



CHAPTER ccix.

An Act to authorise the Wallasey Urban District Council A.D. 1896.
to construct a Promenade and other Works to acquire
certain Lands and for other purposes. [7th August 1896.]

WHEREAS the urban district of Wallasey in the county of Chester (in this Act called the district) is under the government of the Wallasey Urban District Council (in this Act called the Council):

And whereas the Council (under their former name of the Wallasey Local Board) constructed a promenade along part of the shore of the estuary of the River Mersey on the east side of the district:

And whereas there is certain unenclosed ground adjoining or abutting on the foreshore of the estuary of the River Mersey between the northern end of the said promenade and New Brighton Pier and public rights of way or rights of user are claimed to exist over the said ground but the owners of the lands adjoining or abutting on such ground claim to be the absolute owners thereof:

And whereas the construction of a promenade in extension of the existing promenade to New Brighton Pier and the laying out or planting in ornamental manner of the part of the said unenclosed ground situate on the landward side of such extended promenade would be a great improvement to the district and would greatly increase the value of the lands abutting on the said ground and it is expedient that the Council should be authorised to construct the said extension of the said existing promenade and to acquire the said ground accordingly for the purposes aforesaid and that all public or other rights over the said ground save as by this Act provided should be extinguished:

And whereas it is expedient that the borrowing powers of the Council be extended:

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And whereas an estimate has been prepared by the Council for the purchase of land and the execution of the works by this Act authorised and for other the purposes of this Act and such estimate amounts to fifty thousand pounds :

And whereas the works included in such estimate are permanent works within the meaning of section 234 of the Public Health Act 1875 :

And whereas a plan and sections showing the lines and levels of the works authorised by this Act and the lands and property to be taken under the powers thereof and a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of all such lands were duly deposited with the clerk of the peace for the county of Chester and are herein-after respectively referred to as the deposited plan sections and book of reference :

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

And whereas an absolute majority of the whole number of the Council at a meeting held on the first day of August one thousand eight hundred and ninety-five after ten clear days' notice by public advertisement of the meeting and of the purpose thereof in the *Wallasey and Wirral Chronicle* a local newspaper published and circulating in the district such notice being in addition to the ordinary notices required for summoning that meeting resolved that the expense in relation to promoting the Bill for this Act should be charged on the district fund and general district rate :

And whereas that resolution was published twice in the said *Wallasey and Wirral Chronicle* and has received the approval of the Local Government Board :

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the Council at a further special meeting held in pursuance of a similar notice on the second day of January one thousand eight hundred and ninety-six being not less than fourteen days after the deposit of the Bill for this Act in the Offices of the Houses of Parliament :

And whereas the owners and ratepayers of the district by resolution passed in the manner prescribed by the Public Health Act 1875 (Schedule III.) have consented to the promotion of the Bill for this Act :

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

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and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say) :— A.D. 1896.

1. This Act may be cited as the Wallasey Urban District Council (Promenade) Act 1896. Short title.

2. The Lands Clauses Acts so far as the same are applicable for the purposes of and are not varied by or inconsistent with this Act are incorporated with and form part of this Act. Incorporation of Lands Clauses Acts.

3. In this Act the words and expressions following shall have the several meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction (that is to say) :— Interpretation.

“The Council” means the Wallasey Urban District Council ;

“The district” means the district of the Council ;

“The clerk” means the clerk of the Council ;

“The district fund” and “general district rate” mean the district fund and general district rate of the district ;

“The open lands” means the unfenced ground adjoining or abutting on the foreshore between the termination of the existing promenade and the New Brighton Pier which the Council are authorised to acquire under the powers of this Act ;

“The enclosed lands” means the lands adjoining or abutting on the western side of the open lands or on the foreshore between the points aforesaid ;

“The frontagers” means the owners lessees and occupiers of the enclosed lands :

For the purposes of this Act in the Acts incorporated with this Act the expression “superior courts” or “court of competent jurisdiction” shall have effect as if the debt or demand with respect to which it is used were a simple contract debt and not a debt or demand created by statute.

4. This Act shall be carried into execution by the Council. Execution of Act.

5. Subject to the provisions of this Act the Council may enter upon take and use such of the lands shown on the deposited plan and described in the deposited book of reference as may be required for any of the purposes of this Act. Power to take lands shown on deposited plan.

6. If any omission or misstatement or erroneous description is found to have been made of any lands or of any owners lessees or occupiers of any lands shown or described or intended to be shown or described on the deposited plan or in the deposited book of reference the Council may apply to two justices for the correction Correction of errors &c. in deposited plans and book of reference.

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A.D. 1896. — thereof after giving ten days' notice to the owners lessees and occupiers of the lands affected by the proposed correction and if it appears to the justices that the omission misstatement or erroneous description arose from mistake they shall certify the same accordingly stating the particulars of the omission misstatement or erroneous description and such certificate shall be deposited with the clerk of the peace for the county of Chester and shall be kept by him with the other documents to which it relates and subject and according to the same enactments and provisions as apply to those other documents and thereupon the deposited plan or book of reference (as the case requires) shall be deemed to be corrected according to the certificate and the Council may enter on take hold and use those lands accordingly.

Owners
required to
sell parts
only of lands.

7. And whereas in the construction of the works hereby authorised or otherwise in the exercise of the powers of this Act it may happen that portions only of the lands houses or other buildings shown on the deposited plan may be sufficient for the purposes of the same and that such portions may be severed from the remainder of the said properties without material detriment thereto Therefore notwithstanding section ninety-two of the Lands Clauses Consolidation Act 1845 the owners of and other persons interested in the lands houses or other buildings numbered respectively three and four on the deposited plan whereof portions only are required for the purposes of this Act may if such portions can in the opinion of the arbitrators jury or other authority to whom the question of disputed compensation shall be submitted be severed from the remainder of such properties without material detriment thereto be required to sell and convey to the Council the portions only of the premises so required without the Council being obliged or compellable to purchase the whole or any greater portion thereof the Council paying for the portions required by them and making compensation for any damage sustained by the owners thereof and other parties interested therein by severance or otherwise.

Period for
compulsory
purchase of
lands.

8. The powers of the Council for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Purchase of
additional
lands by
agreement.

9. The Council may from time to time for the purposes of this Act purchase by agreement any lands not exceeding twenty acres in addition to the lands which they are authorised to take by compulsion but the Council shall not create or permit the creation or continuance of any nuisance on any lands purchased under the provisions of this section.

10.—(1) The Council shall not under the powers of this Act purchase or acquire ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

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 Restriction on taking houses of labouring class.

(2) For the purpose of this section the expression "labouring class" means and 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 such persons who may be residing with them.

11. 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 Council any easement right or privilege (not being an easement right or privilege of water in which others than parties to the agreement have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the Lands Clauses Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants easements rights and privileges as aforesaid.

Power to grant easements &c.

12. The Council may from time to time sell and dispose of any lands acquired by them under this Act (other than the open lands) and not for the time being required for the purposes thereof.

Power to Council to sell lands.

13. Subject to the provisions of this Act the Council may make and maintain in the parish of Wallasey in the county of Chester in the line and according to the levels shown on the deposited plan and sections a promenade and embankment or river wall (in this Act called the promenade) commencing at or near to the northern termination of the existing promenade and terminating at or near to the New Brighton Pier together with all such footways carriageways approaches landing places slipways steps sewers drains works and conveniences as may be necessary or convenient.

Power to construct promenade.

14. In constructing the promenade by this Act authorised the Council may subject to the provisions of this Act deviate from the line thereof as shown on the deposited plan to any extent not exceeding the limits of deviation shown on that plan and they may deviate from the levels thereof as shown on the deposited

Power to deviate.

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A.D. 1896. sections to any extent not exceeding one foot upwards and one foot downwards.

Period for completion of works.

15. If the works by this Act authorised and shown on the deposited plan and sections are not completed within five years after the passing of this Act then on the expiration of that period the powers by this Act granted for the making thereof or otherwise in relation thereto shall cease except with respect to so much thereof as is then completed.

Power to make subsidiary works.

16. Subject to the provisions of this Act and within the limits of deviation defined on the deposited plan the Council in connexion with and for the purposes of the promenade may make junctions and communications with the existing promenade and any existing streets which may be interfered with by or contiguous to the promenade and may make diversions widenings or alterations of the lines or levels of the existing promenade and of any existing streets for the purpose of connecting the same with the promenade Provided that the Council shall make to the owners lessees and occupiers of and all other parties interested in any lands or houses injuriously affected by any such interference or alteration compensation for all damage sustained by them or any of them by the exercise of the powers of this section.

Alteration of position of mains and pipes.

17. The Council may for the purposes of or in connexion with the promenade and within the limits of deviation raise sink or otherwise alter the position of any sewer or drain and gas or water main or pipe and may remove any other obstruction making in case of alterations proper substituted works in the meantime and causing as little detriment and inconvenience as circumstances admit and making compensation to any person who suffers damage by any such alteration.

Promenade to be a public highway and repairable as such.

18. Subject to the provisions of this Act the promenade when completed shall be a public highway and shall be repaired maintained lighted and kept in order in the same way as the highways in the district repairable by the inhabitants at large shall for the time being be by law repaired maintained lighted and kept in order.

Byelaws for regulating promenade.

19.—(1) The Council may make byelaws for the regulation of the promenade for prescribing the nature of traffic for which it may be used and for the preservation of order and good conduct among persons frequenting the promenade The byelaws in force at the commencement of this Act relating to the promenades within the district shall until altered or repealed or until byelaws are made under the provisions of this section apply to the promenade.

(2) The provisions with respect to byelaws contained in sections 182 to 186 of the Public Health Act 1875 (except so much thereof as relates exclusively to the byelaws of a rural sanitary authority) shall apply to all byelaws from time to time made by the Council under the powers of this Act.

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20. The Council may provide and maintain on the promenade such seats shelters steps stands for bands of music and other conveniences as they may deem expedient.

Power to erect shelters &c. on promenade.

21. The following provisions shall apply with respect to the open lands (other than the lands referred to in the sections of this Act whereof the marginal notes are respectively "As to lands of the devisees of Charles Holland" "As to lands of Edgar Swinton Holland" and "As to lands of Philip Michael Vaughan") lying to the westward of the promenade (that is to say):—

Provisions as to laying out &c. of open lands.

(1) The Council when they shall have acquired the said open lands shall make and maintain through along or across the same such footways not less than four feet in width as hereinafter mentioned and shall connect the same with the promenade at convenient intervals so as to give a convenient access to the promenade and thence to the foreshore from the enclosed lands:

(2) The Council shall before taking any of the said open lands deposit for public inspection at the office of the Council a plan showing the footways which they propose to make under the provisions of this section and shall give notice of such deposit by advertisement in some newspaper published or circulating in the district Within one month from the date of the publication of such advertisement any frontager may object to the said plan by notice in writing stating the grounds of his objection and delivered at the office of the Council If no such objection is made within the period aforesaid or if all such objections are subsequently withdrawn by the persons respectively making the same the said plan shall thereupon become binding on all parties interested and the footways shall be made as shown thereon If any such objection is made within the period aforesaid and not withdrawn the questions in difference shall stand referred to an arbitrator being a practical surveyor to be appointed for that purpose by the Local Government Board who shall determine the position of the said footways and any other incidental matters and his decision shall be binding on all parties and the footways shall be made in the position determined by him and the reasonable remuneration

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of such surveyor to be settled in case of difference by the Local Government Board shall be borne as he shall direct :

- (3) The Council may from time to time deposit for public inspection at their office a plan showing any alterations in regard to any footways made or required to be made in pursuance of this section and may give notice of such deposit by advertisement in some newspaper published or circulating in the district and if no frontager affected by the proposed alteration shall object thereto by notice in writing delivered at the office of the Council within one month from the publication of the notice or if all such frontagers who shall so object shall withdraw their objections the Council may make the alteration shown on the said plan :
- (4) The frontagers and their sequels in estate shall at all times be entitled to use the said footways and to have access thereby to the promenade and foreshore :
- (5) The residue of the said open lands not required for the said footways shall be levelled planted and laid out by the Council in an ornamental manner and for ever kept unbuilt on and the Council may if they think fit permit the same or any part or parts thereof to be used as public pleasure grounds and the provisions of the Public Health Acts relating to parks and pleasure grounds shall apply accordingly :
- (6) Except as aforesaid all public and private rights of way or other rights over the said open lands shall on the acquisition thereof by the Council be extinguished.

Matters to
be taken into
account by
arbitrators.

22. In determining any question of disputed compensation under this Act the arbitrators jury or other authority shall take into account the provisions of the last preceding section and any public rights of way or other rights over or on the open lands and any permanent increase in value of the enclosed lands of the person claiming compensation which in the opinion of such authority will result from or be caused by the construction of the promenade and other works by this Act authorised and generally all the other circumstances of the case which it is equitable to consider.

Power to
borrow.

23. The Council may from time to time borrow at interest on the security of the district fund and general district rate and for the following purposes such sums as they see fit not exceeding the following (that is to say) :—

- (1) For the purchase of land and the execution of the works by this Act authorised and other the purposes of this Act fifty thousand pounds :

(2) For payment of the costs charges and expenses of this Act as herein-after provided such sums as may be required: A.D. 1896.

And with the approval of the Local Government Board such further moneys as the Council may require for any of the purposes of this Act.

24. The Council may raise all or any moneys which they are authorised to borrow under this Act by mortgage or by the issue of debentures or annuity certificates under and subject to the provisions of the Local Loans Act 1875 or by the issue of stock if and when they shall be authorised to issue stock or partly in one way and partly in another or others. Mode of raising money.

25. The powers of borrowing money by this Act given shall not be restricted by any of the regulations contained in section 234 of the Public Health Act 1875 and in calculating the amount which the Council may borrow under that Act any sums which they may borrow under this Act shall not be reckoned. Certain regulations of Public Health Act not to apply.

26. The following sections of the Public Health Act 1875 shall extend and apply to mortgages granted under this Act (that is to say):— Application of provisions of Public Health Act as to mortgages.

Section 236. Form of mortgage.

Section 237. Register of mortgages.

Section 238. Transfer of mortgages.

27. The Council shall pay off all moneys borrowed by them under this Act within the respective periods (in this Act referred to as the prescribed periods) following (that is to say):— Periods for discharge of loans.

As to moneys borrowed for the purposes (1) mentioned in the section of this Act the marginal note whereof is "Power to borrow" within the limit there prescribed within fifty years from the date or dates of the borrowing of the same;

As to moneys borrowed for the purpose (2) in the said section mentioned within ten years from the date or dates of the borrowing of the same;

As to moneys borrowed with the approval of the Local Government Board within such period as they may think fit to sanction.

28. The Council shall pay off all moneys borrowed by them on mortgage under the powers of this Act either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by one of these methods and partly by another or others of them. Mode of repayment of money borrowed on mortgage.

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Regulations
as to sinking
fund.

29. The following provisions shall apply to the repayment by means of a sinking fund of any moneys borrowed by virtue of this Act:—

- (1) The sinking fund shall be formed and maintained either—
 - (a) By payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed. A sinking fund so formed is herein-after called a non-accumulating sinking fund; or
 - (b) By payment to the fund throughout the prescribed period of such annual sums as with accumulations at a rate not exceeding three per centum per annum will be sufficient to pay off within the prescribed period the moneys for the repayment of which such sinking fund is formed. A sinking fund so formed is herein-after called an accumulating sinking fund:
- (2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in securities in which trustees are by law for the time being authorised to invest or in mortgages bonds debentures debenture stock stock or other securities (not being annuity certificates or securities payable to bearer) duly issued by any local authority as defined by section 34 of the Local Loans Act 1875 other than the Council the Council being at liberty from time to time to vary and transpose such investments:
- (3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Council towards the equal annual payments to the fund:
- (4) The Council may at any time apply the whole or any part of any sinking fund in or towards the discharge of the money for the repayment of which the fund is formed. Provided that in case of an accumulating sinking fund the Council shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund or the part of such sinking fund so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based:
- (5) (a) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per

centum per annum on which the annual payments to the fund are based any deficiency shall be made good by the Council out of the district fund or general district rate:

(b) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the equal annual payments to the fund are based any such excess may be applied towards such equal annual payments:

(6) The provisions of section 15 of the Local Loans Act 1875 shall not apply to the creation of any sinking fund for the repayment of moneys borrowed by virtue of this Act.

30. Nothing in this Act shall prejudicially affect any charge on the revenue and rates or the estates and property of the Council subsisting at the passing of this Act and every mortgagee or person for the time being entitled to the benefit of any such charge shall have the same priority of charge and all the like rights and remedies in respect of the revenue rate and property subject to his charge as if this Act had not passed and all such charges created before the passing of this Act shall during the subsistence thereof have priority over any mortgage or charge granted under this Act on the same revenue rate and property.

Saving for existing charges.

31. The Council shall not be bound to see to the execution of any trust whether expressed or implied or constructive to which any loan or security for loan given by them may be subject but the receipt of the person in whose name any loan or security for loan stands in the register of mortgages debentures annuity certificates or stock of the Council shall from time to time be sufficient discharge to the Council in respect thereof notwithstanding any trust to which such loan or security may be subject and whether or not the Council have had express or implied notice of any such trust or of any charge or incumbrance upon or the transfer of such loan or security or any part thereof or interest thereon not entered in their register.

Council not to regard trusts.

32.—(1) The mortgagees of the Council by virtue of this Act may enforce the payment of arrears of interest or of principal or of principal and interest by the appointment of a receiver. The amount of arrears to authorise the appointment of a receiver shall not be less than five hundred pounds in the whole.

Appoint-ment of receiver.

(2) The application for the appointment of a receiver shall be made to the High Court and the court if it thinks fit may appoint a receiver on such terms as it thinks fit and may at any time

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A.D. 1896. discharge the receiver and otherwise exercise full jurisdiction over him.

Power to re-borrow.

33. If the Council pay off any moneys borrowed by them under this Act otherwise than by instalments or by means of a sinking fund or out of the proceeds of the sale of land or other property or out of fines or premiums on leases or out of other moneys received on capital account not being borrowed moneys they may from time to time re-borrow the same but all moneys so re-borrowed shall be repaid within the prescribed period and shall be deemed to form the same loan as the moneys originally borrowed and the obligations of the Council with respect to the repayment of the loan and to the provision to be made for such repayment shall not be diminished by reason of such re-borrowing.

Annual return to Local Government Board.

34.—(1) The clerk shall within twenty-one days after the thirty-first day of March in each year during which any sum is required to be paid as an instalment or annual payment or to be appropriated or to be paid to a sinking fund in pursuance of the provisions of this Act transmit to the Local Government Board a return in such form as may from time to time be prescribed by that Board and if required by that Board verified by statutory declaration showing for the year next preceding the making of such return or for such other period as the Board may prescribe the amounts which have been paid as instalments or annual payments and the amounts which have been appropriated and the amounts which have been paid to or invested or applied for the purpose of the sinking fund and the description of the securities upon which any investment has been made and the purposes to which any portion of the sinking fund or investment of the sum accumulated by way of compound interest has been applied during the same period and the total amount (if any) remaining invested at the end of the year and in the event of any wilful default in making such return the clerk shall be liable to a penalty not exceeding twenty pounds to be recovered by action on behalf of the Crown in the High Court.

(2) If it appear to the Local Government Board by that return or otherwise that the Council have failed to pay any instalment or annual payment required to be paid or to appropriate any sum required to be appropriated or to set apart any sum required by this Act for any sinking fund or have applied any portion of any sinking fund or any interest thereon to any purpose other than those authorised the Local Government Board may by order direct that the sum in such order mentioned not exceeding double the amount in respect of which default shall have been made shall be paid or applied as in such order mentioned and any such order shall be

enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court. A.D. 1896.

35. The proceeds of the sale of any lands of the Council under the powers of this Act shall be distinguished as capital in the accounts of the Council and shall be applied in discharge of any moneys borrowed by the Council under this Act but shall not be applied to the payments of instalments or annuities or to payments into the sinking fund except to such extent and upon such terms as may be approved by the Local Government Board. Provided that borrowed money discharged by the application of such moneys shall not be re-borrowed. Proceeds of sale of surplus lands to be treated as capital.

36. All moneys borrowed by the Council under the powers of this Act shall be applied only to the purposes of this Act for which they are authorised to be borrowed and to which capital is properly applicable. Application of money borrowed.

37. A person lending money to the Council under this Act shall not be bound to inquire as to the observance by the Council of any provisions of this Act or be bound to see to the application or be answerable for any loss misapplication or non-application of the money lent or of any part thereof. Protection of lender from inquiry.

38.—(1) The Local Government Board may direct any inquiries to be held by their inspectors which they may deem necessary in regard to the exercise of any powers conferred upon them or the giving of any consents under this Act 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. Inquiries by Local Government Board.

(2) The Council shall pay to the Local Government Board any expenses incurred by that Board in relation to any inquiries referred to in this section including the expenses of any witnesses summoned by the inspector holding the inquiry and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector.

39. Any expenses of the execution by the Council of this Act with respect to which no other provision is made may be defrayed by the Council out of the district fund and general district rate. Expenses of execution of Act.

40. Section 58 of the Local Government Act 1894 shall apply to the accounts of the Council and of their committees and officers under this Act. Audit of accounts.

41. The following provisions shall apply to the taking and use under the powers of this Act of the lands and property of or claimed As to lands of the devisees of Charles Holland.

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A.D. 1896. by Charles Menzies Holland Walter Holland and Arthur Holland devises in trust under the will of Charles Holland deceased (who and the survivors and survivor of whom and the heirs and assigns of such survivor are in this section referred to as and included in the expression "the devisees") and shall be binding upon the devisees and the Council (that is to say):—

- (1) The property of the devisees affected by this Act includes the freehold dwelling-house and the grounds attached thereto called Liscard Vale in the parish of Wallasey (in this section referred to as "the enclosed grounds") and the devisees claim to be absolutely entitled to the land (in this section referred to as "the open land") lying between the enclosed grounds and the River Mersey in fee simple free from any public or other rights of way or other rights over or affecting the same but the Council do not admit such claim :
- (2) The promenade where it passes through the open land shall unless otherwise agreed between the devisees and the Council be so constructed that its western boundary shall be in the exact position shown on the deposited plan so that if the promenade be made of greater width than is shown on the deposited plan the widening shall be exclusively on the eastern side :
- (3) The promenade where it passes through the open land shall be fenced in on its western side by the Council by an unclimbable iron fence six feet high above the level of the footpath on the western side of the promenade founded upon a stone sill not less than fifteen inches high but the devisees shall at all times be at liberty to make gates or entrances through the said fence for the use of persons resorting to any house or houses on their property facing the promenade :
- (4) Two slipways each at least six feet wide shall be made and maintained by the Council from the promenade to the shore of the River Mersey one opposite Magazine Lane and the other opposite Holland Road and both facing in a southerly direction :
- (5) A flight of stone or concrete steps shall be made and maintained by the Council from the promenade to the shore of the River Mersey opposite the enclosed grounds at the point marked C upon the plan signed by James Willcox Alsop and William Danger :
- (6) The Council shall not take or use under the powers of this Act without the consent in writing of the devisees any of the open land shown on the deposited plan as lying between the

western side of the promenade and the enclosed grounds or between the western side of the promenade and the eastern boundary of the houses belonging to the devisees known as 1 and 2 River View in the district of Magazines : A.D. 1896.

- (7) The devisees shall have the right of access from the enclosed grounds to the promenade by not more than three roads of such width as the devisees may think fit not being less than the minimum width prescribed by the byelaws of the Council and being respectively of uniform width with any roads on the devisees' property of which the roads respectively shall form extensions. Suitable provision shall be made by the Council during the construction of the promenade and until the roads provided for by this subsection are made and available for securing access at all times from the enclosed grounds to the shore of the River Mersey :
- (8) The Council shall when constructing the promenade lay a sewer longitudinally under the same and the devisees shall thereafter have the right to discharge sewage and drainage into the said sewer and in the meantime any existing sewers and drains from the enclosed grounds to the River Mersey shall be preserved :
- (9) The devisees and all persons claiming under or through them shall be at liberty to build to within but not nearer than thirty feet from the western boundary of the promenade :
- (10) The Council shall not (notwithstanding anything in the section of this Act of which the marginal note is "Power to erect shelters &c. on promenade") erect or permit to be erected or continued any building or erection of any description upon the promenade between a point opposite the north-eastern corner of Kirkdale Cottage grounds and a point opposite the south-eastern corner of the College grounds :
- (11) All the estate right title and interest (if any) of the devisees in and in respect of the land required for the construction of the promenade in exact accordance with the deposited plan so far as regards the western side of the promenade but with any widening of the promenade eastward beyond the line shown on the said plan which the Council may think necessary or expedient within the limits of deviation and in and in respect of the land situate within the district of Wallasey and lying east of the site of the promenade but not including in either case any mines or minerals under any such land and being more than five feet below the surface are hereby vested in the Council and any land so vested in the Council lying to the eastward of the promenade as actually constructed shall unless

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revested as herein-after provided remain and be for ever open and unbuilt upon Provided that if the works by this Act authorised to be constructed on the said lands and shown on the deposited plan and sections are not constructed within the period limited by this Act in that behalf the estate right title and interest (if any) by this section vested in the Council shall be by this Act revested in the devisees :

- (12) Except as by this section provided the Council shall not purchase take or interfere with any land or property of or claimed by the devisees.

As to lands
of Edgar
Swinton
Holland.

42. The following provisions shall apply to the taking and use under the powers of this Act of the lands and property of or claimed by Edgar Swinton Holland of Liscard in the parish of Wallasey in the county of Chester (who and whose heirs and assigns are in this section referred to as and included in the expression "the owner") and shall be binding upon the owner and the Council (that is to say) :—

- (1) The property of the owner affected by this Act includes the freehold house and grounds called the College in the parish of Wallasey (in this section referred to as "the enclosed grounds") and the owner claims to be absolutely entitled to the land (in this section referred to as "the open land") lying between the enclosed grounds and the River Mersey in fee simple free from any public or other rights of way or other rights over or affecting the same but the Council do not admit such claim :
- (2) The promenade where it passes through the open land shall unless otherwise agreed between the owner and the Council be so constructed that its western boundary shall be in the exact position shown on the deposited plan so that if the promenade be made of greater width than shown on the deposited plan the widening shall be exclusively on the eastern side :
- (3) The promenade where it passes through the open land shall be fenced in on its western side by the Council by an unclimbable iron fence six feet high above the level of the footpath on the western side of the promenade founded upon a stone sill not less than fifteen inches high but the owner shall at all times be at liberty to make gates or entrances through the said fence for the use of persons resorting to any house or houses on his property facing the promenade :
- (4) Two slipways each at least six feet wide shall be made and maintained by the Council from the promenade to the shore of the River Mersey one opposite Magazine Lane and the

other opposite Holland Road and both facing in a southerly direction : A.D. 1896.

- (5) The owner shall have the right of access from the enclosed grounds to the promenade by not more than one road of such width as the owner may think fit not being less than the minimum width prescribed by the byelaws of the Council and being of uniform width with any road on the owner's property of which it shall form an extension. Suitable provision shall be made by the Council during the construction of the promenade and until the road provided for by this subsection is made and available for securing access at all times from the enclosed grounds to the shore of the River Mersey :
- (6) The Council shall when constructing the promenade lay a sewer longitudinally under the same and the owner shall thereafter have the right to discharge sewage and drainage into the said sewer and in the meantime any existing sewer or drain from the enclosed grounds to the River Mersey shall be preserved :
- (7) The owner and all persons claiming under or through him shall be at liberty to build to within but not nearer than thirty feet from the western boundary of the promenade :
- (8) The Council shall not (notwithstanding anything in the section of this Act of which the marginal note is "Power to erect shelters &c. on promenade") erect or permit to be erected or continued any building or erection of any description upon the promenade between a point opposite the north-eastern corner of Kirkdale Cottage grounds and a point opposite the south-eastern corner of the College grounds :
- (9) All the estate right title and interest (if any) of the owner in and in respect of the land required for the construction of the promenade in exact accordance with the deposited plan so far as regards the western side of the promenade but with any widening of the promenade eastward beyond the line shown on the said plan which the Council may think necessary or expedient within the limits of deviation and in and in respect of the land situate within the district of Wallasey and lying east of the site of the promenade but not including in either case any mines or minerals under any such land and being more than five feet below the surface are hereby vested in the Council and any land so vested in the Council lying to the eastward of the promenade as actually constructed shall unless re-vested as herein-after provided remain for ever open and unbuilt upon. Provided that if the works by this Act authorised

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to be constructed on the said lands and shown on the deposited plan and sections are not constructed within the period limited by this Act in that behalf the estate right title and interest (if any) by this section vested in the Council shall be by this Act re-vested in the owner :

- (10) Except as by this section provided the Council shall not purchase take or interfere with any land or property of or claimed by the owner.

As to lands
of Philip
Michael
Vaughan.

43. The following provisions shall apply to the taking and use under the powers of this Act of the lands and property of or claimed by Philip Michael Vaughan of Kirkdale Cottage in the township of Liscard and in the parish of Wallasey in the county of Chester (who and whose heirs and assigns are in this section referred to as and included in the expression "the owner") and shall be binding upon the owner and the Council (that is to say) :—

- (1) The property of the owner affected by this Act includes the house and the grounds attached thereto called Kirkdale Cottage in the parish of Wallasey (in this section referred to as "the enclosed grounds") and the owner claims to be absolutely entitled to the land (in this section referred to as "the open land") lying between the enclosed grounds and the River Mersey in fee simple free from any public or other rights of way or other rights over or affecting the same but the Council do not admit such claim :
- (2) The promenade where it passes through the open land shall unless otherwise agreed between the owner and the Council be so constructed that its western boundary shall be in the exact position shown on the deposited plan so that if the promenade be made of greater width than shown on the deposited plan the widening shall be on the eastern side :
- (3) The promenade where it passes through the open land shall be fenced in on its western side by the Council by an unclimbable iron fence six feet high above the level of the footpath on the western side of the promenade founded upon a stone sill not less than fifteen inches high but the owner shall at all times until the roads mentioned in subsection (6) of this section shall have been made have free access through the said fence to the River Mersey :
- (4) A slipway at least six feet wide shall be made and maintained by the Council from the promenade to the shore of the River Mersey opposite the road along the northern boundary of the enclosed grounds and facing in a northerly direction :

- (5) Two flights of stone or concrete steps shall be made and maintained by the Council from the promenade to the shore of the River Mersey opposite the enclosed grounds at the points marked A and B upon the plan signed by James Willcox Alsop and William Danger :
- (6) The owner shall have the right of access from the enclosed grounds to the promenade by not more than four roads of such width as the owner may think fit not being less than the minimum width prescribed by the byelaws of the Council and being respectively of uniform width with any roads on the owner's property of which the roads respectively shall be extensions. Suitable provision shall be made by the Council during the construction of the promenade and until the roads provided for by this subsection are made and available for securing access at all times from the enclosed grounds to the shore of the River Mersey :
- (7) The Council shall when constructing the promenade lay a sewer longitudinally under the same and the owner shall thereafter have the right to discharge sewage and drainage into the said sewer and for that purpose to carry pipes under and through the strip of land to be vested in the Council as aforesaid :
- (8) The owner and all persons claiming under or through him shall be at liberty to build to within but not nearer than seventy feet from the western boundary of the promenade :
- (9) The Council shall not (notwithstanding anything in the section of this Act of which the marginal note is "Power to erect shelters &c. on promenade") erect or permit to be erected or continued any building or erection of any description upon the promenade between a point opposite the north-eastern corner of Kirkdale Cottage grounds and a point opposite the south-eastern corner of the College grounds :
- (10) All the estate right title and interest (if any) of the owner in and in respect of the land required for the construction of the promenade in exact accordance with the deposited plan so far as regards the western side of the promenade but with any widening of the promenade eastward beyond the line shown on the said plan which the Council may think necessary or expedient within the limits of deviation and in and in respect of the land situate within the district of Wallasey and lying east of the site of the promenade and in and in respect of the land lying on the west side of the promenade and extending for a distance therefrom of forty feet or (where less than that

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distance will intervene between the western side of the promenade and the enclosed grounds of Kirkdale Cottage) of such less distance but not including in any case any mines or minerals under any such land and being more than five feet below the surface are hereby vested in the Council and any land so vested in the Council lying to the eastward of the promenade as actually constructed shall unless re-vested as herein-after provided remain and be for ever open and unbuilt upon. Provided that if the works by this Act authorised to be constructed on the said lands and shown on the deposited plan and sections are not constructed within the period limited by this Act in that behalf the estate right title and interest (if any) by this section vested in the Council shall be by this Act re-vested in the owner :

(11) The land lying on the west side of the promenade and vested in the Council by the preceding subsection shall be fenced by the Council on all sides with a fence of the same description as that provided for by subsection (3) of this section and shall be for ever kept and maintained by the Council as an ornamental enclosure or as ornamental enclosures and planted with suitable trees and shrubs :

(12) Except as by this section provided the Council shall not purchase take or interfere with any land or property of or claimed by the owner.

For protec-
tion of the
Rock Point
Estate.

44.—(1) Except with the consent of the owner for the time being of the Rock Point Estate so much of the promenade as abuts upon the said estate shall not be so constructed that any part thereof shall be west of the river wall constructed for the protection of the said estate or of the site of such wall.

(2) No lands forming part of the Rock Point Estate shall be acquired under the provisions of this Act otherwise than by agreement west of the lands required for the construction of the promenade.

(3) Except with the consent of the Council no hotel stable shop dwelling-house or other similar structure shall be erected upon the Rock Point Estate within forty feet of the western side of the promenade.

(4) The owner for the time being of the said estate and his agents shall at all times be entitled to access at any point or points from the said estate to the promenade and thence by such approaches as the Council may be reasonably required to construct over the promenade to the lands lying east thereof and the river.

(5) The section of this Act the marginal note whereof is "Power to Council to sell lands" shall not apply to the said estate. A.D. 1896.

45. The Council shall not execute any works or conduct any operations under the powers of this Act within the jurisdiction of the Mersey Conservancy Commissioners except in accordance with plans and sections first submitted to and approved of in writing by the acting conservator for the time being appointed by the said Commissioners under the Mersey Conservancy Act 1842 and the provisions of that Act shall apply to the works under this Act. For protection of the Mersey Conservancy Commissioners.

46. And whereas it is necessary that the lands hereditaments and works belonging to Her Majesty or vested in Her Majesty's Principal Secretary of State for the War Department for the public service should be preserved intact and free from all intrusion or obstruction. Be it therefore enacted as follows (that is to say) :— Saving rights of Her Majesty's Principal Secretary of State for the War Department.

(1) Nothing in this Act contained shall authorise the Council to enter upon use or interfere with any land soil or water or any right in respect thereof vested in or exercised by the said Principal Secretary for the time being or to take away lessen prejudice or alter any of the rights privileges or powers vested in or exercised by the said Principal Secretary for the time being without his previous consent signified in writing under his hand and which consent the said Principal Secretary for the time being is hereby authorised to give subject to such special or other conditions as he shall see fit to impose on the Council :

(2) The said Principal Secretary for the time being shall at all times for himself his officers agents servants and workmen have full rights of way over the promenade to and from the Liscard Battery and rights of firing across the promenade from the Liscard Battery :

(3) So much of the promenade as abuts upon or is opposite to the Liscard Battery shall at all times be kept free from buildings and other obstructions :

(4) Provided that the Council shall be at liberty with the previous assent of the said Principal Secretary for the time being to level plant and lay out the open land lying between the west side of the promenade and the said battery except so much thereof as lies within six feet of the wall of the said battery such levelling planting and laying out being executed subject to the approval of the general officer commanding the district.

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Saving
rights of
the Crown.

47. Nothing contained in this Act shall authorise the Council to take use or in any manner interfere with any land or hereditaments or any rights of whatsoever description belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Commissioners of Woods without the consent in writing of the Commissioners of Woods on behalf of Her Majesty first had and obtained for that purpose (which consent such Commissioners are hereby authorised to give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the Queen's Majesty Her heirs or successors.

Costs of
Act.

48. All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council and may be paid in the first instance out of any moneys in their hands but shall be charged to and recouped by the moneys which the Council are authorised to borrow under the powers of this Act.

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