



CHAPTER xlv.

An Act to authorise the Mersey Railway Company to extend their Railway in Birkenhead and for other purposes. A.D. 1886.
[25th September 1886.]

WHEREAS by the Mersey Railway Act 1866 (in this Act referred to as "the Act of 1866") the Mersey Railway Company (in this Act called "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 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 extend the same to the Birkenhead Joint Railway in Birkenhead 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 authorised railway in Birkenhead and to construct the additional railways therein described and to extend their railway nearer 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 by the Mersey Railway Act 1884 (in this Act called "the Act of 1884") the Company were authorised to make a branch railway in Birkenhead to connect their railway with the Wirral Railway:

A.D. 1886.

And whereas by the Mersey Railway Act 1885 (in this Act called "the Act of 1885") the Company were authorised to make branch railways in Liverpool and Birkenhead and subway approaches to their stations on each side of the Mersey :

And whereas the 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 to raise additional capital for that purpose and for providing station accommodation and other purposes of the Company :

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

And whereas plans and sections showing the line 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 1886.

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 on mortgage or bond ;

The conversion of borrowed money into capital ;

The consolidation of shares into stock ;

The making of dividends ;

A.D. 1886.

The giving of notices; and

The provision to be made for affording access to the special Act 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) 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 (except where otherwise provided) 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 reference 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 4 furlongs and 7 chains in length wholly in the township of Tranmere in the parish of Bebington in the county of Chester commencing by a junction with the Mersey Railway now in course of construction at the east end of Orchard road and terminating on the north side of Bedford road at or near the houses numbered 100 and 102 in that road.

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 limits of deviation shown thereon and vertically from the levels thereof Lateral and vertical deviations.

A.D. 1886. shown on the deposited sections to any extent not exceeding five feet save where a greater deviation is sanctioned by the Board of Trade as being necessary for avoiding interference with any sewer water main gas main or other work and then to such an extent only as is necessary for avoiding interference therewith. Provided that the Company shall make compensation to the owners and occupiers of all premises injuriously affected by any such deviation.

Company may stop up and use certain streets and rights of way extinguished.

6. The Company may subject to the provisions of this Act stop up Meteor Street and Planet Street in the township of Tranmere in the parish of Bebington and appropriate the sites of those streets for the purposes of the railway and where any other streets or roads terminate at the railway without forming a thoroughfare to places beyond and powers are taken in this Act to purchase compulsorily the lands houses and buildings on both sides of such streets or roads the Company on acquiring such lands houses and buildings may stop up and appropriate the site of the portion of the streets or roads lying between such lands houses and buildings and all rights of way in over or upon the streets and roads or portions thereof stopped up shall be extinguished.

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

7. 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):

- (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 served in manner prescribed by section nineteen of the Lands Clauses Consolidation Act 1845 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 ; A.D. 1886.

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

8. 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.

Period for compulsory purchase of lands.

9. The Company may from time to time purchase by agreement any quantity of land not exceeding in the whole one acre for any

Lands for extra-ordinary purposes.

A.D. 1886. of the extraordinary purposes specified in the Railways Clauses Consolidation Act 1845.

Power to
take ease-
ments &c. by
agreement.

10. 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 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.

As to certain
lands adjoining
or near
the railway
or works.

11. The following provisions shall apply to any lands or buildings situate over the railway or works of the Company or in any way connected with the structure of their railway and works and the site thereof not actually used for the purposes of the railway and to any other lands which the engineer of the Company shall certify as likely to be hereafter necessary for the widening of the railway or for stations and sidings connected therewith which lands and buildings are in this section referred to as the premises and shall not be deemed superfluous lands within the meaning of the Lands Clauses Consolidation Act 1845 :—

(A) The Company may hold and let the premises and may grant leases of the same or any parts thereof for any term they may think fit Provided that no fine or premium be taken by the Company in respect of any such lease Provided also that nothing contained in any lease to be granted under the powers of this section shall prejudicially affect or interfere with the working of the railway or the accommodation of the traffic thereon and that in every lease the Company shall reserve to themselves the right of re-entry in the event of the premises being at any time thereafter required for any of the purposes of their undertaking upon their giving at any time to the lessee his executors administrators or assigns six months' notice of their requirements and paying to him or them such an amount of purchase money or compensation as in case of difference shall be settled by arbitration in manner provided by the Lands Clauses Acts for the settlement of cases of disputed compensation ;

(B) Nothing contained in this enactment shall be construed to alter any of the provisions contained in the Acts relating to the Company or any agreements entered into by the Company which require the resale or reconveyance of any of the premises to any person named in any such provision or agreement.

12. In this section the term "Birkenhead Railway" means 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 premises and works connected therewith belonging to vested in or occupied by both or either of those Companies.

A.D. 1886.
For the protection of the London and North-western and Great Western Railway Companies.

The term joint engineer means the engineer for the time being of the Joint Companies.

- (1) Any retaining wall or other works connected with the railway by this Act authorised where such retaining wall or works are intended to be carried immediately contiguous to the Birkenhead Railway shall be constructed according to plans sections and specifications to be approved in writing by and such works as aforesaid shall be executed under the superintendence and to the reasonable satisfaction in all respects of the joint engineer and such works shall be so carried out and executed 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 :
- (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 owing to or in consequence of the execution of any of the works by this Act authorised the Company shall on being thereunto required in writing under the hand of the joint engineer make and execute at their own expense such works as the joint engineer shall reasonably so require :
- (3) The Company shall at all times at their own expense maintain the works by this Act authorised so far as they abut upon or affect the Birkenhead Railway and also any further works which may be constructed under the provisions of the last preceding sub-section 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 they may think requisite in that behalf Provided that the traffic on the Company's railway be not thereby interrupted unless in case of emergency and absolute necessity 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

A.D. 1886.

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 losses and expenses which may be occasioned to those Companies by reason of any damage caused to their railway works or property or arising from interruption of 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 persons in their employ or of their contractors or others and the Company shall 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 persons in the execution of this Act shall not in any manner either temporarily or permanently enter upon take or use any of the lands or property belonging to or in the possession or under the power of the Joint Companies or either of them separately other than the passage outside their retaining wall which is numbered on the deposited plans 1 and 1a in the parish of Bebington or in any manner alter vary or interfere with the Birkenhead Railway 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) 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.

For protection of Corporation of Birkenhead.

13. In the construction within the borough of Birkenhead (in this section called "the borough") of the railway 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 (in this section called "the Corporation") and the Company :

- (1) 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 pipe 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 and water mains and pipes so rendered unnecessary shall be the property of the Company ;

- (2) Wherever the gas or water mains or pipes of the Corporation shall be severed or interfered with by the works authorised by this Act and wherever it is in the opinion of the Corporation necessary for maintaining the supply of gas or water to lay additional gas or water mains or pipes such additional gas and water mains or pipes shall previous to the severance or interference be laid by the Corporation at the expense of the Company ;
- (3) If in the opinion of the Corporation by reason of the construction of the railway 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 approved by the Corporation ;
- (4) 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 railway shall be considered works connected with the construction of the railway authorised as aforesaid ;
- (5) The provisions of the Railways Clauses Consolidation Act 1845 contained in sections 18 to 23 inclusive shall apply to the gas and water mains and pipes of the Corporation and whenever in those sections the word " company " or " society " is used the same shall for all the purposes of this Act be held to extend to and include the Corporation ;
- (6) 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 but this provision shall not apply to the following streets (namely) :
Meteor Street (east of Star Street) Planet Street at the east end for a distance of one hundred yards Lunar Street at the east end for a distance of one hundred yards Wycliffe Street and Clyde Street to the middle of the road on the west side Star Street south of Comet Street and the passage numbered 1A on the deposited plans ;

A.D. 1886.

- (7) In the event of the Company requiring for the purpose of constructing the railway 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 carriage-way of any street passage or public place except as aforesaid then and in such case the Company shall to the satisfaction of the Corporation provide a temporary roadway equal in width to one-half of the part or parts of the roadway and footway of such street passage or public place so opened or interfered with and such temporary roadway shall be constructed and maintained to the 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 ;
- (8) 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 railway 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 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 ;
- (9) The design and materials of the elevation including the roof of any building erected or rebuilt by the Company fronting to or adjoining any street shall be subject to the approval of the Corporation ;
- (10) The Company shall not during the construction of the railway cart or take away rubbish soil 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 ;
- (11) In case the Company shall acquire the land or any portion of the land in which the sewer known as the Bedford Road Outfall Sewer is laid they shall before commencing any works upon such land or any part thereof reconstruct the said sewer on the land to be acquired for the purposes of the new street being a continuation of Star Street herein-after described and the new sewer shall be constructed of not less capacity depth and rate of inclination as the existing sewer and shall be connected with such other sewer of the Corporation as the borough surveyor shall determine and the works shall be constructed in all respects to the satisfaction of the Corporation ;

- (12) Notwithstanding anything in this Act the Company shall not stop up or interfere with the levels of the following streets except with the consent of the Corporation (namely):

Peel Street Union Street Livingstone Road Saint Paul's Road Star Street north of Comet Street Meadow Lane Grove Road and Bedford Road;

- (13) 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 approved by the Corporation other sewers or drains such other sewers or 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 approved by the Corporation;
- (14) 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 manholes ventilators or air holes or other works or conveniences connected therewith shall in the 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 approved by the Corporation;
- (15) If by reason of the construction of the railway any sewers belonging to the Corporation crossed by the railway shall be 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 satisfaction of the Corporation;
- (16) The Company shall after the construction of the railway and works keeps 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;
- (17) 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

A.D. 1886.

and shall interfere as little as possible with the railways and works of the Company ;

- (18) 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 ;
- (19) 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 require and in all other respects to the satisfaction of the Corporation ;
- (20) The Company shall erect and maintain between the railway and works and any street or streets a sufficient wall or walls and screens to the satisfaction of the Corporation ;
- (21) 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 railway 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 ;
- (22) The Company shall construct and maintain on every bridge or viaduct and on each side and to the full length of every bridge or viaduct carrying the railway and works over any street 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 rails 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 thirty feet on either side thereof or to the nearest buildings in the streets or to such less distance as the Corporation may approve ;
- (23) The Company shall construct and maintain a close screen not less than eight feet in height (except with the consent of the Corporation) along the boundary of the railway and shall close fence the land of the Company whether or not required

for railway purposes where the same shall abut upon any street ;

- (24) All parapets fences and screens of bridges walls and buildings made by the Company shall be constructed in such strong and ornamental manner as the Corporation shall approve of and the outside thereof shall not be used for the posting of bills or other advertising purposes without the consent of the Corporation except for the purposes of the railway business ;
- (25) The engines to be used on the railway shall be constructed and worked so as to consume as far as practicable their own smoke ;
- (26) The bridges to be constructed over Union Street and Saint Paul's Road shall be constructed of sufficient strength to ensure the safe working of the railway and shall have fourteen feet clear headway at least in one span for the whole width of those streets covered by such bridges and so as to give between the abutments of the bridges in the case of Union Street a roadway of at least thirty-six feet wide and in the case of Saint Paul's Road forty feet at least The said bridges shall be made watertight and shall be kept in good repair by the Company ;
- (27) The Company if required by the Corporation shall at their own expense provide and fix to the satisfaction of the Corporation two lamps under each of the said bridges and shall keep the same properly and efficiently lighted with gas day and night ;
- (28) If the Company acquire any of the property shown on the deposited plans on the east side of Peel Street they shall widen Peel Street so that that street shall be thirty-six feet wide between the palisading on the west side and the railway on the east side of the street for its whole length between Orchard Road and Saint Paul's Road ;
- (29) 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 frontage line of the street and the station building for the whole length thereof for the purpose of the traffic to and from such station 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 satisfaction of the Corporation But this clause shall not apply to the proposed new street forty-five feet in width herein-after described ;

A.D. 1886.

- (30) Notwithstanding anything contained in this Act the Company shall not acquire the premises fronting Meadow Lane and numbered 189 on the deposited plans now used as a police station and Bridewell without the consent of the Corporation;
- (31) Before the Company shall interfere with any of the streets east of Meadow Lane and Grove Road they shall form and fully complete and dedicate to the public a new street forty-five feet in width including footpaths in continuation of Star Street to Bedford Road on the west side of and adjoining the railway;
- (32) The Company shall level form pave flag channel sewer and otherwise complete the proposed new street to the satisfaction of the Corporation.

Compensation in respect of injury to buildings of which no part taken by Company.

14. If the owner lessee or occupier of any buildings of which no part shall be taken shall sustain any damage or injury from the construction or working of the railway authorised by this Act such owner lessee or occupier shall be entitled to compensation in respect thereof and the amount 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.

Provisions respecting houses occupied by labouring class.

15.—(1) The Company shall not under the powers of this Act purchase or acquire in any city borough or other urban sanitary district or any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until:—

- (A) They shall have obtained the approval of the Local Government Board to a scheme for providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of December last or for such number of persons as the Local Government Board shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such persons and to all the circumstances of the case; and
- (B) They shall have given security to the satisfaction of the Local Government Board for the carrying out of the scheme.

(2) The approval of the Local Government Board to any scheme under this section may be given either absolutely or conditionally and after the Local Government Board have approved of any such

scheme they may from time to time approve either absolutely or conditionally of any modifications in the scheme. A.D. 1886.

(3) Every scheme under this section shall contain provisions prescribing the time within which it shall be carried out and shall require the new dwellings proposed to be provided under the scheme to be completed fit for occupation before the persons residing in the houses in respect of which the scheme is made are displaced :

Provided that the Local Government Board may dispense with the last-mentioned requirement subject to such conditions if any as they may see fit.

(4) Any conditions subject to which the Local Government Board may have approved of any such scheme under this section or of any modifications of any such scheme or subject to which they may have dispensed with the above-mentioned requirement shall be enforceable by a writ of mandamus to be obtained by the Local Government Board out of the Queen's Bench Division of the High Court of Justice.

(5) If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court of Justice and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the court may if it thinks fit reduce such penalty.

(6) For the purpose of carrying out any scheme under this section the Company may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require and for the purposes of any such purchase sections 176 and 297 of the Public Health Act 1875 shall be incorporated with this Act and shall apply to the purchase of lands by the Company for the purposes of any scheme under this section in the same manner in all respects as if the Company were a local authority within the meaning of the Public Health Act 1875 and the scheme were one of the purposes of that Act.

(7) The Company may on any lands belonging to them or purchased or acquired under this section or any Provisional Order issued in pursuance of this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell demise or let or otherwise

A.D. 1886. dispose of such dwellings and any lands purchased or acquired as aforesaid and may apply for the purposes of this section to which capital is properly applicable or any of such purposes any moneys which they may be authorised to raise or apply for the general purposes of their undertaking:

Provided that all lands on which any buildings have been erected or provided by the Company in pursuance of any scheme under this section shall for a period of twenty-five years from the passing of this Act be appropriated for the purpose of dwellings and every conveyance demise or lease of such lands and buildings shall be indorsed with notice of this enactment. Provided also that the Local Government Board may at any time dispense with all or any of the requirements of this sub-section subject to such conditions (if any) as they may see fit.

(8) So much of section 157 of the Public Health Act 1875 as provides that the provisions of that section and of sections 155 and 156 of the same Act shall not apply to buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament shall not apply to buildings erected or provided by the Company for the purpose of any scheme under this section.

(9) The Local Government Board may direct any inquiries to be held by their inspectors which they may deem necessary in relation to any scheme under this section and for giving effect to any of the provisions of this section and the inspectors of the Local Government Board shall for the purposes of any such inquiry have all such powers as they have for the purposes of inquiries directed by that Board under the Public Health Act 1875.

(10) The Company shall pay to the Local Government Board a sum to be fixed by that Board in respect of the preparation and issue of any Provisional Order in pursuance of this section and any expenses incurred by that Board in relation to any inquiries under this section including the expenses of any witnesses summoned by the inspector and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector.

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

16. 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 thirty-one thousand two hundred and forty-eight pounds two shillings and fivepence consolidated three per cent. annuities being five per centum upon the amount of the estimate in respect of the railways proposed to be authorised by the Bill for this Act as introduced into Parliament has been transferred to the Paymaster-General for and on behalf of the Supreme Court of Judicature in England in respect of the application to Parliament for this Act And whereas during the progress of the said Bill through Parliament the power to make the railway therein and on the deposited plans called Railway No. 2 was struck out of the Bill and five per centum on the amount of the estimate in respect of that railway was twenty-five thousand nine hundred and two pounds eight shillings and fivepence of the said annuities and the balance of five thousand three hundred and forty-five pounds fourteen shillings of such annuities represents five per centum on the amount of the estimate in respect of the railway authorised by this Act (which last-mentioned 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 railway for the public conveyance of passengers Provided that if within such period as aforesaid the Company open any portion of the 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 of the High Court of Justice in England 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.

A.D. 1886.

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

A.D. 1886.

Application
of deposit.

17. 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 railway and open it for the public conveyance of passengers then and 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 been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the 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 said Chancery Division 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 Chancery Division 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.

Re-transfer
of portion of
consols
originally
deposited.

18. On the application of the persons named in the warrant or order issued in pursuance of the said Act of the ninth and tenth years of Her present Majesty chapter twenty or of the survivor of them or of the executors or administrators of the survivor at any time after the passing of this Act the Chancery Division of the High Court of Justice may and shall order that twenty-five thousand nine hundred and two pounds eight shillings and fivepence consolidated three per centum annuities (being the proportion of the said sum of thirty-one thousand two hundred and forty-eight

pounds two shillings and fivepence of like annuities applicable to Railway No. 2 which was struck out of the Bill for this Act as aforesaid) and the interest and dividends thereof shall be transferred and paid to the persons or person so applying or to any other persons or person whom they or he may appoint in that behalf. A.D. 1886.

19. 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 same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed. Period for completion of works.

20. The railway by this Act authorised shall for the purposes of tolls and charges and for all other purposes whatsoever be part of the railway of the Company. Railway to form part of Company's railway.

21. 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.

22. 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 two hundred and fifty-five 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.

23. 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.

24. 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 Dividends on new shares or stock.

A.D. 1886. 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.

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

25. 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
Acts of past
or present
session may
be of same
class.

26. 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.

27. The Company may in respect of the additional capital of two hundred and fifty-five 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 eighty-five thousand pounds but no part of such sum of eighty-five thousand pounds shall be borrowed until shares for so much of the said capital of two hundred and fifty-five thousand pounds 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 such 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 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. 1886.

28. 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.

29. 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.

30. 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.

31. 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 and to the general purposes of the Company being in all cases purposes to which capital is properly applicable.

Application of moneys.

32. The Company may from time to time make and carry into effect agreements with the mayor aldermen and burgesses of the

Agreements with Corporation of Birkenhead.

A.D. 1886. borough of Birkenhead (herein-after called "the Corporation") with respect to the following purposes or some of them (namely):

The appropriation and occupation for the purposes of the Company's undertaking of lands or property vested in or under the control or management of the Corporation;

The construction of railways works and buildings in or over such lands or property;

The construction of approaches and accesses to and communications through any property acquired by the Company;

The construction and use of streets subways sewers drains tramways junctions and other works and conveniences and in respect of the construction and maintenance of any such works and conveniences or payments to be made by either of the parties.

Agreements
with Corpo-
ration of
Liverpool.

33. The Company may from time to time grant to the mayor aldermen and citizens of the city of Liverpool (in this section called the Corporation) and the Corporation may from time to time acquire from the Company either in perpetuity or for a term of years on such terms as may be agreed upon between the Company and the Corporation such easements rights powers and privileges as the Corporation may require for the purpose of constructing placing laying inspecting maintaining cleansing repairing conducting or managing in through upon over under to and from the railways lands and works of the Company any aqueducts conduits pipes and works in connexion with the waterworks undertakings of the Corporation.

Interest not
to be paid
on calls paid
up.

34. 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 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.

35. 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.

Provision as
to general
Railway
Acts.

36. Nothing in this Act contained shall exempt the Company or the railway from the provisions of any general Act relating to

railways or to the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels. A.D. 1886.

37. 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.

LONDON: Printed by EYRE and SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1886.