CHAPTER cxlvi.

An Act to authorise the Birmingham North Warwickshire and Stratford-upon-Avon Railway Company to divert portions of their authorised Railways in the Counties of Warwick and Worcester to acquire additional Lands and for other purposes. [6th July 1895.]

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WHEREAS by the Birmingham North Warwickshire and Stratford-upon-Avon Railway Act 1894 (in this Act called "the Act of 1894") the Birmingham North Warwickshire and Stratford-upon-Avon Railway Company (in this Act called "the Company") were incorporated and authorised to construct a railway from Birmingham to Stratford-upon-Avon:

And whereas it is expedient that the Company be authorised to alter and deviate portions of the railway authorised by the Act of 1894 and to abandon the construction of a portion of such railway and to acquire for the purposes of the works by this Act authorised and for the general purposes of their undertaking the lands in this Act mentioned:

And whereas the estimated cost of the several alterations and diversions of railways and works authorised by this Act is less in amount than the estimated cost of the portions of railway for which such alterations and deviations are substituted and it is expedient that the Company be empowered to apply a portion of their capital to the purposes of such first-mentioned railways and works:

And whereas it is expedient that section 13 of the Act of 1894 should be repealed:

And whereas plans and sections showing the lines and levels of the alterations and deviations of the railway and works authorised by this Act and plans of the lands by this Act

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authorised to be acquired and appropriated and also books 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 respective clerks of the peace for the counties of Warwick and Worcester and are in this Act referred to as the deposited plans sections and books of reference :

And whereas the objects of this Act cannot be attained without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows :—

Short title.

1. This Act may be cited as the Birmingham North Warwickshire and Stratford-upon-Avon Railway Act 1895.

Incorporation of Acts.

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.

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 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.

Power to make railways and works.

4. 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 alterations and deviations of railways and works in the counties of Warwick and Worcester herein-after respectively described with all proper stations sidings approaches works and conveniences connected therewith and may

enter upon take and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for that purpose. The alterations and deviations of railways and works herein-before referred to and authorised by this Act are as follows :—

(1.) An alteration (No. 1) 2 furlongs and 3·10 chains in length of the levels of so much of Railway No. 1 authorised by the Act of 1894 as lies between points on the centre line of the said railway 5 chains and 2 furlongs and 8·10 chains or thereabouts respectively from the commencement of the said railway as shown on the plans of the said railway deposited for the purposes of the Act of 1894 with the respective clerks of the peace for the counties of Warwick and Worcester :

(2.) A deviation and alteration (No. 1) 3 furlongs and 1·10 chains in length of the line and levels of so much of Railway No. 1 authorised by the Act of 1894 as lies between points on the centre line of the said railway 2 furlongs and 8·10 chains and 6 furlongs or thereabouts respectively from the commencement of the said railway as shown on the said plans deposited in respect of the Act of 1894 :

(3.) An alteration (No. 2) 2 furlongs in length of the levels of so much of Railway No. 1 authorised by the Act of 1894 as lies between points on the centre line of the said railway 6 furlongs and 1 mile or thereabouts respectively from the commencement of the said railway as shown on the said plans deposited in respect of the Act of 1894 :

(4.) An alteration (No. 3) 2 furlongs and 6·20 chains in length of the levels of so much of Railway No. 1 authorised by the Act of 1894 as lies between points on the centre line of the said railway 1 mile 1 furlong and 0·50 chains and 1 mile 3 furlongs and 6·70 chains or thereabouts respectively from the commencement of the said railway as shown on the said plans deposited in respect of the Act of 1894 :

(5.) A deviation and alteration (No. 2) 1 mile 4 furlongs and 2·70 chains in length of the line and levels of so much of Railway No. 1 authorised by the Act of 1894 as lies between points on the centre line of the said railway 1 mile 3 furlongs and 6·70 chains and 3 miles or thereabouts respectively from the commencement of the said railway as shown on the said plans deposited in respect of the Act of 1894 :

(6.) An alteration (No. 4) 3 miles and 1 furlong in length of the levels of so much of Railway No. 1 authorised by the Act of 1894 as lies between points on the centre line of the said

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railway 5 miles and 8 miles 1 furlong or thereabouts respectively from the commencement of the said railway as shown on the said plans deposited in respect of the Act of 1894:

(7.) A deviation and alteration (No. 3) 8 miles 3 furlongs and 8·25 chains in length of the line and levels of so much of Railway No. 1 authorised by the Act of 1894 as lies between points on the centre line of the said railway 9 miles and 3 furlongs and 18 miles or thereabouts respectively from the commencement of the said railway as shown on the said plans deposited in respect of the Act of 1894:

(8.) A deviation and alteration (No. 4) 5 miles 5 furlongs and 9·80 chains in length of the line and levels of a portion of Railway No. 1 authorised by the Act of 1894 commencing in the parish of Aston Cantlow at or near the point on the centre line of the said Railway No. 1 marked 18 miles and 1 furlong from the commencement thereof as shown on the said plans deposited in respect of the Act of 1894 and terminating in the parish of Old Stratford by a junction with the Evesham Redditch and Stratford-upon-Avon Junction Railway at a point 25 chains or thereabouts measured in an easterly direction along that railway from the bridge carrying that railway over the Shottery Brook.

For the protection of the Yardley Rural District Council.

5. With respect to the construction of the railways authorised by the Act of 1894 and this Act the following provisions for the protection of the Yardley Rural District Council (hereinafter in this section referred to as "the council") shall (unless otherwise agreed between the Company and the council) apply and have effect:—

(1.) The council shall be at liberty at any time on giving fourteen days' previous notice in writing to the Company to lay down near or under any embankments bridgeways or any part of the railways of the Company any sewers or drains which the council may consider reasonably necessary without paying to the Company any compensation in respect of easements wayleaves or acknowledgments and the Company shall not charge the council any expenses in respect of the employment by the Company during the execution or in consequence of any of the aforesaid works of inspectors watchmen signalmen and others:

(2.) The works which the council are authorised to carry out under the provisions of this section shall be constructed at

their expense in a good substantial and workmanlike manner and to the reasonable satisfaction of the engineer for the time being of the Company and according to plans sections and specifications to be previously submitted to and reasonably approved of by him Provided always that during the construction of the said works and at all future times during any repairing or re-construction thereof by the council the engineer for the time being of the Company with requisite assistants and workmen shall have free access to the said works and full permission to inspect the workmanship and materials thereof respectively :

(3.) The council shall at their own expense and at all times for ever after the construction of the said works keep the same and all future works to be constructed in lieu thereof in good and complete repair to the reasonable satisfaction of the engineer for the time being of the Company and in case of any want of repair to such works arising from any cause whatever (other than the act or default of the Company) and upon notice in writing thereof being given by the Company to the council then the council shall within ten days after such notice commence the repairs or other works as the case may require and proceed therewith with all reasonable expedition until such repairing or other works shall be wholly completed And if the council shall fail to commence the same within the said space of ten days or proceed therewith with all reasonable expedition as aforesaid it shall be lawful for the Company to carry out all such repairs or other works in such manner as they may think proper and for that purpose they shall be entitled by themselves their engineer and their assistants with contractors workmen and others to enter and to remain upon the lands and property of the council and all the costs and expenses which the Company may reasonably sustain or expend in or about the repairing or other works shall be repaid to the Company by the council upon demand and the Company may sue for and recover from the council the amount of such costs and expenses together with full costs of suit in any court of competent jurisdiction :

(4.) The Company shall hold the council harmless against any claims suits or other proceedings in respect of any damage which may be caused to the railways of the Company by

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reason of the execution or failure of the works which the council are by this section authorised to carry out:

(5.) In carrying their Railways over or under all roads under the control of the council the Company shall not without the consent in writing of the council vary the centre line thereof shown on the deposited plans and the railways shall be constructed in accordance with detailed plans and sections to be previously submitted to and reasonably approved in writing by the surveyor for the time being of the council Provided always that the Company shall not divert the road known as Golden Hillock Road:

(6.) The roadways and footways under all bridges carrying the railway over a public thoroughfare under the control of the council shall be kerbed and guttered with granite The footways shall be paved with blue brick and the roadway with granite for the full width and length of the buttresses and wingwalls of such bridges No bridges carrying the railway over the Golden Hillock Road shall be of a greater width than will admit of the construction of four lines of way with the works necessary and incident thereto:

(7.) The Company shall construct a passenger station on the north-west side of the Golden Hillock Road between that road and the street known as the extension of Shakespear Street.

For the protection of the Warwickshire County Council.

6. In the execution of the works and exercise of the powers by this Act authorised the following provisions for the protection of the Warwickshire County Council (herein-after in this section called "the council") shall have effect (that is to say):—

(1.) In constructing the alterations and deviations of railways and works by this Act authorised so far as the same affect any main roads and bridges in the administrative county of Warwick the Company shall not deviate from the lines and levels shown on the deposited plans without the previous consent in writing of the council:

(2.) The bridge carrying the proposed deviation No. 3 over the Alcester and Wootton Wawen main road numbered 142 on the deposited plans in the parish of Wootton Wawen shall be constructed with a span of thirty-five feet wide and with a clear headway in the centre thereof of sixteen feet for a width of not less than twelve feet:

(3.) If any difference shall arise between the Company and the

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council as to the true intent and meaning of this enactment or the mode of giving effect thereto the same shall 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 Worcestershire County Council.

7. The following provisions shall have effect for the protection of the county council of Worcestershire (herein-after in this section referred to as "the council") as to the main road known as the Warwick Road in the parish of Yardley in lieu of the provisions contained in section 12 of the Act of 1894 as to the carrying of the Railway No. 1 by that Act authorised under the said road unless otherwise agreed between the Company and the council:—

(1.) In constructing the Railway No. 1 authorised by the Act of 1894 and the deviations and alterations by this Act authorised over the main road known as the Warwick Road in the parish of Yardley the Company shall carry the railway over the said road by means of a girder bridge of one clear span of sixty feet between the abutments thereof measured transversely across the said road and with a clear headway of not less than seventeen feet throughout above the present surface of the said road and shall not in any way interfere with the surface of or the levels of the said road except for the purpose of complying with sub-section 4 of this section:

(2.) The Company shall construct and maintain a close screen of not less (except with the consent of the council) than eight feet in height above the levels of the rails on the said bridge along the entire length of each side of the said bridge and for an average distance of forty yards beyond each end of the same:

(3.) The said screen shall be constructed and maintained in such reasonably ornamental manner as the council shall approve and no part of such bridge or screen visible from the said road shall be used for the posting of bills or other advertising purposes:

(4.) The Company shall pave the whole of such parts of the carriage-ways and footways as shall lie between the abutments and wingwalls of the said bridge in manner following videlicet The sides of the carriage-ways to be kerbed with granite kerbs the carriage-ways between the kerbing to be paved with granite setts on a bed of concrete and the footways to be paved with blue bricks the kind quality and dimensions of the materials used in the paving together with

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the workmanship thereof to be subject to the approval of the council or their road surveyor:

(5.) The Company shall during the construction of the said bridge and during the paving of the carriage-ways and footways thereunder as by the last preceding sub-section provided provide to the satisfaction of the council or their road surveyor for the safe and convenient passage of the vehicular and foot traffic of the said road and shall complete the said bridge and the paving of the carriage-ways and footways thereunder as by the last preceding sub-section provided and remove all obstruction from or to the said road within a period of three calendar months from the date such bridge shall be commenced to be built to the reasonable satisfaction of the council or their road surveyor and the Company shall pay and forfeit to the council the sum of ten pounds for every day after the expiration of the said period during which the said bridge and the paving of the carriage-ways and footways thereunder as by the last preceding sub-section provided shall be so far unfinished as to cause any obstruction to the said road:

(6.) In case any drain belonging to the council shall be disturbed or damaged by the construction of the said bridge and the paving of the carriage-ways and footways thereunder as by the last preceding sub-section provided the Company shall reconstruct or repair the same to the reasonable satisfaction of the council:

(7.) The said bridge over the said road and the bridge for carrying the Railway No. 1 by the Act of 1894 authorised over the main road leading from Stratford-upon-Avon to Birmingham shall subject to the foregoing provisions of this section and to the provisions of the Act of 1894 respectively be constructed according to plans to be submitted to and previously approved in writing by the county road surveyor for the time being of the county of Worcester or in the event of such county road surveyor failing to signify his approval within fourteen days after the submission of such plans as aforesaid in such manner as shall unless otherwise agreed be determined by an engineer to be appointed by the President for the time being of the Institution of Civil Engineers on the application of either the Company or the council and the decision of such engineer shall be final and binding on both parties:

(8.) The Company shall pave the whole of such parts of the

carriage-ways and footways as shall lie between the abutments and wingwalls of the bridge for carrying the Railway No. 1 by the Act of 1894 authorised over the main road leading from Stratford-upon-Avon to Birmingham in the same manner and subject to the same approval as to materials as is provided by sub-section 4 of this section as to the carriage-ways and footways lying between the abutments and wingwalls of the said bridge for carrying the Railway No. 1 authorised by the Act of 1894 and the deviations and alterations by this Act authorised over the said main road known as the Warwick Road in the parish of Yardley:

(9.) Nothing in this Act shall be deemed to in any way alter or amend the provision contained in section 12 of the Act of 1894 as to carrying the Railway No. 1 by the last-mentioned Act authorised over the Birmingham and Stratford Road except that a plan of the bridge to be constructed for that purpose shall be submitted and previously approved or otherwise determined as provided by the sub-section 7 of this section and the carriage-ways and footways lying between the abutments and wingwalls of the bridge for that purpose shall be paved as provided by the last preceding sub-section.

For the protection of the corporation of Birmingham.

8. In the execution of the works and exercise of the powers in the city of Birmingham by this Act authorised the following provisions for the protection and benefit of the mayor aldermen and citizens of the city of Birmingham (in this section called "the corporation") shall have effect (that is to say):—

(1.) The provisions of the Railways Clauses Consolidation Act 1845 contained in the sections 18 to 23 shall subject to the provisions of this Act extend and apply to the water and gas mains pipes and apparatus of the corporation and whenever in those sections the words "Company" or "Society" are used the same shall for all the purposes of this Act be held to extend to and include the corporation and the word "street" in this section shall have the same meaning as that assigned to it by the Public Health Act 1875:

(2.) The Company shall not break up any street or interfere with any sewer drain or watercourse or any gas or water main pipe or apparatus of the corporation until they shall have given to the town clerk three clear days' notice in writing of their intention to commence the intended works accompanied by plans and sections and other necessary particulars showing the works proposed to be executed by the

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Company so far as they affect the streets sewers drains water-courses gas and water mains pipes and apparatus proposed to be interfered with :

(3.) Where the surface of any street has been interfered with or disturbed by the Company in constructing the works or exercising the powers by this Act authorised the Company shall well and sufficiently and to the reasonable satisfaction of the corporation restore the surface of the street so interfered with or disturbed and shall keep the same in efficient repair for one year from such restoration :

(4.) Whenever it may be necessary to intercept or interfere with any existing sewer or drain the Company shall before intercepting or interfering with such existing sewer or drain construct according to a plan to be reasonably approved of by the corporation another sewer or drain in lieu of and of equal capacity with the sewer or drain so proposed to be intercepted or interfered with and such substituted sewer or drain shall be connected by and at the expense of the Company with any existing sewer or drain which may be intercepted or interfered with and in such manner as shall be reasonably approved by the corporation :

(5.) Whenever the water or gas mains pipes or apparatus of the corporation shall be severed or interfered with in the execution of any of the powers of this Act and whenever it is necessary for maintaining the supply of water or gas to lay additional mains or pipes such additional mains or pipes shall previous to the severance or interference be laid by the corporation at the reasonable expense of the Company :

(6.) If by reason of the execution of any of the powers of this Act the corporation shall necessarily incur any additional cost in altering any existing sewer drain gas or water main pipe or apparatus the Company shall repay to the corporation such additional cost :

(7.) If by reason of the execution of any of the powers of this Act any increased length of sewers or drains or gas or water mains or pipes or any additional apparatus shall become necessary the same shall be forthwith constructed and laid by the corporation at the reasonable expense of the Company :

(8.) The provisions of this section with respect to gas or water mains and pipes shall apply to all gas or water mains and pipes belonging to the corporation in the districts within which they are authorised to supply gas or water respectively :

(9.) The Company shall construct and maintain on each side and for the full length of every bridge or viaduct carrying any street over the railway and works a substantial parapet or close screen not less (except with the consent of the corporation) than seven feet in height above the level of the footway on such bridge or viaduct:

(10.) The Company shall construct a close screen not less than seven feet in height (except with the consent of the corporation) for a sufficient distance along the boundary of the railway where the same abuts on any street and shall close fence the land of the Company not required for railway purposes where the same shall abut upon any street:

(11.) All parapets and screens of bridges made by the Company and the bridges to carry the railway over High Street Deritend and Alcester Street shall be constructed in such reasonably ornamental manner as the corporation shall approve of and shall not be used for the posting of bills or other advertising purposes on the sides of such parapets screens or bridges facing any public road:

(12.) In constructing the bridges over or under any existing roads or streets within the city the Company shall not increase the gradients of such roads or streets without the consent in writing of the corporation and the widths and gradients of any new roads or streets and the width headway and lines of abutment of all bridges over streets shall be such as shall be reasonably approved by the corporation:

(13.) The Company shall during the construction of the said bridges provide to the satisfaction of the corporation or their city surveyor for the safe and convenient passage of the vehicular and foot traffic of the said roads and shall complete the said bridges and restore the said roads within a period of three calendar months from the date of the commencement of each of such bridges to the reasonable satisfaction of the city surveyor and the Company shall pay and forfeit to the corporation the sum of ten pounds for every day after the expiration of the said period during which either of the said bridges shall be uncompleted or during which either of the said roads shall be unrestored:

(14.) In constructing tunnels under any roads or streets within the city the Company shall not make any shaft in such roads or streets without the consent in writing of the corporation who are hereby empowered to give such consent

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upon and subject to such reasonable terms and conditions as they may consider necessary :

(15.) The corporation and the 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 :

(16.) The Company shall pay any expenses or loss incurred by or occasioned to the corporation or their lessees by reason of the interference with or stoppage of the traffic on any of the tramways which may be occasioned by the execution of the Company's works Provided that nothing herein contained shall render the Company liable to make compensation by reason of abstraction of traffic or competition :

(17.) The Company shall from time to time pay to the corporation all rates leviable by or payable to the corporation upon the respective assessments of any lands or property shown upon the deposited plans or a proportion of such rates respectively from the time such lands or property respectively shall be acquired by the Company until the Company's works are completed and assessed to such rates and the amount of such rates payable by the Company shall be computed according to the assessment 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 Provided always that the Company shall not be charged with or be liable to the payment of any such rates upon any building or property which or part of which is required for the making of a new street or the widening or improving of an existing street as provided by this Act :

(18.) Nothing in this Act contained shall be construed to remove any liability of the Company to maintain the surface of any road or public highway in the city which shall be carried over the railway authorised by the Act of 1894 and the deviations or alterations by this Act authorised or any of them by a bridge or bridges whether the level of such road or public highway is permanently altered or not :

(19.) The Company shall not stop up discontinue or interfere with the public road known as Warwick Street in the City of Birmingham unless and until they shall have paid to the corporation the sum of five thousand pounds which sum

shall be applied by the corporation in the widening and improvement of High Street Deritend:

(20.) Any difference which may arise between the corporation and the Company as to the true intent and meaning of any of the provisions of this section or as to the mode of giving effect thereto shall be determined in the manner prescribed in the Railways Clauses Consolidation Act 1845 with respect to the settlement of disputes by arbitration.

For the protection of the Evesham Redditch and Stratford-upon-Avon Junction Railway Company.

9. With respect to the junctions and works by this Act authorised where they will affect the railway of the Evesham Redditch and Stratford-upon-Avon Junction Railway Company (herein-after called "the Evesham Company") the following provisions shall have effect (that is to say):—

(1.) All junctions and works crossing or affecting the railway of the Evesham Company shall be executed at the expense of the Company under the superintendence and to the reasonable satisfaction of the principal engineer of the Evesham Company and according to plans and specifications to be previously submitted to such engineer and reasonably approved by him in writing provided that in the event of the said engineer failing to approve such plans and specifications within one month from the delivery thereof to him it shall be considered that a difference has arisen and that such difference shall be determined by an engineer to be appointed on the request of either the Company or the Evesham Company by the President for the time being of the Institution of Civil Engineers:

(2.) The junctions and works shall be constructed and maintained so that the traffic upon the railway of the Evesham Company shall not be in anywise impeded or interfered with and such maintenance shall be effected under the superintendence and to the reasonable satisfaction of the engineer of the Evesham Company and in all things at the expense of the Company:

(3.) If by reason of the construction or maintenance of the junctions and works or any of them or the failure of any of the works or of the maintenance thereof the railway of the Evesham Company or the works connected therewith shall be injured or the traffic thereon impeded the Company shall compensate the Evesham Company for all costs to which that Company may be put in repairing the said damage and for all loss of traffic incurred thereby:

(4.) The Company shall also indemnify the Evesham Company

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for any damage or compensation which may be recovered against them by reason of the interruption of the traffic on their railway or by reason of any accident on the said railway which interruption or accident shall have been occasioned by the acts or defaults of the Company or any of their contractors or their respective servants or workmen:

(5.) The Company shall not acquire any estate or interest in the lands and property of the Evesham Company other than an easement or right of constructing and maintaining thereon the works by this Act authorised:

(6.) The amounts to be paid for the acquisition of such easement shall be agreed between the Company and the Evesham Company or failing agreement shall be settled in the manner provided by the Lands Clauses Acts with respect to the purchase of lands otherwise than by agreement:

(7.) Any dispute or difference arising under this section (except under sub-section 1 thereof) shall be determined by arbitration in manner provided by the Railway Companies Arbitration Act 1859.

Inclination of roads.

10. In altering for the purposes of this Act the roads next herein-after mentioned the Company may make the same of any inclinations not steeper than the inclinations herein-after mentioned in connection therewith respectively (that is to say):—

Number on Deposited Plan.	Parish.	Description of Road.	Intended Inclination.
		Deviation and Alteration No. 4	
2	Billesley	Public	1 in 20
3	Billesley	Public	
7	Aston Cantlow	Public	

Power to stop up roads.

11. Subject to the provisions of this Act the Company if and when they become owners in possession of all property on both sides of and adjoining the public road known as Warwick Street in the city of Birmingham in the parish of Aston-juxta-Birmingham in the county of Warwick and so much of the public road known as Clyde Street in the same city and parish as lies between the junction of Warwick Street with that street and a point measured along that street thirty yards or thereabouts in a

north-easterly direction may stop up and discontinue the said road and portion of road respectively.

Extinguishment of rights of way.

12. All rights of way over or along the road and portion of road which shall under the provisions of this Act be stopped up and discontinued and over any of the lands which shall be acquired compulsorily under the powers of this Act shall be and the same are as from the stopping up or acquisition thereof respectively by this Act extinguished.

Vesting in Company site and soil of roads stopped up.

13. The site and soil of the road and portion of road by this Act authorised to be stopped up and discontinued and the fee simple and inheritance thereof shall be from the time of the stopping up thereof respectively wholly and absolutely vested in the Company for the purposes of their undertaking subject to the provisions of the Railways Clauses Consolidation Act 1845 with respect to mines lying under or near to the railway.

Power to acquire lands for general purposes.

14. Subject to the provisions of this Act the Company in addition to the other lands which they are by this Act authorised to acquire may from time to time enter upon take use and appropriate to the purposes of their undertaking all or any of the lands and buildings following delineated on the deposited plans and described in the deposited books of reference (that is to say) :—

Certain lands in the city and parish of Birmingham in the county of Warwick bounded by Moor Street Shut Lane the property of the London and North Western Railway Company and the northern limits of deviation as shown on the plans deposited for the purposes of the Act of 1894 at the office of the clerk of the peace for the county of Warwick :

Certain other lands in the city and parish of Birmingham in the county of Warwick bounded by the limit of deviation as shown on the said plans on the north and west and Park Street on the east the said piece of land being one hundred feet or thereabouts in width :

Certain other lands in the city and parish of Birmingham in the county of Warwick bounded by Park Street on the west and Oxford Street on the east by the southern limit of deviation as shown on the said plans on the north and partly by Park Lane and part of Coventry Street on the south such lands being fifty feet or thereabouts in width.

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

15. If in the execution and maintenance of any works authorised by this Act it shall be necessary in order to avoid injury to the houses and buildings within one hundred feet of the railway to underpin or otherwise strengthen the same 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 hereinafter 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 hereof:

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

Lands for extraordinary purposes.

16. The quantity of land to be purchased 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 created or permitted by them upon any land purchased under the powers of this section.

Period for compulsory purchase of lands.

17. 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.

Owners may be required to sell parts only of certain lands and buildings.

18. 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 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

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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 property 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 portion required by them and making compensation for any damage sustained by the owners thereof and other parties interested therein by severance or otherwise.

Power to take easements &c. by agreement.

19. 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 right or privilege of water in which other than parties to the agreement have an interest) 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.

Restrictions on displacing persons of labouring class.

20.—(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 occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or which have been or shall be subsequently so occupied unless and until—

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

(*b.*) They shall have given security to the satisfaction of the Local Government Board for the carrying out of the scheme.

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

(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 such 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

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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 purposes 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 dwellings and every 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 sub-section subject to such conditions (if any) as they may see fit.

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

(9.) The Local Government Board may direct any inquiries to be held by their inspectors which they may deem necessary in relation to any scheme under this section and for giving effect to any of the provisions of this section and the inspectors of the Local Government Board shall for the purposes of any such inquiry have all such powers as they have for the purposes of inquiries 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 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.) The expression "labouring class" in this section includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Deposit fund referred to in Act of 1894 to apply to deviations of railway.

21. Whereas the amount of the estimate in respect of the deviations and alterations of railways by this Act authorised does not exceed the amount of the estimate in respect of the portion of the authorised railway of the Company by this Act directed to be abandoned Be it enacted that for the purpose of sections **44** and **45** of the Act of 1894 the deviations and alterations of railways shall be deemed to be part of the railway by that Act authorised to be constructed instead of the portion thereof by this Act directed to be abandoned Provided always that nothing in this section shall prejudice or alter any right of any owner lessee or occupier of lands or other persons injuriously affected or any creditors to or over the deposit fund mentioned in those sections.

Period for completion of works.

22. If the railways by this Act authorised are not completed within a period of five years from the passing of this Act then on

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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 be deemed part of the railway of the Company.

23. The altered and deviated railways by this Act authorised shall for the purposes of tolls rates and charges and all other purposes be deemed to be part of the railway of the Company.

Company not liable to repair surface of road level of which is not permanently altered.

24. Notwithstanding anything contained in section 46 of the Railways Clauses Consolidation Act 1845 the Company shall not be liable to maintain the surface of any road or public highway which shall be carried over the railways authorised by the Act of 1894 and the deviations or alterations by this Act authorised or any of them by a bridge or bridges unless the level of such road is permanently altered.

Company may abandon portions of authorised railways.

25. The Company shall abandon the construction of so much of Railway No. 1 authorised by the Act of 1894 as will be rendered unnecessary by the deviations and alterations of the said railway by this Act authorised and shall abandon the construction of Railway No. 3 authorised by the Act of 1894.

Compensation for damage to land by entry &c. for purpose of portions of railway abandoned.

26. The abandonment by the Company under the authority of this Act of any railway or any portion of any railway or works shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels or probing or boring to ascertain the nature of the soil or setting out of the line of railway and shall not prejudice or affect the right of the owner or occupier of any land which has been temporarily occupied by the Company to receive compensation for such temporary occupation or for any loss damage or injury which has been sustained by such owner or occupier by reason thereof or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation Act 1845 or in the Act of 1894.

Compensation to be made in respect of portions of railway abandoned.

27. Where before the passing of this Act any contract has been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to any railway or any portion of railway or works authorised to be abandoned by this Act the Company shall be released from all liability to purchase or to complete the purchase of any such land but notwithstanding full compensation shall be made by the Company to the

owners and occupiers or other persons interested in such land for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice and the amount and application of the compensation shall be determined in manner provided by the Lands Clauses Consolidation Act 1845 as amended by any subsequent Act for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Repeal of section 13 of Act of 1894.

28. Section 13 of the Act of 1894 the marginal note whereof is "For the protection of Alfred Frederick Bird" is hereby repealed and the agreement dated the twenty-third day of May one thousand eight hundred and ninety-four and made between Oscar William Bowen John Meredith Arthur and Frederick Warwick of the first part the Company intended to be incorporated by the Act of 1894 of the second part and Alfred Frederick Bird of the third part is hereby cancelled and rendered inoperative.

Power to apply funds.

29. The Company may apply for any of the purposes of this Act to which capital is properly applicable any moneys which they are authorised by the Act of 1894 to raise by shares or stock debenture stock or borrowing.

Provision as to general Acts.

30. Nothing in this Act contained shall exempt the Company or the railways 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.

31. All costs charges and expenses preliminary to and of and incidental to the preparing applying for and obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

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SCHEDULE referred to in the foregoing Act.

HOUSES BUILDINGS or MANUFACTORIES of which parts only are intended to be taken.

Parish or Township.	Numbers on Deposited Plan.
DEVIATION AND ALTERATION No. 1.	
Birmingham - - - - - - -	126 136
Aston-juxta-Birmingham - - -	508 523

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