CHAPTER cviii.

An Act to authorise the Seacombe Hoylake and Dee Side Railway Company to extend their railway to New Brighton and for other purposes. [12th July 1882.]

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WHEREAS by the Hoylake and Birkenhead Rail and Tramway Act 1872 (in this Act called "the Act of 1872") the Hoylake and Birkenhead Rail and Tramway Company (in this Act called "the Company") were incorporated with a share capital of 70,000*l.* and power to borrow on mortgage not exceeding 23,330*l.* and to construct tramways which under the provisions of the Birkenhead Tramways Act 1879 have been sold and transferred by the Company to the Birkenhead Tramways Company:

35 & 36 Vict. c. cxxvii.

42 & 43 Vict. c. clxxxvi.

And whereas by the Act of 1872 the Company were authorised to purchase and they purchased accordingly the railways No. 2 and No. 3 authorised by the Hoylake Railway Act 1863:

26 & 27 Vict. c. ccvii.

And whereas by the Hoylake and Birkenhead Rail and Tramway Act 1873 (in this Act called the "Act of 1873") the Company were authorised to extend their railway from its terminus at Hoylake to West Kirby and to connect their railway by a short line from its terminus at the dock station with the dock line of railway of the Mersey Docks and Harbour Board and to raise further capital not exceeding 24,000*l.* by new shares or stock ordinary or preferential or both and to borrow on mortgage further sums not exceeding 8,000*l.* and the Company have constructed and opened for traffic the railways authorised by the Act of 1873:

36 & 37 Vict. c. ccxxxix.

And whereas by the Seacombe Hoylake and Dee Side Railway Act 1881 the Company were authorised to extend their railway to Seacombe and the name of the Company was changed to that of the Seacombe Hoylake and Dee Side Railway Company:

44 & 45 Vict. c. cxv.

And whereas it is expedient that the Company be authorised to construct the railway in this Act described for extending their railway to New Brighton and to raise further money for that purpose:

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And whereas plans and sections showing the line and levels of the railway authorised by this Act 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 clerk of the peace for the county of Chester and are herein-after respectively referred to as the deposited plans sections and books of reference:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

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

Short title.

1. This Act may be cited as the Seacombe Hoylake and Dee Side Railway Act 1882.

Incorporation of Acts. 8 & 9 Vict. c. 16.

2. The clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters that is to say:—

The distribution of the capital of the Company into shares:

The transfer or transmission of shares:

The payment of subscriptions and the means of enforcing the payment of calls:

The forfeiture of shares for nonpayment of calls:

The remedies of creditors of the Company against the shareholders:

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

The conversion of the borrowed money into capital:

The consolidation of the shares into stock:

The making of dividends:

The giving notices: and

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

26 & 27 Vict. c. 118.

and Parts I. II. and III. of the Companies Clauses Act 1863 relating respectively to cancellation and surrender of shares additional capital and debenture stock as amended by the Companies Clauses Act 1869 the Lands Clauses Consolidation Acts 1845 1860 and 1869 the Railways Clauses Consolidation Act 1845 and Part I. (relating to construction of a railway) of the Railways Clauses Act 1863 are (except where expressly varied by this Act) incorporated with and form part of this Act.

32 & 33 Vict. c. 48. 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. 32 & 33 Vict. c. 18. 8 & 9 Vict. c. 20.

26 & 27 Vict. c. 92.

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 railway.

4. 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 railway herein-after described with all necessary and convenient 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 railway herein-before referred to and authorised by this Act will be situate in the county of Chester and is as follows—

A railway (on the deposited plans and sections called Railway No. 4) 2 miles 1 furlong 8·80 chains or thereabouts in length commencing in the township of Poulton-cum-Seacombe in the parish of Wallasey by a junction with the Railway No. 1 authorised by the Seacombe Hoylake and Dee Side Railway Act 1881 and terminating in the township of Liscard in the same parish at a point about three and a half chains westward from the western end of Victoria Road at its junction with Warren Drive.

Protection of Mersey Docks and Harbour Board.

5. Nothing in this Act contained shall authorise or empower the Company to enter upon take or use any land belonging to the Mersey Docks and Harbour Board without in every such case the consent in writing of that board under their common seal.

For protection of the Wallasey Local Board.

6. For the protection of the local board for the district of Wallasey (in this section called "the board") the following provisions shall have effect that is to say :—

(1.) Before the Company execute any work or do anything whereby the passage or flow of any gas or water in any existing main or pipe belonging to or under the control of the board may be interrupted or interfered with they shall at the cost of the Company provide to the reasonable satisfaction of the gas and water manager of the board a substituted main or pipe and connect the same with some other main or pipe of the board.

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(2.) If in the district of the board the railway or any work connected therewith interfere with any sewer drain watercourse subway defence or work in such district or in any way affects the sewerage or drainage of such district the Company shall not commence such railway or work until they shall have given to the board twenty-eight days previous notice in writing of their intention to commence the same by leaving such notice at the principal office of the board with all necessary particulars relating thereto nor until the board shall have signified their approval of the same unless the board do not signify their approval disapproval or other directions within twenty-eight days after service of the said notice and particulars as aforesaid and the Company shall comply with and conform to all reasonable directions and regulations of the board in the execution of the said works and shall provide by new altered or substituted works in such manner as the board shall reasonably require for the proper protection of and for preventing injury or impediment to the sewers and works herein-before referred to by or by reason of the railway and shall save harmless the board against all and every the expense to be occasioned thereby and all such works shall be done under the direction superintendence and control of the surveyor or other officer or officers of the board at the reasonable costs charges and expenses in all respects of the Company and when any new altered or substituted work as aforesaid or any works or defence connected therewith shall be completed by or at the costs charges or expenses of the Company under the provisions of this Act the same shall thereafter be as fully and completely under the direction jurisdiction and control of the board and be maintained by them as any other sewers or works in their district.

(3.) The public roads to be carried by bridges over the railway in the district of the Wallasey Local Board shall have a clear space between the fences thereof of not less than thirty feet and the bridges for carrying the railway over public roads within that district shall be so constructed as to leave a clear space of thirty feet at least thereunder. All the said bridges shall be constructed in the direction of the said roads.

(4.) The gradient of the road numbered 8 on the deposited plans in the parish of Wallasey where the same is carried over the railway shall not be steeper than 1 in 25.

(5.) The gradient of the approach road numbered 62 on the deposited plans in the parish of Wallasey where the same is carried over the railway shall not be steeper on the west side than 1 in 24 and on the east side shall be carried out uniformly

to the present level of the surface of the road at its junction with Wallasey Road.

(6.) The road numbered 131 on the deposited plans in the said parish of Wallasey shall not without the consent of the board be lowered more than 2 feet below its present level where the said road is crossed by the railway and the approaches to such crossing on the north side shall be level and on the south side not steeper than 1 in 30.

(7.) The gradient of the road numbered on the deposited plans 135 in the said parish of Wallasey where the same passes under the railway shall not be steeper on the south side than 1 in 30 and on the north side shall be carried out level until it intersects the present surface of the road.

(8.) Any difference which may from time to time arise between the Company and the board in reference to anything mentioned in this section shall be determined by arbitration in manner provided by the Railways Clauses Consolidation Act 1845 with respect to the settlement of disputes by arbitration.

Lands for extraordinary purposes.

7. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 for the purposes of or in connexion with the railways by this Act authorised shall not exceed one acre.

Power to take easements &c. by agreement.

8. 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 Company any easement right or privilege not being an easement of water 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.

Period for compulsory purchase of lands.

9. The powers of the Company 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.

Penalty imposed unless railway opened within the time limited.

10. If the Company fail within the period limited by this Act to complete the railway by this Act authorised 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 is completed and opened for public traffic or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the works and the said penalty may be applied for by any

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landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act or by the Solicitor of Her Majesty's Treasury and in the same manner as the penalty provided in the third section of the Act 17 and 18 Victoria chapter 31 known as 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 and with the privity of Her Majesty's Paymaster General on behalf of the Chancery Division of the High Court of Justice in England in the bank named 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 were prevented from completing or opening the 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.

17 & 18 Vict. c. 31.

Application of penalty.

11. 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 person whose property may have been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or any portion or portions thereof or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act and for which injury or loss no compensation or inadequate compensation has been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Chancery Division of the High Court of Justice in England may seem fit and if no such compensation shall be payable or if a portion of the sum or sums of money recovered by way of penalty as aforesaid shall have 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 either be forfeited to Her Majesty and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Chancery Division thinks fit to order on the application of the Solicitor of Her Majesty's Treasury and shall be carried to and form part of the Consolidated Fund of the United Kingdom or in the discretion of the said Division if the Company is insolvent and has been ordered to be wound up or a receiver has

been appointed shall wholly or in part be paid or transferred to such receiver or to the liquidator or liquidators of the Company or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

Period for completion of works.

12. If the railway by this Act authorised is 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 same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Tolls &c. on railway.

13. The Company may from time to time demand and take for or in respect of the railway by this Act authorised such and the like tolls rates and charges as by the Hoylake Railway Act 1863 are authorised to be demanded and taken for or in respect of the railways thereby authorised as if the railway by this Act authorised had been authorised by that Act.

Power to apply funds.

14. The Company may apply for any of the purposes of this Act to which capital is properly applicable any moneys which they are by any previous Act of Parliament authorised to raise by shares or stock debenture stock or borrowing and which are not by the Act or Acts under which they are authorised to be raised made applicable to any special purposes or which being so made applicable are not required for such special purposes.

Power to raise additional capital.

15. The Company (in addition to any capital which by any previous Act or Acts they are authorised to raise) may from time to time for the purposes of this Act raise by the creation and issue of new ordinary or new preference shares or stock or partly by ordinary and partly by preference shares or stock any sum or sums not exceeding sixty thousand pounds. Provided that the dividend on any such preference shares or stock shall not exceed the rate of six per centum per annum.

Shares not to be issued until one fifth paid.

16. The Company shall not issue any share created under this Act of less nominal value than ten pounds nor shall any share vest in the person accepting the same unless and until a sum not being less than one fifth of the amount of the share be paid in respect thereof.

Calls.

17. One fourth of the amount of a share shall be the greatest amount of a call and three months at least shall be the interval between successive calls and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

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Receipt for persons not sui juris.

18. If any money is payable to a shareholder being an infant or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to borrow.

19. The Company may in respect of the additional capital of sixty thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage any sum not exceeding in the whole twenty thousand pounds but no part of such sum shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted and one half of such capital is paid up and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 (before he so certifies) that shares for the whole of such capital have been issued and accepted and that one half of such capital has been paid up and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one half of so much of the 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 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 if any part of the respective 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.

Existing mortgages to have priority.

20. All mortgages granted by the Company in pursuance of any Act of Parliament before the passing of this Act and subsisting at the passing hereof shall during their continuance and subject to the provisions of the Acts under which the same were respectively granted and of this Act have priority over any mortgages granted by virtue of this Act but nothing in this section shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Repealing provisions as to appointment of a receiver.

21. The provisions of the Seacombe Hoylake and Dee Side Railway Act 1881 as to the appointment of a receiver are hereby repealed but without prejudice to any appointment made or proceedings taken before the passing of this Act.

For appointment of a receiver.

22. The mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one tenth of the amount for the time being owing by the Company upon mortgages.

Debenture stock.

23. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 but notwithstanding anything therein contained the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company and shall have priority over all principal moneys secured by such mortgages.

Application of money.

24. All moneys by this Act authorised to be raised by shares or stock or debenture stock or by borrowing shall be applied only for the purposes of this Act and of the Acts herein-before recited relating to the Company to which capital is properly applicable.

Classification table to be open to inspection and copies to be sold.

25. The book tables or other document in use for the time being containing the general classification of goods carried by goods or merchandise train on the railways of the Company shall during all reasonable hours be open to the inspection of any person without the payment of any fee at every station at which goods or merchandise are received for transmission and such book tables or other document as annually revised shall be kept on sale at the principal office of the Company at a price not exceeding one shilling.

Terminal charges (if any) to be specified on application.

The Company shall within one week after application in writing made to the secretary of the Company by any person interested in the carriage of any goods which have been or are intended to be carried over the railway render an account to the person so applying in which the charge made or claimed by the Company for the carriage of such goods shall be divided and the charge for conveyance over the railway shall be distinguished from the terminal charges if any and if any terminal charge is included in such account the nature and detail of the terminal expenses in respect of which it is made shall be specified.

Penalty.

If the Company fail to comply with the provisions of this section they shall for each offence and in the case of a continuing offence for every day during which the offence continues be liable to a penalty not exceeding five pounds which penalty shall be recovered and applied in the same manner as penalties imposed by section 14 of the Regulation of Railways Act 1873. 36 & 37 Vict. c. 48.

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Interest not to be paid on calls paid up.

26. The Company shall not out of any money by this Act authorised to be raised pay interest or dividend 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 authorised to be taken by the Company.

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.

LONDON: Printed by George E. B. Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1882.