CHAPTER xcv.

An Act for making further provision respecting certain Street Improvements in the City of Liverpool; and respecting the alteration of the Boundaries of the City Wards; and for other purposes. [16th July 1885.] A.D. 1885.

WHEREAS by the Lancashire and Yorkshire Railway Act 1883 the Lancashire and Yorkshire Railway Company (herein-after called "the railway company") were empowered to stop up portions of Edmund Street and Prussia Street in the city of Liverpool (herein-after called "the city"): 46 & 47 Vict. c. clxix. s. 27 (m.)

And whereas in the said Act it was enacted (among other things) for the protection of the Corporation of Liverpool (herein-after called "the Corporation") that before the railway company should stop up such portions of Edmund Street and Prussia Street they should form and dedicate to the public a new street forty feet in width in direct line with Bixteth Street from Ormond Street to Edmund Street also a new street along the west side of Exchange Station not less than thirty feet in width from Edmund Street to Saint Paul's Square and should also widen Bixteth Street so as not to be less than forty feet in width from Tithebarn Street to Edmund Street: s. 31.

And whereas a continuation between Edmund Street and Saint Paul's Square of the said authorised street in continuation of Bixteth Street to Edmund Street would be more advantageous to the public than the making of the said authorised new street along the west side of Exchange Station and the Corporation are willing to make such continuation:

And whereas the railway company agree to contribute to the cost of such continuation by the Corporation on being relieved of their obligation to construct the said new street on the west side of Exchange Station between Edmund Street and Saint Paul's Square and it is expedient to sanction this arrangement and the necessary amendments of the Railway Company's Act of 1883:

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And whereas in order to enable the Corporation to carry into execution the continuation of Paradise Street and other improvements for which they were authorised by the Liverpool (Lands) Order 1878 to acquire lands it is expedient to authorise the removal and re-interment of bodies buried in Saint Thomas's Churchyard subject to such restrictions as are in this Act contained:

And whereas great inequalities exist as respects population and rateable value between the several wards into which the city is divided and it is expedient to make better provision for re-adjusting their boundaries and it is also expedient to rectify the boundary between the city and the district of the local board of Walton-on-the-Hill:

And whereas the objects aforesaid cannot be effected without the authority of Parliament:

And whereas plans and sections showing the lines and levels of the works 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:

And whereas the Corporation have prepared estimates showing that they will or may require to borrow for the purposes of this Act (being permanent works within the meaning of section two hundred and thirty-four of the Public Health Act 1875) further sums not exceeding thirty thousand pounds and it is expedient that they be empowered to borrow and raise the same on security of the 1867 improvement rate leviable under the Liverpool Improvement Act 1867:

And whereas an absolute majority of the whole number of the council at a meeting held on the thirteenth day of October one thousand eight hundred and eighty-four after ten clear days notice by public advertisement of such meeting and of the purpose thereof in the "Liverpool Mercury" the "Liverpool Courier" and the "Liverpool Daily Post" being three local newspapers published or circulating in the city such notice being in addition to the ordinary notices required for summoning such meeting resolved that the expense in relation to promoting the Bill for this Act should at the option of the council be charged on the city fund city rate or other public funds or rates under the control of the council:

And whereas such resolution was published twice in the same local newspapers and in respect of matters under the control of the Local Government Board has received the approval of that Board

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and in respect of other matters has received the approval of one of Her Majesty's Principal Secretaries of State:

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

And whereas the owners and ratepayers of the city by resolution in the manner provided in Schedule Three of the Public Health Act 1875 consented to the promotion of the Bill for this Act: 38 & 39 Vict. c. 55.

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:—

PRELIMINARY.

1. This Act may be cited as the Liverpool Improvement Act 1885. Short title.

2. The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883 are (except where expressly varied or otherwise provided for by this Act) incorporated with and form part of this Act. Incorporation of Lands Clauses Acts.

3. Terms to which a meaning is assigned by any of the Acts incorporated herewith have in this Act (unless the context otherwise requires) the same respective meanings Provided that the expression "superior courts" or "court of competent jurisdiction" or any like expression 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: Interpretation.

The expression "street" has the same meaning as it has in the Liverpool Improvement Act 1882:

The expression "grave" includes vault.

4. This Act shall be carried into execution by the Corporation acting by the council. Execution of Act by council.

PART I.—STREET IMPROVEMENTS.

5. The obligation of the Lancashire and Yorkshire Railway Company under section thirty-one of the Lancashire and Yorkshire Railway Act 1883 to form and dedicate to the public a new street along the west side of Exchange Station not less than thirty feet wide from Edmund Street to Saint Paul's Square and to sewer level Repeal of obligation of railway company.

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pave flag and channel such new street is hereby repealed but without prejudice to the power of the railway company under subsection (one) of that section at any time after the passing of this Act to stop up appropriate or obstruct the traffic in Edmund Street from the west side of Exchange Station eastwards or Prussia Street from the west side of Exchange Station to Pall Mall and without prejudice to the obligation of the company under the same subsection to form and dedicate to the public a new street forty feet in width in direct line with Bixteth Street from Ormond Street to Edmund Street and also under subsection (three) to construct a subway in the line of Prussia Street from Saint Paul's Square to Pall Mall.

Contributions by railway company to New Street.

6. In consideration of being relieved from their obligation to form the said new street along the west side of Exchange Station the railway company shall contribute such proportion of the cost of forming sewering levelling paving flagging and channelling the new street in continuation of Bixteth Street by this Act authorised as the area of the first-mentioned new street bears to the area of the last-mentioned new street.

Power to execute street improvements.

7. Subject to the provisions of this Act the Corporation may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works herein-after described with all proper approaches works and conveniences connected therewith and may enter on take and use all or any of the lands delineated on the said plans and described in the deposited books of reference (that is to say):

A new street between Edmund Street and the southern side of Saint Paul's Square being a continuation northward of the new street in continuation of Bixteth Street authorised to be constructed by the railway company under the powers contained in section twenty-seven subsection (E) of the Lancashire and Yorkshire Railway Act 1883.

Incidental works.

8. In connexion with the improvement of Paradise Street the Corporation may stop up and extinguish all rights of way over the back street on the south-east side of Saint Thomas' Churchyard between Upper Frederick Street and the intended new street in continuation of Paradise Street.

Correction of errors omissions &c.

9. If there be any omission mis-statement or wrong description of any lands or of the owners lessees or occupiers of any lands shown or described in the deposited plans or book of reference the Corporation after giving ten days notice to the owners lessees and occupiers of the lands in question may apply to two justices for the

correction thereof and if it appears to the justices that the omission mis-statement or wrong description arose from mistake they shall so certify stating the particulars thereof and their certificate shall be deposited (as regards both the county and the parish or extra-parochial place) as if it had originally formed part of the deposited plans or book of reference (as the case may be) and shall be kept therewith and shall be deemed to be part thereof and thereupon the deposited plans or book of reference (as the case requires) shall be deemed to be corrected according to such certificate and the Corporation may take the lands and execute the works in accordance with such certificate.

Power to deviate.

10. In constructing the said works or any of them the Corporation may deviate to any extent not exceeding the limits of deviation shown on the deposited plans and may also deviate from the levels shown on the deposited sections to any extent not exceeding five feet.

Period for compulsory purchase of lands.

11. The powers of the Corporation for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Power for persons underdisability to grant easements.

12. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Corporation any easement right or privilege 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.

Provisions as to construction of works &c.

13. The provisions contained in sections twenty-four twenty-five twenty-seven twenty-eight thirty to thirty-three (both inclusive) and thirty-nine of the Liverpool Improvement Act 1867 shall apply to the works and matters authorised by this Act as if they were re-enacted herein with reference to this Act and to the works and matters by this Act authorised.

Restriction on displacing persons of labouring class.

14. The Corporation shall not under the powers of this Act without the consent of the Local Government Board purchase or acquire ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers:

For the purposes of this section the expression "labouring class" includes mechanics artizans labourers and others working for wages

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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.

Site and soil of streets &c. acquired to vest in Corporation.

15. The site and soil of all streets roads lanes courts paths passages and public places comprised within the limits of the lands to be acquired under this Act as marked on the deposited plans shall from and immediately after the acquisition by the Corporation of the lands on both sides thereof be wholly and absolutely vested in the Corporation free from any rights of way or passage whether public or private over the same.

Ground laid into new streets to be public highway.

16. The sites of all houses and all lands which may be acquired by the Corporation under this Act and laid into and appropriated for streets shall when and so soon as the same are so laid into and appropriated for streets and for ever thereafter form part of the public street and shall be repaired and maintained and kept in repair in such and the same way and manner as the streets in the city are for the time being by law maintained repaired and kept in order.

Provision as to compensation in respect of St. Thomas' Churchyard.

17. Whereas it has been agreed between the Corporation and the incumbent patron and churchwardens of the church of Saint Thomas in the parish of Liverpool that the compensation to be paid by the Corporation under this Act in respect of Saint Thomas' Churchyard shall be seven hundred and fifty pounds and the Ecclesiastical Commissioners for England (herein-after called "the Ecclesiastical Commissioners") approve this agreement and are willing to receive and administer the said sum as an additional endowment for the incumbent for the time being of the said church of Saint Thomas and it is expedient to provide accordingly Therefore it is hereby enacted as follows:—

(1) Notwithstanding any other provision of this Act or of any Act incorporated herewith the sum of seven hundred and fifty pounds shall within three months after the passing of this Act be paid by the Corporation to the Ecclesiastical Commissioners as compensation for Saint Thomas' Churchyard and for all rights and interests therein and the receipt of the said commissioners shall be a complete discharge to the Corporation from the said sum and from all responsibility as to the application thereof or otherwise in relation thereto and on payment of the said sum to the said commissioners the said churchyard shall by virtue of this Act be absolutely vested in the Corporation

subject to certain reservations and conditions as to the user thereof expressed and contained in an agreement dated the eleventh day of May one thousand eight hundred and eighty-five and made between the Bishop of Liverpool the patrons and incumbent of the church of St. Thomas in Liverpool and the Ecclesiastical Commissioners and the Corporation respecting the said churchyard and the taking thereof by the Corporation for street improvements at Liverpool:

(2) The said sum of seven hundred and fifty pounds or any part thereof may be from time to time invested by the Ecclesiastical Commissioners in any securities in which they are for the time being empowered by law to invest any other moneys coming to their hands or in the purchase of ground rents or tithe rent-charges on land or other real estate with power to vary or realise any such investments as and when they see fit and the income of any such investment or investments shall be from time to time paid by the said commissioners to the incumbent for the time being of the said church of Saint Thomas or the said capital sum or its investments or any part thereof may be applied by the said commissioners in any other way they may think fit for the purposes of such endowment as aforesaid including herein the purchase or building of a residence for the incumbent for the time being of the said church.

Provision for removal and re-interment of bodies buried in Saint Thomas' Churchyard.

18. (1) Before the Corporation commence the removal of the remains of any deceased person or persons from any grave in Saint Thomas' Churchyard they shall publish a notice for three successive days in three local newspapers circulated in the city to the effect that it is intended to remove the remains from such grave and such notice shall embody in it the substance of the conditions with reference to such removal provided in subsections (2) (3) (4) and (5) of this section:

(2) At any time within two months after the first publication of such notice any person who is an heir executor administrator or relative of any such deceased person may give notice in writing to the Corporation surveyor of his intention to undertake the removal of the remains of such deceased person and thereupon he shall be at liberty without any faculty for the purpose but subject as hereinafter mentioned and to any regulations made by the Lord Bishop of Liverpool and to the convenient execution by the Corporation of the works authorised by this Act to cause such remains to be removed and re-interred in any churchyard or cemetery in which burials may lawfully take place Any person failing to comply with any such regulations shall be liable to a penalty of not exceeding forty shillings for each offence:

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(3) Any person giving such notice as aforesaid shall furnish the Corporation with such proof as they require that he is such heir executor administrator or relative as he claims to be and the Corporation shall not be liable or responsible to any other person by reason of their having acted upon such proof as they thought reasonable:

(4) In case more than one person shall give such notice as aforesaid in respect of the same remains and they shall not come to an agreement with regard to removal and re-interment thereof then the Corporation shall remove such remains as if no notice had been given:

(5) The expense of such removal and re-interment not exceeding in respect of remains in any one grave the sum of ten pounds shall be defrayed by the Corporation such sum to be apportioned equally if necessary according to the number of remains in such grave:

(6) If within the aforesaid period of two months no such notice as aforesaid shall have been given to the Corporation in respect of the remains in any grave or if after such notice has been given the person giving the same shall fail in any respect to comply with the provisions of this section or with the aforesaid regulations of the Lord Bishop of Liverpool the Corporation may cause the remains to be removed and re-interred in such place and manner as the Lord Bishop may direct or sanction:

(7) The removal of remains shall in all cases be carried out to the satisfaction of the medical officer of health of the city.

Power to borrow.

19. The Corporation are hereby authorised from time to time to borrow and re-borrow for the purposes of and in manner provided by this Act any sums not exceeding thirty thousand pounds.

Power to create Corporation stock for purposes of Act.

20. (1) For the purpose of raising the moneys authorised to be raised or borrowed for any purpose of this Act the Corporation may from time to time create and issue Liverpool Corporation stock under the Liverpool Corporation Loans Act 1880:

(2) The amount of the annual sums payable to the Corporation loans fund under the said Act towards the redemption of stock created and issued by the Corporation for purposes of this Act shall be such as with accumulation at the rate of three pounds ten shillings per centum per annum will suffice to redeem at par such stock within forty years from the time or respective times of creation of such stock:

(3) The half-yearly annual or other sums payable to the Corporation Loans Fund under the Liverpool Corporation Loans Act 1880 for payment of dividends on and towards redemption of such stock shall be payable out of the 1867 improvement rate and that rate

shall continue leviable and to be levied as if the purposes of this Act were purposes of the Liverpool Improvement Act 1867 to which the 1867 improvement rate is made applicable and section sixty-four of that Act shall be read and have effect accordingly.

Part II.—Alteration of Boundaries of Wards; and other Matters.

Petition for alteration of boundaries of wards.

21. (1) If two thirds of the council of the city agree to petition and the council thereupon petition the Queen for the alteration of the boundaries of the wards of the city it shall be lawful for Her Majesty by Order in Council to declare that such petition shall be taken into consideration notwithstanding that no alteration of the number of wards is sought by such petition:

45 & 46 Vict. c. 50.

(2) A petition and Order in Council presented and made as aforesaid shall be deemed to be a petition and Order in Council presented and made under the authority of section thirty of the Municipal Corporations Act 1882 and such proceedings shall be taken thereupon as though a petition for the alteration of the boundaries of the wards of the city were authorised by that section Provided that if the commissioner appointed by the Secretary of State is satisfied after local inquiry that it would be inexpedient to alter the boundaries of the wards he may report to that effect to the Secretary of State and subsections two to fifteen (both included) of that section shall for the purposes of this section be read and have effect accordingly.

Rectification of boundary between the city and district of Walton Local Board.

22. The boundary between the city and the district of the Walton-on-the-Hill Local Board between the points A and B marked on the plan referred to in the next following section shall be altered as shown on the said plan and from and after the passing of this Act so much of the said district as is shown on the said plan to be brought within the city shall to and for all intents and purposes whatsoever be separated from that district and be part of the city and shall be included in the Everton and Kirkdale Ward and so much of the city as is shown on the said plan to be brought within the district of the said local board shall to and for all intents and purposes whatsoever be separated from the city and be part of that district:

Provided that nothing in this Act shall extend limit or affect the parliamentary boundaries of the city or of the south-west division of the county palatine of Lancaster.

Deposit of plan of altered city boundary.

23. A plan signed in triplicate by the Chairman of the Committee of the House of Commons to which the Bill for this Act was referred showing the boundary between the city and the district of

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the Walton-on-the-Hill Local Board as altered by this Act shall within two weeks after the passing of this Act be deposited in the Private Bill Office of the House of Commons and with the town clerk of the city at his office and with the clerk to the said local board at his office and a copy thereof certified by the town clerk shall be sent as soon as may be after the deposit of the same to the Director General of Her Majesty's Ordnance Survey and to the Local Government Board:

Copies of the said plan or any extract therefrom certified by the town clerk or by the city engineer or by the clerk to the said local board to be true shall be received in all courts of justice and elsewhere as primâ facie evidence of the contents of such plan.

Prosecution and recovery of offences and penalties.

24. All offences penalties forfeitures costs charges and expenses under this Act the prosecution or recovery of which is not otherwise expressly provided for may be prosecuted and recovered summarily in manner provided by the Summary Jurisdiction (English) Acts and all penalties recovered summarily within the city under this Act (except penalties recovered against the Corporation) shall be paid to the Corporation and carried to the city fund.

Service of notices &c.

25. Section one hundred and eight of the Liverpool Improvement and Waterworks Act 1871 is hereby declared to apply to all notices or other instruments given or served under or for any purpose of this Act.

Costs of Act.

26. The costs charges and expenses of and incidental to the preparing applying for and obtaining this Act as taxed and ascertained by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation out of the city fund.

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