to the like satisfaction for carrying the water and gas mains so as to admit of ready access ;

- (37.) The corporation shall at all times have power to lay down alter repair or maintain in a reasonable manner on or under any lands acquired or to be acquired by the Company any sewer drain main or pipe whether for sewerage drainage water or gas but in the exercise of such powers the corporation shall act under the superintendence of the engineer of the Company and shall interfere as little as possible with the railways and works of the Company ;
- (38.) The Company shall construct a close screen not less than eight feet in height (except with the consent of the corporation) along the boundary of the railway where it runs within seventy-five yards of any road or street and shall close fence the land of the Company whether or not required for railway purposes where the same shall abut upon any street ;
- (39.) All parapets fences and screens of bridges made by the Company shall be constructed in such reasonably strong and ornamental manner as the corporation shall approve of and shall not be used for the posting of bills or other advertising purposes ;
- (40.) The Company shall upon the completion of the railway construct and for ever maintain a passenger railway station with all proper and convenient access and approaches thereto upon the land or some part thereof situated between Arthur Street Cavendish Street Beckwith Street and Conway Street ;
- (41.) The engines to be used on the railways shall be constructed and worked so as to consume as far as practicable their own smoke ;
- (42.) In case any dispute or question shall arise between the corporation and the Company under the foregoing provisions of this section the same shall be referred to the arbitration of some competent person to be appointed by the President for the time being of the Institution of Civil Engineers whose decision shall be final and the costs charges and expenses of such arbitration shall be in the discretion of the arbitrator and shall be paid as or in such proportion as the arbitrator shall order ;
- (43.) Notwithstanding anything contained in this Act it shall not be lawful for the Company to take or purchase under the

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compulsory powers of this Act any part of the lands numbered respectively 1A in the parish of Bebington and 2 in the extra-parochial chapelry of Birkenhead on the deposited plans but the corporation are hereby empowered if they find it practicable and think fit to signify their consent by resolution under their corporate common seal to sell to the Company and the Company are hereby empowered to purchase from the corporation all the estate and interest of the corporation in the said land and property or any part thereof and the purchase money or compensation to be paid in respect thereof shall failing agreement be ascertained and determined in the manner provided by the Lands Clauses Consolidation Act 1845 for settling cases of disputed compensation.

For the protection of the Postmaster-General.

16. Nothing in this Act shall enable the Company in the construction and maintenance either of the works or the openings for ventilation hereby authorised to remove alter or in anyway interfere with the telegraph and telephone wires of the Postmaster-General except in accordance with and subject to the provisions of the Telegraph Act 1878.

Company to give notice before taking houses of labouring classes.

17. The Company shall not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers make known their intention to take the same by placards handbills or other general notice placed in public view upon or within a reasonable distance from such houses and the Company shall not take any such houses until they have obtained the certificate of a justice that it has been proved to his satisfaction that they have so made known their intention.

Company to procure accommodation for persons of the labouring classes to be displaced.

18. Before taking in any parish fifteen houses or more occupied either wholly or partly by persons belonging to the labouring classes as tenants or lodgers who may for the time being be occupiers of any house or part of any house which the Company are by this Act authorised to acquire the Company shall (unless the Company and such persons otherwise agree) procure sufficient accommodation elsewhere for such persons Provided always that if any question shall arise as to the sufficiency of such accommodation the same shall be determined by a justice and the Company may for the purpose of procuring such accommodation appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase by agreement such further lands as may be necessary for such purpose and may on such lands erect labouring class dwellings and may let or otherwise dispose of such lands and dwellings and may apply for the purposes of this

section or any of them any moneys they may have already raised or are authorised to raise. A.D. 1884.

19. Whereas pursuant to the standing orders of both Houses of Parliament and to an Act passed in the session of Parliament held in the ninth and tenth years of Her present Majesty chapter twenty a sum of fourteen thousand six hundred and sixty pounds three shillings and threepence Consolidated Three per Centum Annuities being five per centum upon the amount of the estimate in respect of the railway has been deposited with the Chancery Division of the High Court of Justice in England in respect of the application to Parliament for this Act (which sum is in this Act referred to as "the deposit fund"): Be it enacted that notwithstanding anything contained in the said recited Act the deposit fund shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act or the survivors or survivor of them (which persons survivors or survivor are or is in this Act referred to as "the depositors") unless the Company shall previously to the expiration of the period limited by this Act for the completion of the railway open the said railway for the public conveyance of passengers: Provided that if within such period as aforesaid the Company open any portion of the said railway for the public conveyance of passengers then on production of a certificate of the Board of Trade specifying the length of the portion of the railway opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the railway so opened bears to the entire length of the railway the Chancery Division shall on the application of the depositors order the portion of the deposit fund so specified in the certificate as aforesaid to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall if signed by the secretary or by an assistant secretary of the said Board be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of this Act having passed anything in the recited Act to the contrary notwithstanding.

Deposit fund not to be repaid except so far as railway opened.

20. If the Company do not previously to the expiration of the period limited by this Act for the completion of the railway hereby authorised to be made complete the said railway and open it for the public conveyance of passengers then in every such case the deposit fund or so much thereof as shall not have been paid or transferred to the depositors shall be applicable and after due notice in the London Gazette shall be applied towards compensating any landowners or other persons whose property may have

Application of deposit.

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been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the said railway or any portion thereof or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act and for which injury or loss no compensation or inadequate compensation shall have been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court may seem fit and if no such compensation shall be payable or if a portion of the deposit fund shall have been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and shall accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Court thinks fit to order on the application of the Solicitor to Her Majesty's Treasury and shall be carried to and form part of the Consolidated Fund of the United Kingdom or in the discretion of the Chancery Division if the Company is insolvent and has been ordered to be wound up or a receiver has been appointed shall wholly or in part be paid or transferred to such receiver or to the liquidator or liquidators of the Company or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof Provided that until the deposit fund shall have been repaid to the depositors or shall have become otherwise applicable as herein-before mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.

Period for completion of works.

21. If the railway is not completed within five 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 railway or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Railway to form part of Company's undertaking.

22. The railway by this Act authorised shall for the purposes of tolls and charges and for all purposes whatsoever be part of the undertaking of the Company.

Classification table to be open for inspection and copies to be sold.

23. The book tables or other document in use for the time being containing the general classification of goods carried by goods or merchandise train on the railway of the Company shall during all reasonable hours be open to the inspection of any person without the payment of any fee at every station at which goods or merchandise are received for transmission and such book tables or other document as annually revised shall be kept on sale at the

principal office of the Company at a price not exceeding one shilling. A.D. 1884.

The Company shall within one week after application in writing made to the secretary of the Company by any person interested in the carriage of any goods which have been or are intended to be carried over the railway render an account to the person so applying in which the charge made or claimed by the Company for the carriage of such goods shall be divided and the charge for conveyance over the railway shall be distinguished from the terminal charges if any and if any terminal charge is included in such account the nature and detail of the terminal expenses in respect of which it is made shall be specified.

Terminal charges (if any) to be specified on application.

If the Company fail to comply with the provisions of this section they shall for each offence and in the case of a continuing offence for every day during which the offence continues be liable to a penalty not exceeding five pounds which penalty may be recovered and applied in the same manner as penalties imposed by the Regulation of Railways Act 1873 section 14.

Penalty.

24. The Company may apply for the purposes of this Act to which capital is properly applicable any money which they are for the time being authorised to raise independently of this Act and which is not required for the purposes for which the same was authorised to be raised.

Power to apply funds

25. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise any additional capital not exceeding in the whole three hundred thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by any one or more of those modes respectively but the Company shall not issue any share of less nominal value than twenty pounds nor shall any share vest in the person or corporation accepting the same unless and until a sum not being less than one-fifth of the amount of such share shall have been paid in respect thereof.

Power to raise additional capital.

26. Except as by this Act otherwise provided the capital in new shares or stock created by the Company under this Act and the new shares or stock therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares or stock were shares or stock in that capital.

Except as otherwise provided new shares or stock to be subject to the same incidents as other shares or stock.

The capital in new shares or stock so created shall form part of the capital of the Company.

A.D. 1884. **27.** Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares or to the whole amount of such stock as the case may be.

Dividends on new shares or stock.

Restriction as to votes in respect of preferential shares or stock.

28. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned.

New shares or stock raised under this Act and any other Act of past or present sessions may be of same class.

29. Subject to the provisions of any Act already passed by which the Company are authorised to raise capital by new shares or stock and to the provisions of this Act the Company may if they think fit raise by the creation and issue of new shares or stock of one and the same class all or any part of the aggregate capital which they are by such other Act and this Act respectively authorised to raise by the creation and issue of new shares or stock.

Power to borrow.

30. The Company may in respect of the additional capital of three hundred thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole one hundred thousand pounds but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted and one half of such capital is paid up and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for the whole of such capital have been issued and accepted and that one half of such capital has been paid up and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one half of so much of the said additional capital as is to be raised by means of stock is fully paid up and the Company have proved to such justice as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also so far as the said additional capital is raised by shares that such persons or corporations or their executors administrators successors or assigns are legally liable for the same and upon production to such justice of the books of the Company and of such other evidence as he shall

think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof. A.D. 1884.

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

32. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages and subject to the provisions of the Acts under which such mortgages were respectively granted have priority over any mortgages granted by virtue of this Act but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company. Existing mortgages to have priority.

33. Every provision in any Act passed before the present session of Parliament whereby the Company is authorised to raise by borrowing money for the purposes of their undertaking with respect to the appointment of a receiver for enforcing payment of arrears of interest or principal or principal and interest shall be and the same is hereby repealed but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced under any such provision prior to the passing of this Act The mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds in the whole. Appointment of a receiver.

34. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only to the purposes of this Act and the recited Acts to which capital is properly applicable. Application of moneys.

35. The Company on the one hand and the Great Western Railway Company the London and North-western Railway Company the Lancashire and Yorkshire Railway Company the Midland Railway Company the Great Northern Railway Company the Power to enter into traffic arrangements.

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Manchester Sheffield and Lincolnshire Railway Company the Wirral Railway Company and the Seacombe Hoylake and Deeside Railway Company or any one or more of those companies on the other hand may subject to the provisions of Part III. of the Railways Clauses Act 1863 as amended or varied by the Regulation of Railways Act 1873 from time to time enter into and carry into effect agreements for and with respect to the following purposes or any of them (that is to say):—

The use of the railways of the Company or any part or parts thereof;

The payments to be made and the conditions to be performed with respect to such use;

The interchange accommodation conveyance and transmission of traffic to from and over the railways of the contracting companies;

The fixing collection payment division and appropriation of the tolls rates charges receipts and revenues levied taken or arising from that traffic;

The payments allowances and rebates to be paid made or allowed by any of the contracting companies to the other or others of them.

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

36. During the continuance of any agreement to be entered into under the provisions of this Act for the use of the railway of the Company or any part thereof by any other company or companies the railway of the Company and of such other company or companies shall for the purpose of short distance tolls and charges be considered as one railway.

Interest not to be paid on calls paid up.

37. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

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

38. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum of money which by any standing order of either House of Parliament now in force or hereafter to be in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or execute any other work or undertaking.

39. Nothing in this Act contained shall exempt the Company or the railway from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels.

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Provision as
to general
Railway
Acts.

40. 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.

Costs of Act.

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