could not be taken at *nisi prius*, but should have been raised by demurrer, inasmuch as if the defendants are right the declaration is insufficient.

Karslake, Q.C., and *H. Holland*, for the defendants.—The fallacy of plaintiff's argument is, that if a corporation is authorised to do anything requiring money, that money is to be raised by a bill of exchange. The defendants have no express or implied power of accepting bills—their duty is first to construct the railway and then to act as carriers, and they are not a trading company. The distinction is between a company incorporated for the purpose of trading and one which only incidentally engages in trade. 1. The acceptance of a bill is *ultra vires*, and will not bind the defendants, even though under seal. Per Parke, B., in *South Yorkshire Railway and River Dun Company* v. *Great Northern Railway Company*, 9 Ex. 84; *Chambers* v. *The Manchester and Midland Railway Company*, 12 W. R. 980, 33 L. J. Q. B. 268; *Aggs* v. *Nicholson*, 4 W. R. 376, 25 L. J. Ex. 348; *Thompson* v. *The Universal Salvage Company*, 1 Ex. 694; *Bramah* v. *Roberts*, 3 Bing. N. C. 968; *Butt* v. *Morrell*, 12 Ad. & Ell. 745. Nor is this defect assisted by the general words in the defendants' Act? *Burmester* v. *Norris*, 6 Ex. 796. In some cases a partner cannot bind aonther by accepting a bill: *Dickinson* v. *Valpy*, 10 B & C. 128; *Steel* v. *Harmer*, 14 M. & W. 831. 2. A corporation can only contract by deed and though this bill is accepted under seal it is not a deed: *Mayor of Ludlow* v. *Charlton*, 6 M. & W. 815. The exceptions to this rule are correctly stated by Best, C.J., in the *East London Waterworks* v. *Bailey*, *suprâ*. [Byles, J.—You say that the defendants may be liable for goods sold and delivered, and for work done, but not upon a bill of exchange.] Yes; 7 & 8 Vict. c. 110, s. 45, points out what formalities are necessary when bills are accepted by joint stock companies; but this only applies when companies have express power to accept. At any rate the acceptance, to be binding at all, must be in the form pointed out by 8 & 9 Vict. c. 16, s. 97, which is incorporated in the defendants' private Act. *The Leominster Canal Navigation Company* v. *The Shrewsbury and Hereford Railway Company*, 26 L. J. Ch. 764; *Ernest* v. *Nichols*, 6 W. R. 24, 6 H. L. Cas. 401; *Halford* v. *Cameron's Steam Coal Company*, 16 Q. B. 442. 3. The defendants are entitled to take this objection now. If we had demurred to the declaration the plaintiff might have urged, in the argument on the demurrer that it did not appear that they had not the power to accept, and we had no power of raising the point until we proved the Acts by which they are incorporated: Byles on Bills, 62

Bovill, Q.C., and *J. C. Matthew*, for Overend, Gurney, & Co.—1. The bill is on the face of it binding; the defendants are not prohibited by any Act of Parliament from accepting bills, and it rests with them to show that this bill is not binding on them: *Scottish North Eastern Railway Company* v. *Stewart* 7 W. R. 458, 3 Macq. 382, where Lord Wensleydale says (p. 415), "*Primâ facie* all its contract are valid, and it lies on those who impeach any contracts to make out that it is avoided:" *Bostock* v. *North Staffordshire Railway Company*, 4 E. & B. 799; Maule, J., in *East Anglian Railway Company* v. *Eastern Counties Railway Company*, 11 C. B. 792. 2. It is admitted that a railway company may incur a liability, but it is said that they may not secure that liability by a bill: *Serrell Derbyshire Railway Company*, 19 L. J. C. B. 371. It was never doubted that a company could draw a cheque. 3. The form of the acceptance is sufficient; 7 & 8 Vict. c. 19, s. 97, is not imperative: *Wilson* v. *The Hartlepool Railway Company*, 13 W. R. 4, 34 L. J. Ch. 241.

Erle, C.J.—These were actions by the plaintiffs as indorsees against the defendants' company as the acceptor of certain bills of exchange; the defendants pleaded that they had not accepted the bills. It appeared that the defendants were incorporated for the purpose of making a railway, and possessed all the incidental powers for making one, given to them by their special Act, and by the general Acts affecting railways. The defendants company was a corporation for a distinct purpose distinctly defined in these statutes. I take it to be perfectly established in law that a corporation established for a distinct purpose cannot make a contract, as a corporation, distinct from that purpose. Such a contract does not bind because it is *ultra vires*; whether a contract binds or not when entered into by such a corporation depends on whether the contract is within the limits of the object of the corporation. The question here raised is whether a corporation created for the purpose of making a railway can bind the company by the acceptance of bills of exchange. I am of opinion that it cannot. A bill of exchange is a cause of action by itself, and a contract by itself. It binds the acceptor in the hands of any indorsee to whom it may come, and I consider it to be entirely contrary to the principles relating to bills of exchange to introduce the notion that bills of exchange may be valid or void according as the consideration for which they were given is valid or void, and whether the purpose for which they were given is in accordance with what the corporation was constituted to do or not; a portion of such bills might be valid because given for work done on the railway, and another portion of them, yet void if given for loans, and to raise money beyond the borrowing powers of the corporation given them by their statute. These were obviously circumstances not contemplated by the law as affecting bills of exchange, that one bill should be valid because given for work done, while another bill should be void because given for purposes not within the scope of the powers of the corporation. So much for the general tenour and bearing of the question. On authority I can find no case of an acceptance of a bill of exchange by a corporation of which the law enforced payment, with certain exceptions, and those exceptions prove the rule. In the *Highgate Archway case* the company were authorised by their Act to issue bills, and in the instances of the Bank of England and the East India Company referred to, the statutes creating those corporations gave them express powers to accept bills of exchange, and their acceptance of such bills was an Act within their powers, but I find no other cases in which this power was exercised. In the case of *Broughton* v. *the Manchester Waterworks Company*, Mr. Justice Bayley doubted whether the holders of a bill of exchange accepted by the company could sue