



CHAPTER xliii.

An Act to authorise the Seacombe Hoylake and Dee Side
Railway Company to construct extension railways; and
for other purposes. A.D. 1886.
[25th September 1886.]

WHEREAS by the Hoylake and Birkenhead Rail and Tramway Act 1872 (in this Act called "the Act of 1872") the Hoylake and Birkenhead Rail and Tramway Company (in this Act called "the Company") were incorporated with a share capital of seventy thousand pounds and power to borrow on mortgage not exceeding twenty-three thousand three hundred and thirty pounds and to construct tramways which under the provisions of the Birkenhead Tramways Act 1879 have been sold and transferred by the Company to the Birkenhead Tramways Company:

And whereas by the Act of 1872 the Company were authorised to purchase and they purchased accordingly the Railways No. 2 and No. 3 authorised by the Hoylake Railway Act 1863:

And whereas by the Hoylake and Birkenhead Rail and Tramway Act 1873 (in this Act called "the Act of 1873") the Company were authorised to extend their railway from its terminus at Hoylake to West Kirby and to connect their railway by a short line from its terminus at the dock station with the dock line of railway of the Mersey Docks and Harbour Board and to raise further capital not exceeding twenty-four thousand pounds by new shares or stock ordinary or preferential or both and to borrow on mortgage further sums not exceeding eight thousand pounds and the Company have constructed and opened for traffic the railways authorised by the Act of 1873:

And whereas by the Seacombe Hoylake and Dee Side Railway Act 1881 (in this Act called "the Act of 1881") the Company were authorised to extend their railway to Seacombe and the name of the Company was changed to that of the Seacombe Hoylake and Dee Side Railway Company:

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And whereas by the Seacombe Hoylake and Dee Side Railway Act 1882 (in this Act called "the Act of 1882") the Company were authorised to extend their railway to New Brighton and to raise sixty thousand pounds by shares and twenty thousand pounds by borrowing :

And whereas it is expedient that the Company be authorised to construct the railways in this Act described and to raise further money for that purpose :

And whereas it is expedient that the Company be authorised to abandon a portion of the railway authorised by the Act of 1881 and to extend the time for the completion of the railway authorised by that Act or so much thereof as will not be abandoned under the powers of this Act :

And whereas it is expedient that the Company be authorised to abandon the Railway No. 4 authorised by the Act of 1882 :

And whereas it is expedient that the Company be authorised to enter into agreements with the Wirral Railway Company as herein-after provided :

And whereas plans and sections showing the lines and levels of the railways authorised by this Act and plans of the additional lands herein-after mentioned and also books of reference 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 as the Seacombe Hoylake and Dee Side Railway Act 1886.

Incorporation of 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 :

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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 on mortgage or bond :

The conversion of the borrowed money into capital :

The consolidation of the shares into stock :

The making of dividends :

The giving of notices : and

The provision to be made for affording access to the special Act by all parties interested :

and Parts I. II. and III. of the Companies Clauses Act 1863 relating respectively to cancellation and surrender of shares additional capital and debenture stock 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 the Railways Clauses Consolidation Act 1845 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 and for the purposes of this Act the expressions "the railway" and "the undertaking" mean respectively the railways authorised by this Act and the undertaking of the Company 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 lines and according to the levels shown on the deposited plans and sections the railways herein-after described with all necessary and convenient stations sidings approaches works and conveniences connected therewith respectively and may enter upon take and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for that purpose The railways herein-before referred to and authorised by this Act will be situate in the county of Chester and are as follows:—

Power to make railways.

A Railway (No. 1) 2 furlongs 0.52 chain in length wholly in the parish and township of Bidston-cum-Ford commencing by a

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junction with the railway authorised by the Wirral Railway Act 1884 and terminating by a junction with the Seacombe Hoylake and Dee Side Railway at a point three hundred and fifty yards or thereabouts from the Docks Station :

A Railway (No. 2) 2 miles 7 furlongs 4 chains in length commencing in the parish and township of Bidston-cum-Ford by a junction with the Seacombe Hoylake and Dee Side Railway at the north-east end of the bridge carrying that railway over the Fender Brook and terminating in the parish of Wallasey and township of Liscard at a point sixty yards or thereabouts southward from the centre of the steps of the principal entrance to the Convalescent Institution for Women :

A Railway (No. 3) 2 furlongs 0·34 chain in length wholly in the parish and township of Bidston-cum-Ford commencing by a junction with the Seacombe Hoylake and Dee Side Railway at a point five hundred and thirty-five yards or thereabouts eastward from the north-east end of the bridge carrying that railway over the Fender Brook and terminating by a junction with the Railway No. 2 authorised by this Act at a point four hundred yards or thereabouts north-eastward from the north-east end of the said bridge over the Fender Brook :

A Railway (No. 4) 6 furlongs 3 chains in length commencing in the parish and township of Bidston-cum-Ford by a junction with the Railway No. 2 authorised by this Act and terminating in the parish of Wallasey and township of Poulton-cum-Seacombe by a junction with the Railway No. 1 authorised by the Act of 1881 at a point one hundred and forty yards or thereabouts northward from the centre of the junction of Mill Lane with the Poulton and Wallasey Road :

A Railway (No. 5) 1 furlong 7·39 chains in length wholly in the parish and township of Wallasey commencing by a junction with the Railway No. 4 authorised by this Act at a point one hundred yards or thereabouts south-westward from the south-western corner of the field belonging or reputed to belong to William Broster numbered 419 on the Ordnance Map ($\frac{1}{2500}$ scale) and terminating by a junction with the Railway No. 2 authorised by this Act near the south-western corner of the field belonging to Harold Littledale numbered 361 on the said Ordnance Map.

For protection of
Robert
Charles de
Grey Vyner.

5. The following provisions for the protection of the estate of Robert Charles de Grey Vyner (who and whose heirs and assigns or successors in title is and are included in the expression "Mr. Vyner" whenever employed or referred to in this section) shall be binding

on the Company and full effect shall be given thereto (that is to say) :— A.D. 1886.

- (1) The Company shall not purchase or acquire or hold any greater quantity of land belonging to Mr. Vyner than shall be bonâ fide required for the construction of the Company's railways as double lines of railway with all usual and necessary incidental works and for dépôt, sidings engine and carriage sheds and repairing shops and for a passenger and goods station and subsidiary works near the Birkenhead Docks :
- (2) The railways where they pass through Mr. Vyner's land shall be laid out in such line within the limits of deviation shown on the deposited plans as Mr. Vyner shall (subject to the provisions hereof) require The Company shall not make any subsequent modification of the lines of the railways as so laid out without Mr. Vyner's consent :
- (3) Mr. Vyner (and all persons and companies authorised by him) shall have an absolutely concurrent right with the Company (and equal as regards time and convenience) to run over and use the Company's railways (both now existing and hereby authorised) and the railway authorised by the Act of 1881 to and in Mr. Vyner's estate and also to all docks warehouses wharves and other commercial works which may at any time hereafter be thereon or connected therewith to the full extent of one half of the capacity of the railways for all commercial purposes whatsoever provided that Mr. Vyner shall not exercise such powers so as to interfere with the passenger traffic of the Company :
- (4) Where such running and user as last aforesaid shall be part of a through run over other railways connected with the Company's railways the through rates to be charged or taken (within or below the maximum rates which may be charged or taken) shall be in the absolute control and discretion of Mr. Vyner but the Company shall be entitled to their mileage proportion of such rates And where such running shall be only over the Company's railways the Company shall be entitled to the rates usually charged by them :
- (5) Mr. Vyner shall have full and free right and liberty to make and maintain junctions and connect any other railways sidings and works with the Company's railways (both now existing and hereby authorised) and to authorise all other persons and companies so to do for the purposes and to the extent mentioned in subsection three hereof :

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- (6) Mr. Vyner may also make and maintain or authorise any other person or company to make and maintain a bridge or as many bridges as he pleases (either for road or railway purposes) over or under the Company's railways (both now existing and hereby authorised) either in his own or any other lands (of or in which he may acquire the freehold a term or an easement) and also drains sewers watercourses gas and water mains and pipes and all such other works (for any purposes whatsoever) as he may think fit. Such bridges shall be constructed so as not to injuriously affect or interfere with the working of the Company's railways:
- (7) The Company shall keep their railways in good repair and working order and shall afford all such reasonable facilities as Mr. Vyner may require for such running user and other purposes as aforesaid:
- (8) All the running powers connexions junctions and other works hereby authorised in favour of Mr. Vyner and any persons and companies authorised by him shall be exercised constructed and worked in the manner prescribed by and under and subject to the control and regulations of the Board of Trade:
- (9) Nothing contained in this section shall confer any power to run over use or otherwise interfere with the Mersey Railway or entitle Mr. Vyner or other person or company to fix prescribe or regulate the tolls rates or charges on that railway:
- (10) If Mr. Vyner or any person or company to be authorised by him shall at any time hereafter construct or be proceeding to construct a dock or docks upon the lands of Mr. Vyner lying to the westward of the railways hereby authorised or any navigable canal or other like work leading outwards to or inwards from any dock or the sea the Company shall construct and complete (and carry their railway over the same by) a swing or opening bridge at a point to be determined by Mr. Vyner. The said swing or opening bridge shall be of such length as Mr. Vyner may require so that through the opening span thereof (when open) there shall be not exceeding one hundred feet in width of clear waterway for the passage of shipping or such less width as Mr. Vyner may provide through any swing or opening bridge (for the same dock canal or work) which Mr. Vyner may construct in his Wallasey Bridge Road. The said swing or opening bridge shall be at all times maintained by the Company at their own expense. The said bridge shall be opened and closed by the Company:

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(11) The abutments of the said bridge shall be carried down by the Company to such depth as will give a navigable depth equal to the depth of the dock navigable canal or other like work to be constructed by Mr. Vyner so as to enable Mr. Vyner (who is hereby empowered) to construct and carry any dock navigable canal or other like work of one hundred feet clear width (or such less width as aforesaid) of waterway under and through the opening span of the said swing or opening bridge and so that he may connect his canal or dock walls therewith in a continuous straight line. When the Company shall be constructing the said swing or opening bridge Mr. Vyner (in order to assist such construction) shall grant to the Company free of charge the temporary user of so much of his land as may be requisite for a diversion of the railway during such construction and the construction of the said bridge and shall afford to the Company all other reasonable facilities enabling them to carry on their traffic during such construction. When constructed the Company shall from time to time make all necessary arrangements for opening and shall open the said swing or opening bridge whenever required and without delay for the passage of ships or vessels and Mr. Vyner shall be entitled to and shall have in perpetuity full free and uninterrupted right of passage at all times for all shipping whatsoever under and through the said swing or opening bridge in as free and ample a manner as possible :

(12) The said swing or opening bridge shall from time to time be opened and closed according to regulations to be from time to time agreed between the Company and Mr. Vyner or in case of difference between them to be settled by an engineer to be appointed on the application of either party by the Board of Trade :

(13) Mr. Vyner (or any person or company authorised by him) may at any time cut construct and carry through the railways (at any point he thinks fit) one other navigable canal dock or other like work (having one hundred feet clear waterway or as much less as Mr. Vyner may think fit) and of such depth as Mr. Vyner may think fit with all proper walls and other works and may construct a swing or opening bridge (with all proper pivots piers machinery and other works) over the said canal dock or work (so that when such bridge is open there shall be an absolutely free and clear headway and waterway for the passage of all shipping through the same of one hundred feet or as much

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less as Mr. Vyner may think fit) and may carry the railway over the said canal dock or other like work on such swing or opening bridge and when the same shall have been constructed Mr. Vyner (or such person or company) shall maintain and renew the said swing or opening bridge at all times thereafter at his own expense. The said swing or opening bridge shall at all times be opened and closed by the Company at their own expense. When constructed the Company shall from time to time make all necessary arrangements for opening and shall open the said swing or opening bridge whenever required by Mr. Vyner (or such person or company) for the passage of ships or vessels through the same. The regulations for opening and closing the said swing or opening bridge shall be such as shall from time to time be agreed upon between Mr. Vyner (or such person or company) and the Company or in case of difference between them as shall from time to time be settled by the Board of Trade or by an engineer to be appointed (on the application of either party) by the Board of Trade. And Mr. Vyner (or such person or company) shall be entitled to and shall have in perpetuity full free and uninterrupted right of passage at all times for all shipping whatsoever under and through the said swing or opening bridge in as free uninterrupted and ample a manner as possible :

(14) During the construction by Mr. Vyner (or such person or company) of any of the aforesaid works (under the preceding clause hereof) he shall provide for the temporary passage of the traffic of the railway over a temporary railway (such temporary railway being such as the Board of Trade will accept for the passage of passenger traffic) on his adjoining lands and shall afford to the Company all other reasonable facilities for enabling them to carry on their traffic during such construction :

(15) Mr. Vyner may at any time and from time to time make construct maintain and use under the railways (both now existing and hereby authorised) as many sewers culverts drains and watercourses as he may think fit for draining or carrying the sewage and water from or to his lands and all buildings docks and other works now or at any time hereafter existing into or from the Fender Brook or the culvert drain or sewer under the Wallasey Bridge Road and Beaufort Road in the parish of Bidston :

(16) The Company shall make and maintain at their own expense the following accommodation works for the use of Mr. Vyner : A.D. 1886.

(a) Three bridges under the Railways Nos. 2 and 4 hereby authorised at points to be determined by Mr. Vyner as follows viz. :—One in the fields in the parish of Wallasey numbered 3 and 4 on the deposited plans and one in the field in the parish of Bidston numbered 24 on the deposited plans and (when the Company shall construct the aforesaid swing bridge) one other in the said field numbered 24 Each of the said bridges shall be constructed as a flat-topped girder bridge so that the under surface of the girders shall not be more than two feet below the upper surface of the rails and the foundations shall be carried down to a depth sufficient to admit of a clear headway under the girders of sixteen feet Each of the said bridges shall be not less than thirty-six feet clear width between the buttresses and have a clear headway of not less than fourteen feet above the present level of the ground and shall be constructed with all necessary approaches footways parapets fences and drains and other proper and sufficient works and conveniences connected therewith Mr. Vyner may at any time hereafter lower the roadway under the said bridges or any of them to provide more headway thereunder From and after the making of the aforesaid bridges and the completion of the aforesaid works the roads or ways through or under the aforesaid bridges shall be under the sole and absolute control of Mr. Vyner and may be used by him in such manner and for such purposes as he shall think fit but so as not to impede obstruct or interfere with the safe working of the railways or to endanger the stability of the Company's works :

(b) Two level crossings in continuation of the existing level crossings (and the roads over the two bridges across the Fender Brook) in the parish of Bidston so as to connect Mr. Vyner's severed lands :

(c) A road (if and when required by Mr. Vyner) thirty-six feet wide from Breck Road in the parish of Wallasey along the south side of the Railway No. 4 hereby authorised through the land of Harold Littledale to the land of Mr. Vyner the said road to be properly made and drained and fenced and covered with ten inches in thickness of pitching and overlaid with four inches in thickness of macadam :

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(17) Mr. Vyner may at any time hereafter make and maintain a road and footpaths upon the south bank of the Fender Brook in the parish of Bidston from the Wallasey Bridge Road to the Old School Road (at Bidston Station) And Mr. Vyner may retake from the Company for the purposes of such road and the fences and embankments and slopes thereof so much as may be necessary of the land which the Company may have acquired from him and shall in exchange therefor convey to the Company an equal quantity of land (adjoining the southern boundary of the land acquired from Mr. Vyner and of uniform width from the Wallasey Bridge Road to the Old School Road aforesaid) Such road with the footpaths shall be not less than thirty-six feet clear width between the fences thereof :

(18) The several works acts and provisions hereby imposed on the Company shall be performed and observed by the Company to the reasonable satisfaction in all respects of Mr. Vyner or his engineer.

Power to
acquire
additional
lands for
general
purposes of
Company's
under-
taking.

6. Subject to the provisions of this Act the Company may from time to time enter upon take use and appropriate for the general purposes of their undertaking and works connected therewith and for providing increased accommodation all or any of the lands houses and buildings within the parish of Bidston-cum-Ford in the county of Chester delineated on the deposited plans thereof and described in the deposited books of reference relating thereto.

Lands for
extra-
ordinary
purposes.

7. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 for the purposes of or in connexion with the railways by this Act authorised shall not exceed one acre.

Power to
take ease-
ments &c.
by agree-
ment.

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

Period for
compulsory
purchase of
lands.

9. 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.

10. If the Company fail within the period limited by this Act to complete the railways by this Act authorised the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railways are completed and opened for the public conveyance of passengers or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the works and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act or by the Solicitor to Her Majesty's Treasury and in the same manner as the penalty provided in the third section of the Act 17 and 18 Victoria chapter thirty-one known as the Railway and Canal Traffic Act 1854 and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in that section to an account opened or to be opened in the name and with the privity of Her Majesty's Paymaster General for and on behalf of the Supreme Court of Judicature in England in the bank and to the credit specified in such warrant or order and shall not be paid thereout except as herein-after provided But no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company were prevented from completing or opening the railways by unforeseen accident or circumstances beyond their control Provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

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Penalty imposed unless the line opened within the time limited.

11. Every sum of money so recovered by way of penalty as aforesaid shall be applicable and after due notice in the London Gazette shall be applied towards compensating any landowners or other person whose property may have been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railways or any portion or portions thereof or who 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 has been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the High Court of Justice in England may seem fit and if no such compensation shall be payable or if a portion of the sum or sums of money recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation then the said sum or sums of money recovered by way of penalty or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and accordingly be

Application of penalties.

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paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the said 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 said court if the Company is insolvent, 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.

Period for
completion
of works.

12. If the railways by this Act authorised are 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 same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Restriction
on taking
houses of
labouring
class.

13. The Company shall not under the powers of this Act without the consent of the Local Government Board purchase or acquire in any city borough or other urban sanitary district or any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers:

Defining
labouring
class.

For the purposes of this section the expression "labouring class" includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Tolls &c. on
railway.

14. The Company may from time to time demand and take for or in respect of the railways by this Act authorised such and the like tolls rates and charges as by the Hoylake Railway Act 1863 are authorised to be demanded and taken for or in respect of the railways thereby authorised as if the railways by this Act authorised had been authorised by that Act.

Power to
apply funds.

15. The Company may apply for any of the purposes of this Act to which capital is properly applicable any moneys which they are by the Acts of 1881 and 1882 or by any previous Act of Parliament authorised to raise by shares or stock debenture stock or borrowing and which are not by the Act or Acts under which they are

authorised to be raised made applicable to any special purposes or which being so made applicable are not required for such special purposes. A.D. 1886. —

16. The Company (in addition to any capital which by the Acts of 1881 and 1882 or by any previous Act or Acts they are authorised to raise) may from time to time for the purposes of this Act raise by the creation and issue of new ordinary or new preference shares or stock or partly by ordinary and partly by preference shares or stock any sum or sums not exceeding one hundred and forty thousand pounds. Provided that the preference shares or stock raised under the powers of this Act shall not exceed seventy thousand pounds and that the dividend on any such preference shares or stock shall not exceed the rate of five per centum per annum. Power to raise additional capital.

17. The Company shall not issue any share created under this Act of less nominal value than ten pounds nor shall any share vest in the person accepting the same unless and until a sum not being less than one fifth of the amount of the share be paid in respect thereof. Shares not to be issued until one fifth paid.

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

19. One fourth of the amount of a share shall be the greatest amount of a call and three months at least shall be the interval between successive calls and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share. Calls.

20. If any money is payable to a shareholder being an infant or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company. Receipt for persons not sui juris.

21. The Company may in respect of the additional capital of one hundred and forty 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 forty-six thousand six hundred pounds but no part of such sum 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 Power to borrow.

A.D. 1886. — 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 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 and paid up 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 if any part of the respective 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.

For appointment of a receiver.

22. 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 by the Company of arrears of principal money or principal money 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 prior to the passing of this Act under any such provision. 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.

Existing mortgages to have priority.

23. All mortgages and bonds 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 bonds and subject to the provisions of the Acts under which such mortgages and bonds 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.

24. 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 mortgages granted after the passing of this Act.

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Debenture
stock.

25. The moneys raised under this Act by the Company whether by shares stock debenture stock or borrowing shall be applied for the purposes of this Act and for the general purposes of the undertaking of the Company to which capital is properly applicable.

Application
of additional
capital.

26. The Company on the one hand and the Wirral Railway Company 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 make and carry into effect agreements with respect to the following purposes or any of them (that is to say) :—

Working
and traffic
agreements
with Wirral
Railway
Company.

The maintenance and management of the railways of the Company or any one or more of them or any part thereof respectively and of the works connected therewith respectively or any of them ;

The use or working of the railways of the Company or of any part thereof and the conveyance of traffic thereon ;

The supply of rolling and working stock and plant necessary for the purposes of any agreement for the working and use of the railways of the Company and the employment of officers and servants for the conveyance and conduct of the traffic on the respective railways ;

The fixing collecting and apportionment of the tolls rates charges receipts and revenues levied taken or arising in respect of traffic ;

The payments and allowances to be made and the conditions to be performed with respect to the matters aforesaid.

27. During the continuance of any agreement to be entered into under the provisions of this Act for the working and use of the railways of the Company the railways of the Company and of the Wirral Railway Company shall for the purposes of short distance tolls and charges be considered as one railway and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railways of the Company and partly on the railways of the Wirral Railway Company for a less distance than three miles tolls and

Tolls on
traffic con-
veyed partly
on the rail-
ways of the
Company
and partly
on the
Wirral
Railway.

A.D. 1886. charges may only be charged as for three miles and in respect of passengers for every mile or fraction of a mile beyond three miles tolls and charges as for one mile only and in respect of animals and goods for every quarter of a mile or fraction of a quarter of a mile beyond three miles tolls and charges as for a quarter of a mile only and no other short distance charge shall be made for the conveyance of passengers animals or goods partly on the railways of the Company and partly on the railways of the Wirral Railway Company.

Abandonment of portions of railways authorised by Acts of 1881 and 1882.

28. The Company may abandon the construction of so much of the Railway No. 1 authorised by the Act of 1881 as lies between the termination of Railway No. 4 by this Act authorised and the authorised point of junction of the said Railway No. 1 with the existing railway of the Company at the station known as Docks Station and they may also abandon the Railway No. 4 authorised by the Act of 1882 and on and after the passing of this Act the Company shall except only as is by this Act otherwise expressly provided be absolutely freed from all obligations with respect to the making and maintaining of such railway and portion of railway.

Compensation for damage to land by entry &c.

29. The abandonment by the Company under the authority of this Act of such railway and portion of railway shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels or probing or boring to ascertain the nature of the soil or setting out of the line of such railway and portion of railway and shall not prejudice or affect the right of the owner or occupier of any land which has been temporarily occupied by the Company to receive compensation for such temporary occupation or for any loss damage or injury which has been sustained by such owner or occupier by reason thereof or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation Act 1845 or in the Act of 1881.

Compensation to be made in respect of railways abandoned.

30. Where before the passing of this Act any contract has been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to such railway or portion of railway the Company shall be released from all liability to purchase or to complete the purchase of any such lands but notwithstanding full compensation shall be made by the Company to the owners and occupiers or other persons interested in such lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice and the amount and application of the compensation shall be determined.

in the manner provided by the Lands Clauses Consolidation Act 1845 as amended by any subsequent Act for determining the amount and application of compensation paid for lands taken under the provisions thereof. A.D. 1886.

31. The time limited by the Act of 1881 for the completion of the railway and works by that Act authorised or so much thereof as will not be abandoned under the powers of this Act is hereby extended until the eighteenth day of July one thousand eight hundred and eighty-nine. Extension of time for completion of railway authorised by Act of 1881.

32. For the protection of the Birkenhead Tramways Company (in this section called "the tramway company") the following provisions shall have effect (that is to say): For the protection of the Birkenhead Tramways Company.

(1) The Company shall be relieved from making the payments to the tramway company pursuant to article one of the agreement between the Hoylake and Birkenhead Rail and Tramway Company of the one part and the tramway company of the other part contained in the First Schedule to the Act of 1881 and instead thereof the Company shall on the expiration of one year from and after the completion and opening for public traffic of the Railway No. 1 by this Act authorised and that part of the railway authorised by the Wirral Railway Act 1884 between the termination thereof in or near Arthur Street Birkenhead and the commencement of the said Railway No. 1 pay to the tramway company the sum of five hundred pounds and the further sum of five hundred pounds on the expiration of two years from and after such completion and opening And the Company shall also on the expiration of four years from the passing of this Act or on the expiration of one year from and after the completion and opening for public traffic of that part of the railway authorised by the Act of 1881 not authorised to be abandoned by this Act (whichever shall first happen) pay to the tramway company the further sum of one thousand pounds:

(2) Before opening for public traffic the Railway No. 1 by this Act authorised the Company shall if required by the tramway company but at their own costs and charges effect such alteration in the tramways of the last-mentioned company as may afford every reasonable convenience to passengers arriving at and departing from the Company's dock passenger station at Birkenhead by means of the said tramways and if and whenever the Company alter the position of their said dock passenger station they shall execute all such works as shall be necessary for the purpose of affording to the tramway company as good an access to such new or altered passenger station as the tramway company now have to the said present passenger station:

A.D. 1886.

- (3) From and after the completion and opening for public traffic of the railways mentioned in subsection one hereof the tramway company shall be relieved from all obligations to the Company under article five of the agreement contained in the First Schedule to the Act of 1879 but the tramway company shall not be hereby relieved from the obligations prescribed by the Act of 1872:

For pro-
tection of
the Wallasey
Local Board.

33. For the protection of the local board for the district of Wallasey (in this section called "the board") the following provisions shall have effect (that is to say):—

- (1) The Railway No. 2 under Green Lane numbered 38 on the deposited plans shall be constructed so that the level thereof shall be one foot lower than the level shown on the deposited plans and sections and the gradient from the eastern end of the bridge over the railway to the north-eastern corner of the piece of land numbered 42 on the deposited plans shall be of one uniform inclination:
- (2) The bridge and approach roads carrying the Wallasey Road numbered 66 on the deposited plans over the railway shall have a clear space between the fences and parapets thereof of not less than thirty-six feet and the gradients of the said approach roads shall not be steeper than one in thirty:
- (3) The Company shall not exercise the powers of this Act to take use or acquire any estate right or interest in or over the pieces of land numbered 70 71 and 75 on the deposited plans and books of reference:
- (4) The Company shall not be at liberty to make the deviation of Wallasey Road (numbered 66 in the parish of Wallasey on the deposited plans) unless and until they shall have purchased from the board so much as the Company may require for that purpose of the piece of land (part of number 67 on the deposited plans) belonging to the board.

Classifica-
tion table to
be open to
inspection
and copies
to be sold.

34. The book tables or other document in use for the time being containing the general classification of goods carried by goods or merchandise trains on the railways 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:

Accounts to
be rendered
as to terminal
charge.

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 railways of the Company 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 :

A.D. 1886.

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 shall be recovered and applied in the same manner as penalties imposed by section fourteen of the Regulation of Railways Act 1873. Penalty.

35. 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 the 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.

Interest not
to be paid
on calls paid
up.

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

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

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

Provision
as to general
Railway
Acts.

38. 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.

Expenses of
Act.