



CHAPTER cxii.

An Act to extend the time for the construction of certain authorised Railways and to authorise the Liverpool Overhead Railway Company to make certain Extension Railways and for other purposes. A.D. 1892.
[20th June 1892.]

WHILEAS by the Mersey Docks and Harbour Board (Overhead Railways) Act 1882 (in this Act referred to as the Act of 1882) the Mersey Docks and Harbour Board (in this Act called the board) were authorised to make and maintain as double lines certain overhead or high level railways therein described in connexion with certain of their docks on the Liverpool side of the River Mersey in substitution for the single lines of overhead or high level railway described in and authorised by the Mersey Docks and Harbour Board (Overhead Railways) Act 1878:

And whereas by the Mersey Docks and Harbour Board (Overhead Railways) Act 1887 (in this Act called the Act of 1887) the time for making the said railways was extended and the board were authorised to make and maintain in connexion with the said authorised railways the additional overhead or high level railways therein described:

And whereas by section twenty of the Act of 1887 the Board were empowered (amongst other things) to demise or lease to any company incorporated by special Act of Parliament the railways authorised by the Acts of 1882 and 1887 and certain powers of the board with reference thereto:

And whereas by the Liverpool Overhead Railway Company Act 1888 (in this Act called the Act of 1888) the Liverpool Overhead Railway Company (in this Act called the Company) were incorporated and were empowered to accept any lease and do any act or thing which any company incorporated by special Act of Parliament were authorised to accept or do by section twenty of the Act of 1887 and by the reciting Act an agreement herein-after referred to as the

A.D. 1892. scheduled agreement of April 1888 (a copy of which is set forth in the schedule to that Act) was confirmed and made binding upon the Company and the board and by section twenty-three the Company were authorised to make maintain and work the said railways and exercise all the powers conferred on the board for the purposes aforesaid to take the authorised tolls rates and charges and to do all necessary acts and things for carrying into effect the said agreement :

And whereas by the Mersey Docks and Harbour Board Act 1889 (in this Act called the Act of 1889) an alteration of the line of the overhead railway was authorised and a supplemental agreement herein-after referred to as the scheduled agreement of December 1888 (set forth in the schedule to the Act of 1889) altering in certain respects the scheduled agreement of April 1888 was confirmed and made binding upon the Company and the board :

And whereas the Company in pursuance of the Act of 1888 and the scheduled agreement of April 1888 and the ~~scheduled agreement~~ of December 1888 have commenced the construction of the authorised overhead railway and a large portion of the works have already been executed and it is expedient that the time limited for the completion of the authorised railways should be extended as by this Act provided :

And whereas an extension of the authorised railways at the northern and southern ends thereof would be of public and local advantage and it is expedient that the Company should be authorised to construct the same :

~~And whereas the authorised capital of the Company is four hundred and fifty thousand pounds and they are empowered to borrow in respect of each sum of two hundred and twenty-five thousand pounds of capital the sum of seventy-five thousand pounds :~~

And whereas the Company have raised or are in course of raising the sum of three hundred and seventy-five thousand pounds by the issue of ordinary shares and it is estimated that that sum with the proportionate amount of borrowed money will be sufficient to complete the authorised overhead railway and it is therefore expedient that section nine of the Act of 1888 should be amended so as to enable the Company to borrow the necessary moneys :

And whereas it is expedient that the Company should be authorised to raise the additional capital necessary for the construction of the extension railways and works by this Act authorised and that they should be empowered to issue preference shares or stock :

And whereas it is expedient to make such other provisions as this Act contains :

And whereas plans and sections showing the lines and levels of the railways authorised by this Act and a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the county palatine of Lancaster and are herein-after respectively referred to as the deposited plans sections and book of reference :

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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 :—

1. This Act may be cited as the Liverpool Overhead Railway Act 1892. Short title.

2. The following Acts and parts or provisions of Acts are (so far as the same are applicable and except where expressly varied by or inconsistent with this Act) incorporated with and form part of this Act (that is to say) 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 and the clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to— Incorporation of Acts.

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 nonpayment of calls ;

The remedies of creditors of the Company against the shareholders ;

The borrowing of money by the Company on mortgage or bond ;

The conversion of the borrowed money into capital ;

The consolidation of the shares into stock ;

The general meetings of the Company and the exercise of the right of voting by the shareholders ;

The making of dividends ;

The giving of notices ; and

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

And Part I. (relating to cancellation and surrender of shares)
Part II. (relating to additional capital) and Part III. (relating to

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A.D. 1892. debenture stock) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869.

Interpretation.

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" or "the railways" means the railways 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.

Extension of time for construction of authorised railways.

4.—(1) The time limited by the Act of 1887 for the construction of the Railways No. 1 and No. 2 authorised by the Act of 1882 (except so much of Railway No. 1 as was authorised to be abandoned by the Act of 1889) is hereby extended for the period of three years from the nineteenth day of July one thousand eight hundred and ninety-two and section 7 of the Act of 1887 shall be read and construed as if the period by this Act limited for the construction of the said railways had been the period limited by the Act of 1887.

(2) The time limited by the Act of 1889 for the completion of the deviation railway by that Act authorised is hereby extended for the period of three years from the twelfth day of August one thousand eight hundred and ninety-four and section 9 of the Act of 1889 shall be read and construed as if the period by this Act limited for the completion of the last-mentioned deviation railway had been the period limited by the Act of 1889.

(3) If the said authorised railways be not completed within the extended periods by this Act respectively limited then on the expiration of the respective periods the powers conferred by this Act for making and completing the same or otherwise in relation thereto shall cease except as to such of them or so much thereof respectively as shall then be completed.

Power to make railways.

5. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the railways herein-after described with all proper and sufficient viaducts columns bridges tunnels shafts lifts drains rails junctions sidings turntables 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 book of reference as may be required for that purpose

The railways herein-before referred to and authorised by this Act are as follows :— A.D. 1892.

(1) A railway (the Northern Extension Railway) 1 furlong and 7·50 chains in length commencing in the borough of Bootle by a junction with the authorised Railway No. 1 in course of construction in the Liverpool Dock Estate of the board and terminating in the township of Litherland in or near to Fort Road :

(2) A railway (the Southern Extension Railway) 5 furlongs 2 chains in length in the township of Toxteth Park commencing by a junction with the authorised Railway No. 1 in the said Liverpool Dock Estate adjoining and on the western side of Sefton Street and terminating on the west side of Park Road.

6. In constructing the railways and works connected therewith by this Act authorised notwithstanding anything contained in the Railways Clauses Consolidation Act 1845 the Company may subject as herein-after provided deviate laterally from the line or situation thereof as shown on the deposited plans to any extent within the limits of lateral deviation shown on the said plans and they may deviate vertically from the levels of the said railways and works so far as they are shown on the deposited sections to any extent not exceeding five feet either upwards or downwards and the Company shall make compensation in manner ~~provided by the Lands Clauses Acts~~ to all persons injuriously affected by the exercise of the powers of deviation given by this section. As to lateral and vertical deviation.

7. And whereas in the construction of the railways and works hereby authorised or otherwise in exercise of the powers of this Act it may happen that portions only of the houses or other buildings or manufactories shown on the deposited plans may be sufficient for the purposes of the same and that such portions may be severed from the remainder of the said properties without material detriment thereto Therefore notwithstanding section 92 of the Lands Clauses Consolidation Act 1845 the owners of and other persons interested in the houses or other buildings or manufactories described in the First Schedule to this Act and whereof parts only are required for the purposes of this Act may if such portions can in the opinion of the jury arbitrators or other authority to whom the question of disputed compensation shall be submitted be severed from the remainder of such properties without material detriment thereto be required to sell and convey to the Company the portions only of the premises so required without the Company being obliged or compellable to purchase the whole or any greater portion thereof the Company paying for the portions required by them and making compensation Owners may be required to sell parts only of certain lands and buildings.

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for any damage sustained by the owners thereof and other parties interested therein by severance or otherwise.

Power to acquire easements for constructing tunnel.

8. Where the railway is shown upon the deposited plans and sections as intended to be constructed in tunnel at a depth of forty feet or upwards between the crown of the tunnel and the surface of the ground the Company may purchase and acquire an easement or right of constructing and using the tunnel through or under any lands or hereditaments described in the Second Schedule to this Act without being obliged to purchase the land over such tunnel or any houses buildings manufactories and premises thereon respectively unless the jury or the arbitrators or their umpire to whom the question of disputed compensation is submitted shall determine that such right or easement cannot be acquired or used by the Company without material detriment to the remainder of such lands or hereditaments Provided that nothing in this section contained nor any dealing with any lands and hereditaments in pursuance thereof shall relieve the Company from liability to make compensation under section 68 of the Lands Clauses Consolidation Act 1845 in respect of any lands or hereditaments through or under which the Company may purchase or acquire an easement or right of constructing and using the tunnel.

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

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

- (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 19 of the Lands Clauses Consolidation Act 1845 and if given by the owners and lessees of the premises to be underpinned or strengthened shall be sent to the principal office of the Company;
- (3) If any owner lessee or occupier of any such house or building or the Company as the case may require shall within seven days after the giving of such notice give a counter-notice in writing that he or they as the case may be disputes the necessity of

such underpinning or strengthening the question of the necessity shall be referred to an engineer to be agreed upon or in case of difference to an engineer to be appointed at the instance of either party by the Board of Trade ;

- (4) Such referee shall forthwith upon the application of either party proceed to inspect such house or building and determine the matter referred to him and in the event of his deciding that such underpinning or strengthening is necessary he may and if so required by such owner lessee or occupier shall prescribe the mode in which the same shall be executed and the Company may and shall proceed forthwith so to underpin or strengthen the said house or building ;
- (5) The cost of the reference shall be in the discretion of the referee ;
- (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 by such owners within twelve months and by such lessees or occupiers 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 compensate 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 of the Lands Clauses Acts ;
- (10) Subject to the provisions of this Act nothing in this section shall repeal or affect the application of the ninety-second section of the Lands Clauses Consolidation Act 1845.

10. In constructing the railways by this Act authorised the Company shall notwithstanding anything in this Act contained

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tion of
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conform to fulfil and observe the following provisions obligations regulations and restrictions and the same shall save so far as may at any time hereafter be otherwise agreed between the Corporation and the Company have effect within the City of Liverpool (that is to say) :—

- (1) The Southern Extension Railway by this Act authorised shall from the west side of Cockburn Street to the west side of Park Road where the railway terminates be constructed in tunnel only and the tunnel shall be of such strength and durability as is proper and sufficient for the effectual support of any street or roadway under which it passes and shall where the tunnel shall not be in hard rock of sufficient strength be constructed with side walls at each side sufficient to secure all buildings now standing or hereafter to be erected over adjoining or near to the tunnel from any damage or any loss of stability and the Company shall at their own expense for ever hereafter so maintain the said tunnel. The Company shall not acquire the soil of any street under which the tunnel is made but only an easement through so much of the subsoil thereof as is necessary to enable them to make and maintain the tunnel ;
- (2) In the execution of the Southern Extension Railway hereby authorised ~~the Company shall not~~ deviate from the lines and levels shown upon the deposited plans and sections without the consent in writing of the corporation ;
- (3) The rails in the tunnel shall be laid and maintained in such manner as shall be found best suited for rendering the working of the railway as free from noise and vibration as possible and in such manner as the corporation may reasonably require ;
- (4) The Company shall not break up the surface of any street or construct any works therein or perform any operations which may obstruct or in any way interfere with the traffic along or through such street except with the consent of the corporation and subject to such conditions as they may impose ;
- (5) Where the Southern Extension Railway crosses Sefton Street it shall be carried over the street by not more than two spans and such spans shall be constructed at a height to leave a clear headway of not less than sixteen feet six inches between every part of the upper surface of the street and every part of the under side of such spans the number position and dimensions of the columns or pillars carrying such spans across Sefton Street where the same shall be placed in any part of the carriageway or footways of the street shall be such as the corporation in their absolute discretion may require and approve of ;

- (6) The said spans shall be constructed and maintained so that the bottom thereof shall be as far as practicable water-tight and the Company shall at their own expense well and sufficiently light and keep lighted the understructure of such spans where the railway crosses Sefton Street to the satisfaction of the corporation ;
- (7) The Company shall not construct in any street any temporary ventilating shaft or any other shaft eye opening or work whatever in connexion with the said tunnel except with the consent of the corporation and subject to such conditions as they may impose ;
- (8) The Company shall as and when required by the corporation in writing under the hand of the town clerk remove any shaft eye opening or other work which may with the consent of the corporation have been constructed in any street and well and sufficiently to the satisfaction of the corporation restore the surface of such street or public place and maintain in efficient repair the said surface so restored for the period of twelve months to the like satisfaction ;
- (9) No building shaft or chimney or other work to be used for ventilating purposes shall be commenced by the Company until plans and elevations thereof have been submitted to and approved of by the corporation and the same shall be erected of such height as the corporation may require and in accordance only with plans and elevations that may be so approved ;
- (10) The Company shall not use steam locomotives as a motive power on the Southern Extension Railway authorised by this Act nor shall they erect any steam engine for supplying motive power for their trains on any part of that railway east of Cockburn Street ;
- (11) The Company shall not use dynamite gunpowder or any other explosive substance in the construction of any portion of the railway except in such quantities at such times and under such conditions as the corporation may reasonably prescribe and subject to the payment and satisfaction by the Company of all damages costs and expenses to be sustained or incurred by any person or persons by the use of dynamite gunpowder or any other explosive substance such damages to be recovered by action in any court of competent jurisdiction ;
- (12) In any case where any house or other building to remain standing shall be severed by the Company the Company shall to the satisfaction of the corporation build up and repair such house or building so as to prevent any unsightly appearance ;

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- (13) When by reason of the construction of the Southern Extension Railway it becomes in the opinion of the corporation necessary or desirable that any lands of the Company should be fenced off from any street or road fronting adjoining or abutting thereon the Company shall enclose such lands with walls or suitable fencing to the reasonable satisfaction of the corporation ;
- (14) The Company shall not construct any part of any station or any approach thereto or works connected with or for the purposes of a station upon or over any street or so as to interfere with the use of such street without the consent of the corporation under the hand of the town clerk ;
- (15) Whenever the Company shall make an entrance or exit to a passenger station from or to a street they shall on the ground floor and for a height of not less than fifteen feet set back the wall of the station or other buildings fronting such street for the full width of such station or buildings to the extent of ten feet in depth from the line of the street and the space so left open shall be dedicated to the public and become part of the street accordingly and shall be flagged and channelled by and at the expense of the Company to the satisfaction of the corporation Provided that it shall be lawful for the Company to place on that space such columns not less than twenty feet apart as may be necessary to support any building they may erect over such space above the ground floor ;
- (16) Where by reason of the execution of any powers of this Act it becomes in the opinion of the corporation necessary to construct or lay any sewer drain water main or pipe or to construct or lay additional sewers drains water mains or pipes or any increased length thereof or to make alterations of existing sewers drains water mains or pipes or to alter the level thereof or to construct any manholes airholes or other works or conveniences connected therewith such works shall before the Company interfere with the existing sewers or drains water mains or pipes (subject as herein-after mentioned) be carried out by and at the expense of the Company to the satisfaction of the corporation and in accordance with plans sections and specifications to be approved of by them ;
- (17) When by reason of the construction of the said railway it may be necessary to intercept or interfere with any existing sewer or drain or water main or pipes and it is found impracticable to carry out the permanent alterations and reconstruction of such sewer drain water main or pipe before such interference takes place then the Company may with the

consent of the corporation in the meantime intercept or interfere with such sewer drain water main or pipes provided that before so doing they construct at their own expense a temporary sewer drain water main or pipes to the satisfaction of the corporation of equal capacity to that to be interfered with and the Company shall maintain the same until the permanent works are completed. But in carrying out such temporary or permanent work the Company shall in no case stop or interfere with the free flow of the sewage and water ;

(18) The provisions of the Railways Clauses Consolidation Act 1845 contained in sections 18 to 22 shall apply to the water mains and pipes of the corporation and whenever in those sections the words "company" or "society" are used the same shall for all purposes of this Act be held to extend to and include the corporation ;

(19) If at any time hereafter it becomes in the opinion of the corporation necessary to obtain access to any existing or substituted sewer drain water main or pipe which may in any way have been interfered with by the works of the Company the Company shall when requested by the corporation make and maintain such reasonable access to such sewer or drain water main or pipe as the corporation shall reasonably require and the corporation shall by their officers workmen and servants be at liberty at all reasonable times and so as not in any way to prejudicially interfere with the use and working of the railway to use such means of access for any purpose for which it may be necessary ;

(20) The corporation their officials and assistants shall from time to time and at all reasonable times during the construction of the authorised works have full power to enter and inspect the progress and condition thereof to see that the provisions of this Act are complied with and the Company shall pay all reasonable costs incurred by the corporation in the supervision of the works during construction ;

(21) The corporation shall not be liable for any damage or injury which may be caused by the bursting overflowing or defects of the sewers drains and water mains and pipes of the corporation which may be laid across or near to the said tunnel unless the same be caused through the negligence of the corporation their contractors or servants ;

(22) The Company shall not during the construction of the railway cart any materials or spoil to or from the railway works along the streets in the city so as to cause an obstruction to the traffic and the corporation may if they think fit by

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notice in writing prohibit the Company from carting along any specified streets between the hours specified in such notice not being more than ten hours in any one day ;

(23) Whenever by this section any work is required to be done by the Company and at their expense in connexion with any sewer drain water main or pipe the Company shall fourteen days at least before commencing such work give the corporation notice in writing of their intention to do such work and if before the expiration of fourteen days the corporation give notice in writing to the Company that the corporation will carry out the works or any portion thereof themselves then the Company shall not commence the works included in such notice but the same shall be carried out by the corporation with all reasonable despatch and at the expense of the Company If such notice to carry out the works is given by the corporation then the Company shall if required by the corporation within fourteen days after receiving notice from the corporation of the amount of their estimate for carrying out such works deposit with the treasurer of the city of Liverpool a sum equal to the amount of such estimate and the corporation shall not be bound to commence such works until such deposit has been made Upon completion of the works in respect of which such deposit shall have been made if the works have cost less than the deposit then the balance shall be forthwith returned by the corporation but if such deposit shall be less than the cost then the difference shall be paid by the Company to the city treasurer within fourteen days after being required so to do and in case any dispute shall arise between the corporation and the Company as to what the cost of the works has been such dispute shall be referred to an arbitrator to be appointed by the stipendiary magistrate for the city of Liverpool ;

(24) Whenever by this Act it is provided that anything may be done with the consent or approval of the corporation or shall not be done without such consent or approval such consent or approval shall not be unreasonably withheld and may be given subject to such reasonable conditions and provisions as the corporation may think fit to make and the giving of such consent or approval shall not prejudice any right of the corporation except as may be provided thereby or of any other body corporate or person to compensation under the provisions of this Act ;

(25) 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 acquired by the Company under the powers and for the purposes of this Act or a proportion of such rates respectively from the time such lands or property shall be acquired by the Company until the Company's works are completed and assessed to such rates or until the same shall have been sold as surplus lands 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 such acquisition notwithstanding that the buildings thereon or forming part thereof may have been taken down.

11. The following provisions for the protection and benefit of the local board for the district of Waterloo-with-Seaforth (in this section called the local board) and for the protection and benefit of the owners of land abutting upon Fort Road within the said district shall apply (that is to say) :—

For the protection of the Waterloo Local Board and land-owners abutting on Fort Road.

(1) The Northern Extension Railway shall be constructed on the north-west side of Fort Road and so that no part of the railway except as herein-after mentioned shall be made in or upon that road nor shall any part of that railway overhang Fort Road without the consent in writing of the local board and then only to a not greater extent than ten feet for a distance of not more than two hundred feet measured in a south-westerly direction from the north-easterly end of that road ;

(2) The Northern Extension Railway shall be carried across Fort Road at or near to its junction with Shore Road by a viaduct with not more than three columns or pillars of which two shall be on the north-westerly footpath and one on the south-easterly footpath in such positions as shall be agreed upon between the local board and the Company or failing agreement determined by arbitration as herein-after mentioned Each of the said columns or pillars shall not occupy a larger space of the footpath than two feet by one foot six inches and there shall be a clear headway throughout of not less than sixteen feet above the surface of the ground ;

(3) The Company shall not break up or interfere with any sewer in or under Fort Road ;

(4) The Company shall not enter upon or take any lands belonging or reputed to belong to Edmund Knowles Muspratt and Francis Dobson Lowndes or other the trustees for the time being of an indenture dated the first day of November one thousand eight hundred and fifty-eight north of an imaginary line parallel to and on the north side of and distant one

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hundred and twenty feet from Fort Road except with their consent in writing ;

(5) The Company shall not enter upon or take any lands belonging to the Earl of Derby except with his consent ;

(6) If any difference shall arise between the local board or any of the said owners and the Company as to the meaning of this section or as to the mode of giving effect thereto the difference shall be determined by an engineer appointed (failing agreement) by the Board of Trade upon the application of either party and the costs of the reference and award shall be borne as such arbitrator shall direct.

For the protection of the
Cheshire
Lines Com-
mittee.

12. In carrying the Southern Extension Railway by this Act authorised (herein-after referred to as the railway) over the goods yard and railway of the Cheshire Lines Committee (herein-after called the committee) the following provisions for the protection of the committee shall (unless otherwise agreed on in writing between the committee and the Company) apply to and be obligatory upon the Company :—

(1) The Company shall carry the railway over the goods yard and Dingle Tunnel of the committee at the proposed crossings thereof as shown on the deposited plans and as to the crossing of the goods yard by a viaduct with a clear headway of not less than sixteen feet from the surface of the rails in the said goods yard to the underside of the girders of the said viaduct and the spans of the viaduct and the position and dimensions of the piers thereof shall be such as the principal engineer of the committee for the time being shall approve and so as far as possible to leave undisturbed all the lines and sidings of the committee and as to the crossing of the Dingle Tunnel in such a manner as in no way to interfere with such tunnel or the working of the traffic through the same and all the works for such crossings as well as those provided for in sub-sections 2 and 3 shall be carried out and executed according to plans and sections to be reasonably approved by and to be executed under the superintendence and to the reasonable satisfaction of the principal engineer for the time being of the committee and in all things at the expense of the Company ;

(2) If at any time hereafter the committee shall widen or double the Dingle Tunnel or substitute open cutting therefor the Company will on demand pay to the committee any reasonable additional cost or expense which they shall be put to by reason or in consequence of the construction and maintenance of the railway over the existing tunnel of the

committee or over any doubling or widening thereof and if any difference shall arise as to the amount of such additional cost the same shall be determined by arbitration in manner herein-after provided ;

- (3) If it shall at any time appear to such engineer of the committee that any further or other works or appliances are required to prevent injury happening to the said tunnel or any widening thereof or open cutting substituted therefor owing to or in consequence of the railway being carried over the same the Company will immediately on being thereunto required in writing under the hand of such engineer make and execute the same at their expense ;
- (4) During the construction of the railway over the goods yard and railway of the committee the Company will bear and on demand pay to the committee the expense of the employment by them of a sufficient number of inspectors or watchmen to be appointed by them for watching their said goods yard and railway with reference to and during the execution of the intended works and for preventing as far as may be all interference obstruction danger and accident which may arise from any of the operations of the Company or from the acts or defaults of the contractors or of any person or persons in their employment or otherwise ;
- (5) The Company shall at all times maintain the viaduct bridges and other works by which the railway shall be so carried over the goods yard and railway of the committee in substantial repair and good order to the reasonable satisfaction in all respects of the principal engineer of the committee and if and whenever the Company fail so to do the committee may make or do in and upon as well the lands of the Company as their own lands such repairs and the sum from time to time certified by such engineer to be the reasonable amount of such expenditure shall be repaid to the committee by the Company and in default of payment may be recovered by them from the Company with full costs in any court of competent jurisdiction ;
- (6) The Company and their contractors agents servants or workmen shall not in constructing or repairing the railway works over the goods yard and railway of the committee obstruct impede or interfere with the free and uninterrupted and safe use of the goods yard and railway or other works of the committee or any traffic thereon or if any such obstruction or interference shall be caused or take place contrary to this enactment the Company shall pay to the committee all

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costs and expenses to which the committee may be put as well as full compensation for the loss and inconvenience sustained by them by reason of any such interruption such costs and expenses and compensation to be recoverable with full costs by the committee in any court of competent jurisdiction ;

- (7) Notwithstanding anything in this Act contained the Company shall be responsible for and make good to the committee all costs losses damages and expenses which may be occasioned to the committee or to any of the works or property thereof or to the traffic thereon or otherwise by reason of the execution or failure of the railway and the works in connexion therewith or of any act or omission of the Company or of any of the persons in their employ or of the contractors or others and the Company will effectually indemnify and hold harmless the committee from all claims and demands upon or against them by reason of such execution or failure and of any such act or omission ;
- (8) The Company shall not in any case without the previous consent in writing under the common seal of the committee take use enter upon or interfere with the railways works lands or property at any time belonging to or in the possession or under the power of the committee except only such part or parts thereof respectively as it shall be necessary for the Company to take use enter upon or interfere with for making and maintaining the viaduct bridges and other works by which the railway is under the provisions of this Act to be carried across the goods yard and railway of the committee ;
- (9) With respect to the goods yard railway works lands or property of the committee which the Company are by this Act authorised to take use enter upon or interfere with the Company shall not purchase and take the same but they may purchase and take and the committee may and shall sell and grant accordingly an easement or right of using the same for the purposes for which but for this enactment the Company may purchase and take the same ;
- (10) If any question or difference shall at any time arise between the Company and the committee touching any plans prepared by the Company for the construction of any of the works herein-before provided or as to the reasonableness or sufficiency of such plans or works the same shall be settled and determined by the engineers of the Company and the committee or failing agreement by an engineer to be appointed by the President for the time being of the Institute

of Civil Engineers on the application of either party and the decision of such last-named engineer shall be final and conclusive. A.D. 1892.

13. In carrying the Southern Extension Railway by this Act authorised (herein-after referred to as the railway) across the lands of the Midland Railway Company (in this section called the Midland Company) numbered 6D 6E and 7 in Toxteth Park on the plans deposited for the purposes of this Act the following provisions for the protection of the Midland Company shall unless otherwise agreed on in writing between the Midland Company and the Company apply to and be obligatory upon the Company :—

For the protection of the Midland Railway Company.

(1) If at any time hereafter the Midland Company shall excavate the said land down to any level not below that of the present railway of the Cheshire Lines Committee the Company will at their own cost in place of their tunnel or cutting construct a viaduct for carrying their said railway across the said land so designed as to interfere as little as may be with the use by the Midland Company of their said land for station or siding purposes in connexion with the said railway of the Cheshire Lines Committee ;

(2) The Company shall not purchase or acquire any land of the Midland Company but may purchase and take and the Midland Company shall sell and grant accordingly an easement or right of constructing and using their railway through the said land in accordance with the conditions of this section Provided that in the event of arrangements being entered into with the Cheshire Lines Committee for an exchange station on the said land the Company shall have the right to acquire so much of the said land as may be necessary for the said exchange station the plans for which shall be subject to the reasonable approval of the Midland Company ;

(3) If any difference shall arise between the Company and the Midland Company as to the true intent and meaning of this enactment or the mode of giving effect thereto the same shall be from time to time determined by arbitration in the manner prescribed by the Railways Clauses Consolidation Act 1845 with respect to the settlement of disputes by arbitration.

14. For the protection of the Lancashire and Yorkshire Railway Company (in this section called the Lancashire and Yorkshire Company) the following provisions shall be observed and have effect with respect to the Northern Extension Railway by this Act authorised :—

For the protection of the Lancashire and Yorkshire Railway Company.

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- (1) So much of the said railway as will be situate between the commencement thereof and the west side of Shore Road shall be constructed and maintained on a viaduct with a clear headway throughout of not less than sixteen feet above the surface of the ground and supported on columns which shall be placed only at the points indicated in blue on the plan signed by Sir Douglas Fox on behalf of the Company and by William Hunt on behalf of the Lancashire and Yorkshire Company ;
- (2) The said railway where it crosses over the railways works and lands of the Lancashire and Yorkshire Company shall be constructed only according to such plans elevations sections specifications and dimensions as shall be submitted by the Company to the engineer of the Lancashire and Yorkshire Company and approved by him in writing under his hand before any of those works are begun or in case of his refusal or neglect to approve the same within the space of one calendar month after they shall have been submitted to him as shall be settled and determined by an engineer to be appointed on the application of either of the two companies by the President for the time being of the Institution of Civil Engineers ;
- (3) The Company shall at all times maintain the viaduct and columns by which their railway shall be carried over the railways works or lands of the Lancashire and Yorkshire Company and all the works connected therewith in substantial repair and good order and condition to the reasonable satisfaction in all respects of the engineer for the time being of the Lancashire and Yorkshire Company If and whenever the Company fail so to do the Lancashire and Yorkshire Company may make and do in and upon as well the lands and works of the Company as on their own lands and works all such works and things as they may reasonably think requisite in that behalf and the sums from time to time certified by their engineer to be the reasonable amount of such their expenditure shall be repaid to them by the Company and in default of full repayment may be recovered with full costs by the Lancashire and Yorkshire Company from the Company in any court of competent jurisdiction ;
- (4) If by or in consequence of the execution of the works of the Company any of the signals signal posts or other like works of the Lancashire and Yorkshire Company are interfered with or the view of the signals intercepted or rendered less convenient for the working of their railway the Company shall at their own expense remove and re-erect such signals signal posts and other works or make such alterations therein as the Lancashire

and Yorkshire Company may reasonably require and such removal re-erection and alteration shall be completed to the reasonable satisfaction in all respects of the engineer for the time being of that company ;

- (5) The Company shall not enter upon take use or interfere with any of the lands railways or works from time to time belonging to or in the possession or under the power of the Lancashire and Yorkshire Company except that the Company may purchase and take and the Lancashire and Yorkshire Company may and shall sell and grant accordingly an easement or right of carrying their railway in accordance with the provisions of this Act over so much of the said lands as is delineated and coloured red on the said plan ;
- (6) The Company shall not in any manner in the execution of any of their works obstruct or interfere with the free uninterrupted and safe user of the railways or works of the Lancashire and Yorkshire Company or any traffic thereon ;
- (7) The Company shall bear and on demand pay the Lancashire and Yorkshire Company the expense of the employment by that company during the execution of the works affecting the railways works or lands of that company of a sufficient number of inspectors and watchmen to be appointed by the Lancashire and Yorkshire Company for watching their railway and works with reference to and during the execution of such first mentioned works and for preventing as far as may be all interference obstruction danger and accident from any of the operations or from the acts or defaults of the Company or their contractors or any person or persons in the employ of the Company or of their contractors with reference thereto or otherwise ;
- (8) If by reason of the execution of any of the works or any proceedings of the Company or the failure of any such works or any act or omission of the Company or of their contractors or of any persons in the employ of the Company or of their contractors or otherwise the railways of the Lancashire and Yorkshire Company or any of the works connected therewith shall be injured or damaged such injury or damage shall be forthwith made good by the Company at their own expense or in the event of their failing so to do then the Lancashire and Yorkshire Company may make good the same and recover the expense thereof with full costs against the Company in any court of competent jurisdiction and if any interruption shall be occasioned to the traffic of the Lancashire and Yorkshire Company by reason of any of the matters or causes aforesaid the Company shall pay to that company all costs and expenses

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to which that company may be put as well as full compensation for the loss and inconvenience sustained by them by reason of any such interruption such costs expenses and compensation to be recoverable with full costs by the Lancashire and Yorkshire Company from the Company in any court of competent jurisdiction ;

(9) The Company and the Lancashire and Yorkshire Company may enter into and carry into effect agreements for any variation in the works to be done under this section or in the mode of executing the same ;

(10) If any difference shall arise between the Company and the Lancashire and Yorkshire Company as to the true intent and meaning of this section or the mode of giving effect thereto the settlement of which is not otherwise provided for the same shall from time to time be determined by arbitration in the manner prescribed by the Railways Clauses Consolidation Act 1845 with respect to the settlement of disputes by arbitration.

For the protection of the Bootle Corporation.

15. The Company shall not interfere with any sewer in which the mayor aldermen and burgesses of the borough of Bootle have any rights and the works of the Company shall be so constructed and maintained as not to endanger the stability of any such sewer or interfere with or affect its efficiency.

Lands for extraordinary purposes.

16. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 shall not exceed five acres but nothing in that Act or in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them upon any land taken under the powers of this section.

Period for compulsory purchase of lands.

17. The powers of the Company for the compulsory purchase of lands or easements for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Power to take easements &c. by agreement.

18. 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 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 under 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.

19.—(1) The Company shall not under the powers of this Act or under the powers of any former Act extended by 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 next before the passing of this Act or of the respective former Act by which such purchase or acquisition was originally authorised as the case may be were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until—

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Restrictions
on displacing
persons of
labouring
class.

(a) The Company 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 respective fifteenth day of December aforesaid 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.

(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 provisions of any scheme under this section or any conditions subject to which the Local Government Board may have approved of any scheme or of any modifications of any 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 High Court.

(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

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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 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 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 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 such 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 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 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) Any houses on any of the lands shown on the deposited plans occupied or which may have been occupied by persons of the labouring class within five years before the passing of this Act which have been acquired by or on behalf of the Company shall for the purposes of this section be deemed to have been acquired under the powers of this Act and to have been occupied on the fifteenth day of December last by the same number of persons belonging to the labouring class as were occupying the said houses at the date of their acquisition. Provided that if the Local Government Board is unable to ascertain the number of such persons who were then occupying the said houses the said houses shall be deemed to have been occupied by such number of such persons as in the opinion of the Local Government Board they might have been sufficient to accommodate.

(12) 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.

20. Whereas pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her present Majesty chapter twenty a sum of eight thousand eight hundred and ninety pounds being five per centum upon the amount of the estimate in respect of the railways has been deposited with the Paymaster-General for and on behalf of the Supreme Court in respect of the application to Parliament for this Act (which sum is referred to in this Act as the original deposit fund) And whereas

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

A.D. 1892. since the said deposit a portion of the Southern Extension Railway has been withdrawn and the estimate for the railways authorised by this Act amounts to one hundred and eight thousand six hundred and ten pounds. Be it enacted that notwithstanding anything contained in the said Act out of the original deposit fund a sum of five thousand four hundred and thirty pounds ten shillings (which last-mentioned sum is in this Act referred to as 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 completion of the railways open the same for the public conveyance of passengers and if the Company shall make default in so opening the railways the deposit fund shall be applicable and shall be applied as provided by the next following section :

Provided that if within such period as aforesaid the Company open any portion of the railways for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of the railways 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 railways so opened bears to the entire length of the railways the High Court of Justice in England shall on the application of the depositors order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall 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 above-mentioned Act to the contrary notwithstanding.

Application
of deposit.

21. If the Company do not previously to the expiration of the period limited for the completion of the railways complete and open them 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 to the depositors shall be applicable and after due notice in the London Gazette shall be applied towards compensating any land-owners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railways or any portion thereof or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act and for which injury or loss no compensation or inadequate compensation has been paid and shall be distributed in satisfaction of such

compensation as aforesaid in such manner and in such proportions as to the High Court may seem fit and if no such compensation is payable or if a portion of the deposit fund has 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 if a receiver has been appointed or the Company is insolvent or the undertaking has been abandoned be paid or transferred to such receiver or be applied in the discretion of the court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid or re-transferred to the depositors. Provided that until the deposit fund has been repaid to the depositors or has 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.

22. On the application of the depositors at any time after the passing of this Act the High Court may and shall order that the sum of three thousand four hundred and fifty-nine pounds ten shillings being the balance of the original deposit fund and the interest and dividends thereof shall be paid or transferred to the depositors or to any person or persons whom they may appoint on their behalf.

Release of portion of deposit.

23. If the railways are not completed within a period of 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 railways or otherwise in relation thereto shall cease except as to such railway or so much thereof as is then completed.

Period for completion of works.

24. Subject to the provisions of the Railway and Canal Traffic Act 1888 the railways by this Act authorised shall for the purposes of tolls rates and charges be deemed to be part of the railways authorised by the Act of 1882.

Tolls on railways.

25. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise any additional capital not exceeding in the whole one hundred and twenty 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 ten 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.

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

Power to borrow.

26. 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.

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

Receipt in case of persons not sui juris.

28. If any money is payable under this Act to a holder of shares or stock being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge.

For appointment of a receiver.

29. Section 10 of the Act of 1888 is hereby repealed but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under such provision. The mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to

the mortgagees by whom the application for a receiver is made shall not be less than five thousand pounds in the whole. A.D. 1892.

30. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 and of section 11 of the Act of 1888 Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock. Debenture stock.

31. The principal moneys secured by 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. Existing mortgages to have priority.

32. All moneys by this Act authorised to be raised by shares or stock or debenture stock or by borrowing shall be applied only for purposes of this Act or other the undertaking of the Company to which capital is properly applicable. Application of money.

33. The Company may apply to the purposes of this Act or to the general purposes of their undertaking being in all cases purposes to which capital is properly applicable any of the moneys which they now have in their hands or which they have power to raise by shares or debenture stock or borrowing by virtue of the Act of 1888 and which may not be required for the purposes to which they are by that Act made specially applicable. Power to apply corporate funds to purposes of Act.

34. Section 9 (power to borrow) of the Act of 1888 is hereby repealed and in lieu thereof be it enacted as follows The Company may in respect of the original capital authorised by the Act of 1888 from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole one hundred and fifty thousand pounds that is to say in respect of two hundred and twenty-five thousand pounds of the original capital first issued the Company may borrow seventy-five thousand pounds in respect of the further sum of one hundred and fifty thousand pounds of original capital the Company may borrow fifty thousand pounds and in respect of the remaining sum of seventy-five thousand pounds of original capital the Company may borrow twenty-five thousand pounds but no part of the several sums authorised to be borrowed shall be borrowed until the whole of the portion of capital in respect of which the borrowing power is exercised is issued and accepted and one half of such portion of 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 the whole of such New borrowing powers under Act of 1888.

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portion of capital has been issued and accepted and that one half thereof has been paid up and that not less than one fifth part of the amount of each separate share in such portion of capital has been paid on account thereof and that such portion of capital was issued bonâ fide and is held by the persons to whom the same was issued or their executors administrators successors or assigns who 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.

As to new railways forming part of undertaking.

35.—(1) The Northern Extension Railway and works connected therewith by this Act authorised shall be deemed to form part of the undertaking comprised in the scheduled agreement of April 1888 and the scheduled agreement of December 1888 and the agreed net cost of the undertaking referred to in Article 15 of the scheduled agreement of April 1888 shall include all moneys properly expended in purchasing land and executing the works for and of that railway including the proper charges of the Company's engineers in respect thereof and in providing the rolling stock plant works machinery and effects transferred in connexion with that railway and an agreed proportion of the costs of and incidental to the passing of this Act and the scheduled agreement of April 1888 and the scheduled agreement of December 1888 shall apply to that railway with the necessary agreed modifications.

(2) The word "agreed" in this section shall have the same meaning as that assigned to it in Article 1 of the scheduled agreement of April 1888.

(3) Unless within twelve months after such of the overhead railways authorised by the Act of 1882 and the Act of 1889 as the Company are under the scheduled agreement of April 1888 bound to construct shall have been completed and opened for traffic the board by notice in writing under the hand of their secretary for the time being to be delivered at the principal office of the Company shall declare that they do not desire the Southern Extension Railway to form part of the undertaking comprised in the scheduled agreement of April 1888 and the scheduled agreement of December 1888 that railway shall be deemed to form part of such undertaking and the provisions contained in sub-sections (1) and (2) shall apply not only to the Northern Extension Railway but also to the Southern Extension Provided always that the maximum fares prescribed by Articles 35 36 and 37 of the scheduled agreement of April 1888 shall not be deemed to apply to the Southern Extension Railway.

Power to constitute Southern

36.—(1) If the board shall declare in manner herein-before mentioned that they do not desire the Southern Extension Railway

to be comprised within the scheduled agreement of April 1888 and the scheduled agreement of December 1888 the Company may with the sanction of three fourths of the proprietors present personally or by proxy at a general meeting of the Company specially convened for the purpose and in accordance with the provisions herein-after contained resolve to constitute the Southern Extension Railway into a separate undertaking with separate capital and may with the like sanction resolve that the additional share and loan capital or some part thereof shall form the separate capital of the separate undertaking and thereupon the Southern Extension Railway and all lands buildings and property to be purchased for the purposes thereof shall form a separate undertaking of the Company with separate capital to be called and herein-after referred to as the Liverpool Overhead Railway Extension but for the purpose of tolls and charges and for all other purposes save as herein otherwise expressly provided the Southern Extension Railway shall be deemed to be part of the Company's authorised railways and the Company may subject to the provisions of the Railway and Canal Traffic Act 1888 demand and take upon and in respect thereof or any part thereof tolls and charges not exceeding those authorised by the Act of 1882 Provided that the directors of the Company shall have the working and management of the affairs of the Liverpool Overhead Railway Extension and they and any committees appointed by them for that purpose shall have and exercise all such and the same powers with respect thereto as they have or might have or exercise with respect to the rest of the undertaking of the Company.

A.D. 1892.
 Extension
 Railway
 separate
 undertaking.

(2) The terms and conditions upon which the Liverpool Overhead Railway Extension shall be worked and managed by the Company and the dividends or annual or other sums to be paid to or upon the shares or stock constituting the separate capital out of the gross receipts arising from traffic passing as well upon the Liverpool Overhead Railway Extension as upon the railways comprised within the scheduled agreements and the payment to be made in respect of the use of the Liverpool Overhead Railway Extension for the traffic of the Company shall be such as shall be defined and settled before the issue of any separate capital by a general meeting of the Company specially convened with notice of the object and by the votes of proprietors (present in person or by proxy) holding at least three fourths of the paid up capital represented at the meeting and the substance of such terms and conditions shall be endorsed upon the certificates of the shares or stock constituting the separate capital of the Liverpool Overhead Railway Extension upon the issue of the same and upon all mortgages and certificates of debenture stock charged upon the separate undertaking.

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(3) The Liverpool Overhead Railway Extension and the revenue arising therefrom shall not be liable for any mortgage or debenture debt or other charge upon any other part of the undertaking of the Company or for the payment of interest thereon nor shall the general undertaking of the Company and the revenue arising therefrom be liable for any mortgage or debenture debt or other charge upon the Liverpool Overhead Railway Extension or for the payment of interest thereon.

(4) Separate accounts shall be kept of the capital and revenue of the Liverpool Overhead Railway Extension and of the payments made in respect of the said capital and revenue in the same form as nearly as may be and subject to the same conditions as such accounts would be kept if the Liverpool Overhead Railway Extension belonged to an independent company.

(5) After the opening of the Liverpool Overhead Railway Extension or any part thereof for public traffic the Company shall work the same and convey traffic thereon in a proper manner. In case any difference shall arise between the Company and any of the holders of stock or shares in the separate capital with respect to the working or non-working or insufficient working by the Company of the Liverpool Overhead Railway Extension or otherwise in relation thereto whereby the holders of such shares or stock deem themselves to be injuriously affected such difference shall be settled by an arbitrator to be appointed by the Board of Trade on the application of either party and such arbitrator shall have full power to settle and determine any such difference and to order the Company to do or to abstain from doing all such acts matters and things as he shall think fit and to make such order with respect to the costs of such arbitration as he shall think just. In case the Company make default in complying with any such order within the time thereby prescribed then and in every such case the Company shall for every such default be liable to a penalty not exceeding fifty pounds and to a further penalty not exceeding fifty pounds for every day after the first during which such default shall continue and such penalty shall be carried to the credit of the Liverpool Overhead Railway Extension.

(6) The capital created and issued for the purposes of the Liverpool Overhead Railway Extension shall unless the Company otherwise direct be offered for subscription to the holders of ordinary shares or stock of the Company.

(7) Shares and stock in the Liverpool Overhead Railway Extension shall not confer on the holders thereof any right of voting or interference at any meeting of the Company on the general affairs of the Company except for the election of directors and in any matters affecting the holders of shares or stock in the Liverpool

Overhead Railway Extension for both which purposes those shareholders and stockholders shall have the same right of voting as the shareholders and stockholders in the general capital of the Company nor on the other hand shall it be lawful for the holders of shares or stock in the general capital of the Company to interfere in the construction of the railways constituting the Liverpool Overhead Railway Extension or in the expenditure thereon or in any other matters affecting such railways and works or the management or user thereof.

37. Subject to the provisions of this Act the railways by this Act authorised as well as the railways authorised by the recited Acts may be worked by steam electricity or other motive power and the Company may erect maintain and provide all necessary and proper works engines machinery and apparatus for the production and supply of any such motive power. But in case any works for the production of electricity be erected by the Company on any land to the eastward of the railways authorised by any existing Act or by this Act the Company shall not be exonerated from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by any stationary engines used or employed by the Company in the production of electricity in or upon such land.

Power to work railways by steam electricity or other motive power.

38. In the event of any of the railways of the Company being worked by electricity the following provisions shall have effect:—

For the protection of the Postmaster General.

- (1) The Company shall construct their electric lines and works of all descriptions and shall work their railway in all respects so as to prevent any interference whether by induction or otherwise with the telegraphic lines from time to time laid down or used by the Postmaster General or with telegraphic communication by means of such lines. Provided that this section shall not apply to any telegraphic line of the Postmaster General laid down or placed by him on or along the railway;
- (2) In the event of any contravention of or wilful non-compliance with this section by the Company or their agents the Company shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues or if the telegraphic communication is wilfully interrupted not exceeding fifty pounds for any day on which such interruption continues;
- (3) In this section the expression "electric line" has the same meaning as in the Electric Lighting Act 1882 and the expression "telegraphic line" has the same meaning as in the Telegraph Act 1878;

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- (4) Nothing in this section contained shall be held to deprive the Postmaster General of any existing right to proceed against the Company by indictment action or otherwise in relation to any of the matters aforesaid.

For the protection of the works of the National Telephone Company.

39. For the protection of the National Telephone Company Limited its successors and assigns (in this section called "the Telephone Company") the following provisions shall have effect in the event of any railways of the Company being worked by electricity otherwise than by electrical power carried along with the carriages (that is to say) :—

- (1) The Company shall so construct their electric circuits and other works of all descriptions and shall so work their railway in all respects as to prevent any injurious interference by induction or otherwise with the electric circuits from time to time used or intended to be used by the Telephone Company for the purpose of telephonic communication or with the currents in such circuits Provided that as regards electric circuits erected or laid down by the Telephone Company after the construction of the works of the Company this sub-section shall only apply if reasonable and proper precautions have been taken in the erection or laying down of such circuits and if they have not been erected or laid down in unreasonably close proximity to the lines or works of the Company ;
- (2) Seven days before commencing to lay down any electric line or to supply electricity through any electric line in any manner whereby the work of telephonic communication through any wires or lines belonging to the Telephone Company and lawfully laid down or placed in any position by them may be injuriously affected the Company shall unless otherwise agreed with the Telephone Company give to that company notice in writing specifying the course nature and gauge of such electric line and the amount and nature of the current intended to be sent along the same and the Company shall conform with such reasonable requirements as may from time to time be made by the Telephone Company for the purpose of preventing the communication through such wires or lines from being injuriously affected as aforesaid ;
- (3) If any difference arises between the Company and the Telephone Company with respect to anything in this section contained such difference shall be determined by the Board of Trade whose decision shall be final and sections 30 to 32 both inclusive of the Regulation of Railways Act 1868 shall apply in like manner as if the Company and the Telephone Company were companies within the meaning of that Act ;

(4) Nothing in this section shall apply to repairs or renewals of any electric line so long as the course nature and gauge of such electric line and the amount and nature of the current sent along the same are not altered. A.D. 1892.

40. 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 that nothing in this Act contained shall authorise the Company 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 said Company.

Saving rights of Her Majesty's Principal Secretary of State for the War Department.

41. 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.

Prohibiting payment of interest out of capital.

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

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

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

Provision as to general Railway Acts.

A.D. 1892. **44.** 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.

SCHEDULES.

The **FIRST SCHEDULE** referred to in the foregoing Act.

HOUSES BUILDINGS or MANUFACTORIES of which Portions only may be required.

Parish or Township.	Numbers on deposited Plans.
Walton-on-the-Hill - - - - -	4
Sefton - - - - -	3
Toxteth Park - - - - -	3
" " - - - - -	7
" " - - - - -	174

The **SECOND SCHEDULE** referred to in the foregoing Act.

LANDS and HEREDITAMENTS through or under which the COMPANY need acquire an easement or right of constructing and using a TUNNEL only.

Township.	Numbers on deposited Plans.
Toxteth Park - - - - -	4 to 158 inclusive and 6A, 6B, 6C, 7A, 40A, and 54A.

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