the construction of these works; and were endorsed by J. Watson & Co. to the plaintiffs for value. The form of the acceptance was as follows:—

"Accepted by order of the board of Directors and payable at the Agra and Mastermans' Bank, Limited.

"John Wade, Secretary."

The bills were also impressed with the seal of the company

E. James, Q C, and *Sir G. E Honyman* now showed cause against the rule on behalf of Bateman and the National Discount Company.

1. The question is, has a railway company the right to accept bills of exchange? No doubt certain corporations have not that power, viz., those which are not incorporated for trading purposes. This company is incorporated to make a railway, and after that to act as carriers, for which it is necessary that they should trade by purchasing coal, carriages, &c., to be used for the purpose of their business. The true rule is stated in Storey on Bills of Exchange, s. 79. *Broughton* v. *Manchester Waterworks Company*, 3 B. & Ald. 1, is not in point, because it depended on the Bank Acts. No doubt the defendants could only accept for the purposes for which they were incorporated, but here it is not proved that these bills were accepted for any other purpose than that for which the defendants were incorporated. *Stark* v. *Highgate Archway Company*, 5 Taunt. 792 The rule is correctly stated in *East London Waterworks Company* v. *Bailey*, 4 Bing. 283, that where a company like the Bank of England, or the East India Company is incorporated for the purposes of trade, it seems to result from the very object of its being so incorporated, that it should have power to accept bills or notes. [Byles J.—The Highgate Archway Company had an express power, and the Bank of England and the East India Company implied powers of accepting bills: *Murray* v. *East India Company*, 5 B. & Ald. 204.] No power was given to the East India Company to accept; they were only a trading company. The power of the bank to accept is regulated by 9 & 10 Will. 4, c. 44. It is admitted that the defendants were carriers, and if so they would be traders, and would be liable to the Bankruptcy Act. [Erle, C. J.—Carriers were brought within the Bankruptcy Act, *eo nomine*.] Byles, J.—Lloyds' Bonds would have been unnecessary if the companies had no power of accepting bills.] Story on Partnerships, c. 7, s. 102. [Keating, J., referred to 7 & 8 Vict. c. 85, s. 19.] That was passed for the purpose of preventing the issue of loan notes. 2. The defendants say that even if the company had the power of accepting these bills, these are not accepted in the proper form, and that they should be signed by two directors as directed by 8 & 9 Vict. c. 16, s. 87. But that Act was not intended to take away any power of contracting, which companies possessed at common law, and at common law the contract might have been made under seal. 3. This objection 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; *Brumah* v. *Roberts*, 3 Bing. N. C. 963; *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 another 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*, *supra*. [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