CHAPTER cxxii.

An Act to enable the Barry Railway Company to construct new Railways and for other purposes. [15th July 1897.]

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WHEREAS it is expedient that the Barry Railway Company (in this Act called "the Company") should be empowered to make and maintain the railways and works described in this Act:

And whereas the Company require additional capital for the purposes of this Act and in connexion with their authorised undertaking and it is expedient that powers should be conferred upon the Company to raise additional capital and that further powers should be conferred upon the Company such as are herein-after mentioned:

And whereas the Company require to take additional lands in the parish of Cadoxton-juxta-Barry in the county of Glamorgan for the purposes of their undertaking:

And whereas plans and sections showing the line and levels of the railways authorised by this Act and plans of the additional lands which may be taken under this Act and also 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 deposited with the clerk of the peace for the county of Glamorgan and are herein-after respectively referred to as the deposited plans sections and book of reference:

And whereas the purposes aforesaid 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 (that is to say):—

Short title.

1. This Act may be cited as the Barry Railway Act 1897.

Incorporation of general Acts.

2. The following Acts and parts of Acts are (except where the same are expressly varied by this Act) incorporated with and form part of this Act namely:—

The Lands Clauses Acts;

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The Railways Clauses Consolidation Act 1845; and
Part I. (relating to construction of a railway) of the Railways Clauses Act 1863.

Extending certain provisions of Companies Clauses Acts.

3. The clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to—
The distribution of the capital of the Company into shares;
The transfer or transmission of shares;
The payment of subscriptions and means of enforcing payment of calls;
The forfeiture of shares for non-payment of calls;
The remedies of creditors of the Company against the shareholders;
The borrowing of money by the Company on mortgage or bond;
The conversion of the borrowed money into capital;
The consolidation of 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 also Parts I. II. and III. of the Companies Clauses Act 1863 (relating respectively to the cancellation and surrender of shares to additional capital and to debenture stock) as amended by any subsequent Act shall subject to the provisions of this Act extend and apply to the capital and money hereby authorised to be raised by shares or stock or borrowing and the proprietors thereof.

Interpretation.

4. 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 Company" means the Barry Railway Company;
The expressions "the railway" or "the railways" mean the railways by this Act authorised;
And 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 for the purposes of this Act 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.

Power to make railways.

5. Subject to the provisions of this Act the Company may make and maintain in the line and according to the levels shown on the

deposited plans and sections the railways herein-after described with all proper stations sidings approaches works and conveniences connected therewith and may enter upon take and use such of the lands delineated upon the deposited plans and described in the deposited book of reference as may be required for those purposes The railways herein-before referred to and authorised by this Act are—

A railway described on the deposited plans as Railway No. 4 (4 furlongs 5 · 15 chains in length) situate wholly in the parish of Cadoxton-juxta-Barry in the county of Glamorgan and commencing by a junction with the Company's railway on the south-west side of Cadoxton Station at Weston Bridge and terminating by a junction with the Penarth Branch Railway of the Company near the bridge carrying the road leading from Palmerstown to Barry over the said Penarth Branch Railway :

A railway described on the deposited plans as Railway No. 5 (4 furlongs 4 · 45 chains in length) commencing in the parish of Cadoxton-juxta-Barry by a junction with Railway No. 4 at a point four and a half chains or thereabouts measured in a north-easterly direction from the northern end of the buildings of the Cadoxton passenger station of the Company and terminating in the parish of Saint Andrew's Major by a junction with the Company's main line railway to the northward of Coldbrook Fach :

A railway described on the deposited plans as Railway No. 6 (1 mile 7 furlongs 9 · 70 chains in length) commencing in the parish of Sully at the south-west corner of the new dock of the Company now in course of construction and terminating in the parish of Cadoxton-juxta-Barry by a junction with the Company's main line railway near the junction of the Company's Penarth Branch Railway with such main line at Cadoxton :

A railway described on the deposited plans as Railway No. 7 (3 furlongs 6 · 90 chains in length) commencing in the parishes of Saint Andrew's Major and Cadoxton-juxta-Barry and also Cadoxton-juxta-Barry at a point on the new dock works in course of construction sixteen chains or thereabouts measured in an easterly direction from Mill Cottage and terminating in the parish of Cadoxton-juxta-Barry by a junction with Railway No. 6 at a point fourteen and a half chains or thereabouts measured in a north-easterly direction from the centre of Weston Bridge herein-before mentioned.

As to piece of road at Cadoxton.

It shall be lawful for the Company to stop up the road in the parish of Cadoxton-juxta-Barry lying to the south-east of the Company's railway near Cadoxton from Weston Bridge to the

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termination of the said road opposite Mill Cottage as shown on the deposited plans.

Lands for extra-ordinary purposes.

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

Power to purchase additional lands.

7. Subject to the provisions of this Act the Company may enter upon purchase and take and may hold and use for the purposes of their undertaking all or any of the lands hereafter described so far as the same are delineated on the deposited plans of the additional lands and described in the book of reference (that is to say) :—

(A) Lands near and to the south-eastward of Cadoxton Station in the parish of Cadoxton-juxta-Barry and county of Glamorgan situate between the road leading under the Company's railway at Cadoxton Station to Sully and the lands formerly part of Cadoxton Common and now in the possession of the Company which lands so intended to be acquired are bounded on the south by the Cadoxton Brook and on the south-east partly by the Cadoxton Brook and partly by houses and premises fronting on Morlais Street and on the northward by the Cardiff Road :

(B) Lands in the same parish consisting of houses and premises fronting on Cardiff Road or Churchill Terrace :

(C) A triangular piece of land in the same parish bounded on the south by the Cardiff Road on the north and north-east by Moors Road and on the north-west by the roadway of Churchill Terrace :

(D) Lands on the north or north-east side of Moors Road and abutting thereon from a point eight chains or thereabouts to the eastward of Cadoxton Station to a point ten chains or thereabouts eastward of the said station :

But this Act shall not authorise the purchase or taking of any greater portion of the common or commonable land known as Cadoxton Common in the aforesaid parish of Cadoxton-juxta-Barry than seven acres and one quarter of an acre.

For the protection of the Taff Vale Railway Company.

8. For the protection of the Taff Vale Railway Company (in this section called "the Taff Vale Company") the following provisions shall have effect (that is to say) :—

(1) The Company shall so carry out the construction of so much of Railway No. 4 by this Act authorised as will be situate between Biglis Junction and their station at Cadoxton

including the alteration or reconstruction of that station or the construction of any new station to be substituted therefor as to afford to the Taff Vale Company accommodation in connexion with such railway and at such altered reconstructed or new station as nearly as practicable equal in all respects to the accommodation now afforded to that company to and at the existing station and the powers of the Taff Vale Company (and any company or person working or using the Cardiff Penarth and Cadoxton-juxta-Barry Junction Railway or any part thereof) under section 8 of the Cardiff Penarth and Cadoxton-juxta-Barry Junction Railway Act 1885 to run over and use with their engines and carriages and officers and servants in charge thereof for the purposes of passenger traffic so much of the railway of the Company authorised by the said Act as therein defined and the station works and conveniences connected therewith shall from and after the completion of Railway No. 4 by this Act authorised apply thereto and to the station at Cadoxton-juxta-Barry as the same may be altered under the powers of this Act instead of to the said portion of railway referred to in the said section 8 and the existing station at Cadoxton:

The substitution of Railway No. 4 and of the new Cadoxton Station under this Act shall not by reason thereof impose upon the Taff Vale Company any increased charges or expenses:

(2) Until the completion and opening for public traffic of the said railway and station in accordance with the last preceding subsection the Company shall not in any way impede obstruct or interfere with the exercise by the Taff Vale Company or any such company or person as aforesaid of the powers conferred by the said section 8 but these powers may be exercised in respect of the railway station works and conveniences referred to in that section as fully and freely in all respects as if this Act had not been passed:

(3) The existing cross-over road on the Company's railway near Biglis Junction shall be taken up by and at the expense of the Company and shall be relaid by them at their expense to the reasonable satisfaction of the Taff Vale Company in a position as suitable as nearly as may be as the position of the existing cross-over road:

(4) Any dispute which shall arise between the Company and the Taff Vale Company or any such company or person as aforesaid under this section or in respect to the accommodation rights powers or conveniences to which the Taff Vale Company or such company or person as aforesaid are entitled under this

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section shall unless otherwise settled be referred to and determined by an arbitrator to be appointed by the President for the time being of the Institution of Civil Engineers on the application of either of the parties.

Power to take easements &c. by agreement.

9. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Restrictions on displacing persons of labouring class.

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

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

(B) 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 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 think 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 purpose 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 of such purposes any moneys which they may be authorised to raise or apply for the general purposes of their undertaking:

Provided that all lands on which any buildings have been erected or provided by the Company in pursuance of any scheme under this section shall for a period of twenty-five years from the date of such scheme be appropriated for the purpose of such dwellings and every

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conveyance demise or lease of such lands and buildings shall be endorsed 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 subsection 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 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 may appoint or employ inspectors for the purposes of any such inquiry and the inspectors so appointed or employed shall for the purposes of any such inquiry have all such powers as the inspectors of the Local Government Board have for the purposes of inquiries directed by the Local Government 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 and for which houses no substitutes have been or are directed to be provided by any scheme approved by the Local Government Board under the powers of any previous Act relating to 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 are 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" means and includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

Period for compulsory purchase of lands.

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

Penalty on Company if railways not completed.

12. If the Company fail within the period limited by this Act to complete the railways which they are by this Act authorised to make and complete the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railway in respect of which default is made is completed and opened for the public conveyance of passengers or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of such railway and the said penalty may be applied for by any landowner or other person claiming to be compensated or interested in accordance with the provisions of the next following section of this Act and in the same manner as the penalty provided in section 3 of the Railway and Canal Traffic Act 1854 and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in that section to an account opened or to be opened in the name of the Paymaster-General for and on behalf of the Supreme Court in the Bank and to the credit specified in such warrant or order and shall not be paid thereout except as herein-after provided but no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company was prevented from completing or opening such railway by unforeseen accident or circumstances beyond their control Provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Application of penalty.

13. Every sum of money so recovered by way of penalty as aforesaid shall be applicable and after due notice in the London Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway in respect of which the penalty has been incurred or any portion thereof .or who have been subjected

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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 sum or sums of money so recovered by way of penalty as aforesaid has been found sufficient to satisfy all just claims in respect of such compensation then the said sum or sums of money recovered by way of penalty or such portion thereof as may not be required as aforesaid shall if a receiver has been appointed or the Company is insolvent or the railway or any part thereof 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 Company.

Period for completion of railways.

14. If the railways are not completed within five years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for making and completing the railways or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Railways to form part of railways of the Company.

15. The railways and the works connected therewith executed under the authority of this Act shall for the purposes of tolls rates and charges and all other purposes whatsoever be part of the Barry Railway and comprised in the undertaking of the Company.

Works below high-water mark not to be commenced without consent of Board of Trade.

16. The Company shall not under the powers of this Act construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of such approval being signified as last aforesaid and where any such work may have been constructed the Company shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consent and approval If any such work be commenced or completed contrary to the provisions of this Act the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the costs and charges of the Company and the amount of such costs and charges shall be a debt due from the

Company to the Crown and shall be recoverable accordingly with costs. A.D. 1897.

Company may apply their funds towards purposes of Act and may raise additional capital.

17. The Company may apply towards the construction of the railways and works by this Act authorised and other purposes of this Act being in all cases purposes to which capital is properly applicable any moneys which they are already authorised to raise and which may not be required by them for the purposes for which the same were authorised to be raised and the Company may from time to time subject to the provisions of Part II. of the Companies Clauses Act 1863 raise in addition to the said moneys for the purposes of this Act and for other purposes of and connected with their authorised undertaking any additional sum or sums not exceeding in the whole two hundred and ten thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or preferred converted ordinary stock or deferred converted ordinary stock or partly by any one or more of those methods respectively which shares or stock shall form part of the general capital of the Company.

Shares not to vest until one-fifth part paid up.

18. The Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds nor shall any such share vest in the person accepting the same unless and until a sum not being less than one-fifth part of the amonnt of such share is paid in respect thereof.

Receipt in case of persons not sui juris.

19. 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 to the Company.

As to votes of proprietors of new shares or stock.

20. The proprietors of any ordinary shares or stock to be issued under the authority of this Act shall subject to the provisions of this Act be entitled to such number of votes in respect thereof as the nominal amount represented thereby would have entitled them to if the same had been original shares or stock of the Company:

Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new preference shares or stock.

Power to borrow.

21. The Company may in respect of the additional capital of two hundred and ten thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of their undertaking any sum not exceeding in the whole seventy 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

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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 and to the extent aforesaid paid up bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also 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.

Appointment of receiver.

22. Section 35 of the Barry Railway Act 1896 with respect to the appointment of a receiver by mortgagees of the Company is hereby repealed but without prejudice to any appointment made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under that section The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds in the whole.

Debenture stock.

23. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 and of section 44 of the Barry Dock and Railways Act 1884.

Former mortgages to have priority.

24. 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 have priority over the principal moneys secured by any mortgages granted by virtue of this Act.

Application of moneys.

25. All moneys raised under this Act whether by shares stock debenture stock or borrowing shall be applied for the purposes of this Act or for the general purposes of the Company to which capital is properly applicable and not otherwise.

Interest not to be paid on calls paid up.

26. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

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

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

Provision as to general Railway Acts.

28. Nothing in this Act contained shall exempt the Company or the railway 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.

Costs of Act.

29. 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.

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