

[17 & 18 GEO. 5.] *Renfrewshire County Council (Giffnock Railway Bridges) Order Confirmation Act, 1927.* [Ch. cxvi.]



CHAPTER cxvi.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Renfrewshire County Council (Giffnock Railway Bridges). A.D. 1927.
—
 [22nd December 1927.]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has after inquiry held before Commissioners been made by one of His Majesty's Principal Secretaries of State under the provisions of the Private Legislation Procedure (Scotland) Act 1899 as read with the Secretaries of State Act 1926 and it is requisite that the said Order should be confirmed by Parliament : 62 & 63 Vict.
c. 47.
16 & 17
Geo. 5. c. 18.

Be it therefore enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows :—

1. The Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed. Confirmation of Order in schedule.

2. This Act may be cited as the Renfrewshire County Council (Giffnock Railway Bridges) Order Confirmation Act 1927. Short title.

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SCHEDULE.

RENFREWSHIRE COUNTY COUNCIL (GIFFNOCK
RAILWAY BRIDGES).

Provisional Order to authorise the County Council of the county of Renfrew to widen and reconstruct bridges over the London Midland and Scottish Railway (Busby and East Kilbride Branch) at Giffnock in the parish of Eastwood in the said county to provide for the maintenance of the reconstructed bridges and for other purposes.

WHEREAS the public road leading from Glasgow to Kilmarnock and the South via Newton Mearns known as the Kilmarnock Road and the public road known as Church Road are carried by bridges over the Busby and East Kilbride Branch of the London Midland and Scottish Railway at Giffnock in the parish of Eastwood in the county of Renfrew :

And whereas the said bridges are narrow and unsuited for the traffic which uses the roads in which the said bridges are situate and which has greatly increased and is increasing :

And whereas a scheme has been approved by the Ministry of Transport for the widening of the Kilmarnock Road which is necessary to render it adequate for modern traffic and the reconstruction and widening of the bridge carrying that road over the said branch railway situated at the central part of the road widening is an essential part of that scheme :

And whereas the said bridges are vested in the London Midland and Scottish Railway Company (hereinafter referred to as "the railway company") :

And whereas the County Council of the county of Renfrew and the district committee of the first or upper district of that county are the local and road authorities for the district of the said county in which the said bridges are situate :

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And whereas it is expedient that the said County Council should be authorised to widen and reconstruct the said bridges and that the said bridges as so widened and reconstructed and the roadways thereon and on the approaches thereto should be maintained as in this Order provided : A.D. 1927.

And whereas an estimate has been prepared of the cost of the acquisition of land and servitudes for and for the construction of the works authorised by this Order and such estimate amounts to the sum of eleven thousand one hundred and forty pounds :

And whereas the works included in the said estimate are permanent works and it is expedient that the cost thereof should be spread over a term of years :

And whereas plans and sections showing the lines and levels of the works authorised by this Order and a book of reference to the said plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands and other property required or which may be taken for the purposes or under the powers of this Order have been deposited in the office at Paisley of the sheriff clerk of the county of Renfrew and are in this Order referred to as the deposited plans sections and book of reference :

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899 :

Now therefore in pursuance of the powers contained in the last-mentioned Act as read with the Secretaries of State Act 1926 the Secretary of State orders as follows:—

1. This Order may be cited for all purposes as the Short title.
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Order 1927.

2. This Order shall commence and have effect on Commence-
and after the date of the passing of the Act confirming ment of
the same which date is hereinafter referred to as "the Order.
commencement of this Order."

3. The following Acts and parts of Acts so far as the Incorporation of
same are applicable for the purposes of and are not varied Acts.

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A.D. 1927. by or inconsistent with the provisions of this Order
are incorporated with and form part of this Order (that
is to say) :—

The Lands Clauses Acts except section 120 of the
Lands Clauses Consolidation (Scotland) Act
1845 :

Provided that the bond required by section 84 of
the Lands Clauses Consolidation (Scotland) Act
1845 shall be under the seal of the County Council
and shall be sufficient without the securities
mentioned in the said section :

The provisions of the Railways Clauses Consolida-
tion (Scotland) Act 1845 with respect to the
temporary occupation of lands near the railway
during the construction thereof.

This Order shall be deemed a special Act within the
meaning of the Acts wholly or partially incorporated
herewith.

Interpreta-
tion.

4. In this Order the words and expressions to which
meanings are assigned by the Acts wholly or partially
incorporated herewith shall have the same respective
meanings unless there be something in the subject or
context repugnant to such construction And in this
Order unless the context otherwise requires :—

The expression “the County Council” means the
County Council of the county of Renfrew ;

The expression “the district committee” means the
district committee of the first or upper district
of the said county ;

The expression “the railway company” means the
London Midland and Scottish Railway Company ;

The expression “the railway” means the Busby
and East Kilbride branch of the railway of the
railway company ;

The expression “the works” or “the said works”
means Work No. 1 and Work No. 2 by this
Order authorised and works connected there-
with ;

The expression “the existing bridges” means the
bridges carrying the Glasgow to Kilmarnock

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Road and Church Road over the railway as existing prior to the execution of the works; A.D. 1927.

The expression "the reconstructed bridges" means the existing bridges as widened and reconstructed under the powers of this Order.

In the Acts wholly or partially incorporated with this Order :—

The expressions "the company" "the undertakers" and "the promoters of the undertaking" and other like expressions mean for the purposes of this Order the County Council;

The expressions "railway" "work" and "the undertaking" or other like expressions in the Lands Clauses Acts and in the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 incorporated with this Order mean for the purposes of this Order the works and the expression "centre of the railway" in the last-mentioned provisions means for the purposes of this Order any part of the works respectively.

5. Subject to the provisions of this Order the County Council may make in the lines and according to the levels shown on the deposited plans and sections the works hereinafter mentioned together with all such approaches roads footways retaining walls abutments embankments excavations culverts sewers drains buildings erections stagings supports scaffolding machinery and other plant works and conveniences as it may be necessary or convenient to construct in connection with the works and the County Council may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for those purposes. Power to reconstruct bridges.

The works hereinbefore in this section referred to are :—

Work No. 1 A widening and reconstruction of the bridge carrying the public road leading from Glasgow to Kilmarnock and the South by Newton Mearns known as the Kilmarnock Road over the London Midland and Scottish Railway (Busby and East Kilbride Branch)

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commencing at a point forty-four yards or thereabouts southwards from the northern end of the south-east parapet wall of the said bridge and terminating at a point thirteen yards or thereabouts northwards from the said northern end of the south-east parapet wall of the said bridge :

Work No. 2 A widening and reconstruction on the northern side of the bridge carrying Church Road over the London Midland and Scottish Railway (Busby and East Kilbride Branch) commencing at a point twelve yards or thereabouts westwards from the northern end of the west abutment of the said bridge and terminating at a point eleven yards or thereabouts north-eastwards from the northern end of the east abutment of the said bridge :

Both of which works will be situated in the parish of Eastwood and county of Renfrew.

Power to
alter roads
&c. tempo-
rarily.

6. Without prejudice to any other statutory powers vested in the County Council and the district committee or either of them the County Council may for the purposes and during the execution of the works and subject to the provisions of this Order and within the limits of deviation shown on the deposited plans temporarily break up cross divert alter or stop up remove or otherwise interfere with any roads footpaths bridges culverts drains sewers tramways gas and water mains and pipes telegraphic telephonic electric and other cables wires pipes posts and apparatus and other works which they may find it expedient so to break up cross divert alter stop up or otherwise interfere with the County Council providing a proper temporary substitute before interfering with the traffic on any such road footpath bridge or tramway or interrupting the flow of gas water sewage or electricity Provided that nothing in this section shall extend to authorise any interference with any telegraphic line (as defined in the Telegraph Act 1878) or other property of His Majesty's Postmaster-General Provided further that nothing in this section shall extend to or authorise any interference with any works of any Undertakers within the meaning of the Electricity (Supply) Acts

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1882 to 1926 otherwise than in accordance with the provisions of section 15 of the Electric Lighting Act 1882. A.D. 1927.

7. Subject to the provisions of this Order the County Council may in the construction of the works deviate laterally from the lines or situation of the works or either of them to any extent within the limits of deviation shown on the deposited plans and vertically upwards from the levels defined on the deposited sections to any extent not exceeding three feet. Power to deviate.

8. The County Council may remove any part or parts of the existing bridges or either of them and may use the materials of the part or parts so removed for the purposes of or in connection with the construction of the works. Removal of materials of existing bridges.

9. All private rights of way over any lands which shall under the powers of this Order be acquired compulsorily shall as from the date of such acquisition be extinguished. Provided that the County Council shall make full compensation to all parties interested in respect of any such rights and such compensation shall be settled in manner provided by the Acquisition of Land (Assessment of Compensation) Act 1919 with reference to the acquisition of land compulsorily. As to private rights of way over lands taken compulsorily.

10. Persons empowered by the Lands Clauses Acts to convey or discharge lands may if they think fit subject to the provisions of those Acts and of this Order grant to the County Council any servitude right or privilege (not being a servitude right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Order in or over or affecting any such lands and the provisions of the said Acts with respect to lands and feu duties or ground annuals so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively. Persons under disability may grant servitudes &c.

11. If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the County Council after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply Correction of errors in deposited plans and book of reference.

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A.D. 1927. — to the sheriff of the county of Renfrew for the correction thereof and if it appears to the sheriff that the omission misstatement or wrong description arose from mistake he shall certify the same accordingly and he shall in such certificate state the particulars of such omission and in what respect any such matter is misstated or wrongly described and such certificate shall be deposited in the office of the sheriff clerk of the said county and a duplicate thereof shall also be deposited with the clerk of the parish council of the parish of Eastwood and such certificate and duplicate shall be kept by such sheriff clerk and clerk of the parish council respectively with the other documents to which the same relate and thereupon the deposited plans and book of reference shall be deemed to be corrected according to such certificate and it shall be lawful for the County Council to exercise the powers of this Order in accordance therewith.

Period for compulsory purchase of lands.

12. The powers of the County Council for the compulsory purchase of lands for the purposes of this Order shall cease on the thirty-first day of December one thousand nine hundred and thirty.

Period for completion of works.

13. If the works are not completed within five years from the commencement of this Order then on the expiration of that period the powers by this Order granted to the County Council for executing the same or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

For protection of corporation of city of Glasgow.

14. For the protection of the corporation of the city of Glasgow (hereinafter in this section referred to as "the corporation") the following provisions shall (unless otherwise agreed in writing between the corporation and the County Council) apply and have effect (that is to say) :—

- (1) Before commencing any operations in connection with the widening and reconstruction of the bridge Work No. 1 by this Order authorised which will affect the tramways of the corporation the County Council shall submit to the corporation plans sections working drawings and specifications of the widening and reconstruction of the said bridge Work No. 1 (in this section included in the expression "plans")

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so far as affecting the tramways of the corporation and shall provide such accommodation as may be reasonably necessary to enable the corporation to lay on the reconstructed bridge and approaches thereto in substitution for the tramways on the existing bridge a double line of tramways in accordance with plans sections and specifications which shall be subject to the reasonable approval of the County Council in writing before operations are commenced and the plans of Work No. 1 so far as affecting the tramways shall be subject to the reasonable approval of the corporation in writing before such operations are commenced. Provided that if the corporation do not within twenty-one days after the submission to them of the plans intimate to the County Council their disapproval of the plans the same shall be assumed to be approved by the corporation and if the corporation shall within the said period intimate their disapproval the same shall be referred to arbitration as hereinafter in this section provided and the widening and reconstruction of the said bridge so far as affecting the tramways shall be carried out by the County Council according to the plans as the same shall have been approved or settled by arbitration as aforesaid :

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- (2) The County Council shall in carrying out the widening and reconstruction of the said bridge and approaches thereto so carry out their operations as to permit of one line of tramway being laid down by the corporation on the said bridge and approaches and being worked by the corporation before the County Council interfere with the tramways on the existing bridge and approaches and the County Council shall not cause any avoidable stoppage or interruption of the working of the existing tramways until that line of tramway has been laid down and is ready for working nor any avoidable stoppage or interruption of the working of that line after it has been laid down and shall so carry out their operations as to cause as

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little interference or inconvenience as shall be reasonably practicable with or to the working of the said tramways and after the said line shall have been constructed with or to the said line and the traffic thereon Provided always that the corporation shall lay down the said line and complete the laying of the tramways on the reconstructed bridge and shall remove their tramways from the existing bridge with all reasonable despatch and shall conduct all their operations and shall regulate the tramway traffic so as not to cause any avoidable interruption delay or stoppage of and to cause as little interference as may be reasonably practicable with the operations of the County Council and other statutory undertakers in connection with the widening and reconstruction of the said bridge and approaches and the works of such undertakers therein :

- (3) The provisions of the Glasgow Tramways Acts 1905 to 1927 shall extend and apply to the tramways to be laid down by the corporation on the said bridge and approaches thereto as if they had been authorised by those Acts :
- (4) The County Council shall in carrying out the works provide all such accommodation as may be reasonably required by the corporation for their gas mains in the said works in substitution for the gas mains in the existing bridges and approaches thereto and the corporation shall at the expense of the County Council provide and lay the substituted mains and make such alterations on the existing mains as may be necessary in consequence of the carrying out of the works and in order to maintain uninterrupted the flow of gas at all times during the operations in connection therewith Provided always that the corporation shall conduct their operations as expeditiously as practicable and so as not to cause any avoidable stoppage delay or interruption of and to cause as little interference as may be reasonably practicable with the operations of the County Council and other

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statutory undertakers in connection with the construction of the works Provided also that the corporation shall bear the expense of and incident to the provision of any mains exceeding in number or dimensions the existing mains in so far as this shall exceed the expense of renewing the existing mains and that the County Council shall not be required to provide accommodation for any gas main exceeding twenty-four inches in internal diameter or which would involve raising the level of the road on the said bridges and approaches above that shown on the deposited sections :

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- (5) If any difference shall arise between the corporation and the County Council in connection with any of the provisions of this section or anything in this Order contained such difference shall in the event of the corporation and the County Council failing to agree be determined from time to time by an arbiter to be mutually agreed upon between the corporation and the County Council or failing agreement to be appointed by the sheriff of the county of Renfrew on the application of either party.

15. Subject to the provisions of this Order the County Council and the district committee or either of them may enter into and carry into effect an agreement or agreements with the railway company or other statutory undertakers having works in or upon the said bridges or approaches thereto in relation to the construction of the works or the maintenance of the reconstructed bridges or for giving effect in other respects to the objects of this Order.

Agreements with railway company and others.

16. The following provisions for the protection of the railway company shall unless otherwise agreed in writing between the railway company and the County Council apply and have effect (that is to say) :—

For protection of London Midland and Scottish Railway Company.

- (1) The County Council shall not under the powers of this Order take or acquire by compulsion any lands or property of the railway company but the County Council may purchase and the railway company shall sell if required by the

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County Council such servitude in under over or upon the lands property and works of the railway company (hereinafter in this section referred to as "the railways") as may be required for making in accordance with the provisions of this Order the said works by this Order authorised:

(2) The consideration to be paid by the County Council for any such servitude as aforesaid shall be such sum as failing agreement shall be determined in accordance with the provisions of the Lands Clauses Consolidation (Scotland) Act 1845 and the Acts amending that Act with respect to the purchase and taking of lands otherwise than by agreement but for this purpose the provisions of the Acquisition of Land (Assessment of Compensation) Act 1919 shall not apply:

(3) Before constructing the said works in over or affecting the railways the County Council shall deposit with the engineer of the railway company (in this section referred to as "the engineer") for his approval proper and sufficient plans sections working drawings and specifications of such works provided that if the engineer for the space of one month after such deposit does not signify his disapproval of the said plans sections working drawings and specifications he shall be deemed to have approved thereof and if he shall disapprove the same then such plans sections working drawings and specifications shall be submitted to an arbiter to be appointed as in this section provided for his approval. All the said works shall be constructed or provided at the costs charges and expenses of the County Council and only according to such plans sections working drawings and specifications as shall be approved by the engineer or by the arbiter and under the superintendence and to the reasonable satisfaction of the engineer:

(4) The said works and all works in connection therewith (including any temporary works)

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shall when commenced be proceeded with and completed as soon as reasonably practicable and the County Council shall as soon as reasonably practicable after the completion of the works remove any temporary works and materials for temporary works which may have been erected or placed on the railways in connection therewith and if and whenever the County Council fail so to do after receipt of notice from the railway company the railway company may remove the same and the sum which shall have been reasonably expended in so doing shall be repaid to the railway company by the County Council : A.D. 1927.

(5) Subject to the provisions of the section of this Order of which the marginal note is "Removal of materials of existing bridges" the County Council shall demolish and remove the existing Kilmarnock Road Bridge with the exception of the abutments thereof in so far as in a condition and position suitable to be used in the widening and reconstruction of the said bridge. The work of demolition and removal shall when commenced be proceeded with and carried out with all reasonable expedition and in such manner as the railway company reasonably approve and the County Council shall remove entirely from the railway all temporary works erected or placed on the railway in connection with such demolition and removal and all materials resulting from such demolition and removal :

(6) Subject as in this subsection provided at all times hereafter the railway company shall maintain the structure of Work No. 1 (Kilmarnock Road Bridge) and the County Council shall maintain the roadway upon the said Work No. 1 and the immediate approaches thereto. As regards the cost incurred by the railway company in maintaining the structure of the said Work No. 1 (Kilmarnock Road Bridge) the County Council shall at Whitsunday in each year repay to the railway company the actual cost of such maintenance for the year then

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- ended less a sum equivalent to the liability which would have rested on the railway company for that year under section 39 of the Railways Clauses Consolidation (Scotland) Act 1845 in respect of the maintenance in all time of the existing bridge the amount of such sums failing agreement to be determined by an arbiter to be agreed on or failing agreement to be appointed as in this section provided. As regards the cost incurred by the County Council in maintaining the roadway upon Work No. 1 (Kilmarnock Road Bridge) and the immediate approaches to such bridge the railway company shall at Whitsunday in each year pay to the County Council a sum equivalent to the liability which would have rested on the railway company for that year under section 39 of the Railways Clauses Consolidation (Scotland) Act 1845 in respect of the maintenance of the roadway on the existing bridge and the immediate approaches to such bridge the amount of such sum in case of difference to be determined by arbitration as in this section provided :
- (7) Subject as in this subsection provided the railway company shall maintain the structure of Work No. 2 (Church Road Bridge) and the County Council shall maintain the roadway upon the widened bridge and the immediate approaches thereto. The County Council shall at Whitsunday in each year repay to the railway company the actual cost incurred by them in maintaining the structure of Work No. 2 :
- (8) The County Council shall not without the previous consent in writing of the Company enter upon alter or interfere with the railways further than may be necessary for constructing the said works of which they shall give the railway company twenty-eight days' notice in writing except in cases of emergency in which case notice shall be given as early as possible :
- (9) In executing the said works the County Council shall allow a clear headway of not less than fourteen feet six inches over the railways :

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- (10) In executing Work No. 1 the County Council shall not permanently obstruct the access to the railway company's goods yard from Kilmarnock Road and they shall during such execution and at all times provide an adequate access for the passage of vehicles to and from the said yard : A.D. 1927.
- (11) The County Council shall to the reasonable satisfaction of the engineer execute all such fencing and fence walls whether temporary or permanent as may in the opinion of the said engineer be reasonably necessary for the due protection of the railways :
- (12) The engineer and any person authorised by him shall at all times have free access to the said works and every facility shall be afforded to him or them for the inspection thereof :
- (13) Should it be necessary in constructing the said works for the railway company permanently or at the request of the County Council temporarily to alter or to remove any signalling telegraphic or telephonic apparatus cables gas pipes water pipes sewers drains electric power or electric light apparatus or appliances or other works or any of them on or connected with the railways the County Council shall bear and on demand pay to the railway company the reasonable expenses (as the same failing agreement may be determined by the arbiter to be appointed hereunder) of and connected with all such alterations or removal and of restoring the same or substituting all such signalling telegraphic or telephonic apparatus cables and things herein mentioned as may in the opinion of the Engineer be necessary :
- (14) The County Council shall bear and on demand pay to the railway company the reasonable costs charges and expenses which the railway company may incur in connection with the construction of the said works including any expenses which the railway company may reasonably incur in connection with the employment of inspectors signalmen watchmen and

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others and for superintendence of such works and all extra precautions for the safety and working of the railway company's traffic or protection of the railways in connection with or on account of the construction of the said works :

(15) The said works shall in so far as the same affect the railways be carried out by the County Council so as not to alter interfere with (except so far as may be necessary for carrying out the works) injure or endanger the structure or stability of the railways and all the works and operations of the County Council so far as affecting the railways shall be carried on at a time or times to be approved by the engineer so as subject to reasonable facilities being given to the County Council for carrying out of the said works in no way to obstruct impede or interfere with the free and uninterrupted and safe use of the railways or with the traffic thereon or therein and if such obstruction or interference (not being due to the fault or negligence of the railway company) shall be caused or take place the County Council shall pay to the railway company compensation in respect thereof to be recovered with costs in any court of competent jurisdiction :

(16) The County Council shall during the construction of the said works be responsible for and make good to the railway company all costs losses damages and expenses which may be occasioned to the railway company in consequence of the failure from any cause of any works constructed in pursuance of this Order or of any default of the County Council or their contractors or any person in the employment of the County Council or of their contractors and the County Council shall effectually indemnify and hold harmless the railway company from all claims and demands upon or against them by reason of such construction or failure or of any such default :

(17) The fact that any of the works or operations of the County Council by this Order authorised

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have been done or executed in accordance with any plan approved or not objected to by the engineer or under the superintendence of the engineer shall not relieve the County Council from any liability for damage caused to the railways or affect any claim by the railway company for damage caused to them or to their railways : A.D. 1927.

(18) If in the opinion of the railway company it should become necessary for them to extend or widen their railway at or in the vicinity of the reconstructed bridges or either of them the cost of extending the said bridges shall be borne by the railway company provided that any extra cost of such extension or widening of the railway or of extending the said bridges attributable to the construction of the said works in terms hereof as ascertained and certified by the engineer or in the event of dispute or difference by an engineer to be appointed as arbiter on the application of either party by the sheriff of the county of Renfrew shall be borne by the County Council :

(19) If any difference shall arise between the railway company and the County Council respecting the matters and provisions aforesaid or any of them such difference shall be settled by an arbiter to be agreed upon between the parties or in case of difference to be appointed on the application of either party by the sheriff of the county of Renfrew.

17. The purposes of this Order shall be deemed to be purposes for which the County Council are authorised to borrow money by section 58 of the Roads and Bridges (Scotland) Act 1878 and the provisions of that Act as read with the Local Government (Scotland) Act 1889 and the Roads and Bridges (Scotland) Amendment Act 1892 relating to assessment and borrowing shall with the necessary variations apply to the purposes of this Order Provided that the total amount borrowed under and for the purposes of this Order including payment of the costs charges and expenses of and incident to the preparing for obtaining and confirming this Order shall

Borrowing
by County
Council.

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Costs of
Order.

18. The costs charges and expenses of and incident to the preparing for obtaining and confirming this Order or otherwise in relation thereto shall be paid by the County Council.

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