CHAPTER clxii.

An Act to confer further powers on the Blackpool Railway Company. A.D. 1889.

[12th August 1889.]

WHEREAS by the Blackpool Railway Act 1884 (in this Act referred to as "the Act of 1884") the Blackpool Railway Company (hereinafter called "the Company") were incorporated and empowered to make a railway from the West Lancashire Railway at Preston to Lytham and Blackpool in the county of Lancaster:

And whereas the Company have proceeded to exercise the powers of the Act of 1884 and have acquired or contracted for a considerable portion of the land required for the purposes of the railways and works thereby authorised:

And whereas the powers of the Company for the compulsory purchase of lands for the purposes of the Act of 1884 have expired and the period limited for the completion of the railways and works will expire on the seventh day of August one thousand eight hundred and eighty-nine and it is expedient that such compulsory powers be revived and that the period for the completion of the railways and works be extended as by this Act provided:

And whereas it is expedient that the Company should be empowered to construct the works and exercise the powers in this Act mentioned:

And whereas it is expedient to authorise the West Lancashire Railway Company and the Liverpool Southport and Preston Junction Railway Company to contribute towards the capital of the Company:

And whereas plans and sections showing the lines and levels of the works by this Act authorised and the lands in or through which the same respectively are intended to be made and books of reference to those plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the

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said lands respectively have been deposited with the clerk of the peace for the county palatine of Lancaster and are in this Act 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 (that is to say):—

Short title.

1. This Act may for all purposes be cited as the Blackpool Railway Act 1889.

Incorporation of general Acts.

2. The undermentioned enactments are except where expressly varied by this Act incorporated with and form part of this Act:—

The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883;

The Railways Clauses Consolidation Act 1845 and Part II. (relating to extension of time) 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.

Renewing and extending time for purchase of lands under Act of 1884.

4. Notwithstanding the expiration of the period limited by the Act of 1884 for the exercise by the Company of the powers for the compulsory purchase and taking of lands for the purposes of the railways and works by that Act authorised such powers are by this Act revived and may be exercised by the Company for and during a period of two years from and after the passing of this Act.

Extending time for completing railways authorised by Act of 1884.

5. The time limited by the Act of 1884 for the completion of the railways and works by that Act authorised is hereby extended for a period of three years from the seventh day of August one thousand eight hundred and eighty-nine and sections forty and forty-one of the Act of 1884 shall be read and have effect accordingly.

Time limited for completion of railways.

6. If the railways and works shall not be completed within the extended period granted by this Act then on the expiration of such period the powers by the Act of 1884 and 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 shall then be completed.

Power to the Company to make new road &c.

7. Subject to the provisions of this Act the Company may make in the lines and according to the levels shown on the deposited plans and sections the new road and footpaths and stream diversions in the county of Lancaster hereinafter described with all proper works and conveniences connected therewith respectively and they may exercise the other powers hereinafter mentioned and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for those purposes (that is to say) :—

In the township of Freckleton in the parish of Kirkham—

(1) They may divert the stream or estuary known as Freckleton Pool such diversion commencing at a point in the said stream or estuary sixty-eight yards or thereabouts measured in a northerly direction from the north-west corner of the ship-building shed belonging or reputed to belong to Peter Rawstorne and Henry Allenson and terminating in the said stream or estuary at a point twenty-two yards or thereabouts from the south-east corner of the farm buildings in the occupation of John Whiteside measured in a line with the southern wall of such farm buildings :

(2) They may stop up and discontinue so much of the footpath leading from a point distant forty yards or thereabouts measured in a southerly direction from the north-east corner of the close or field numbered 579 on the tithe map (made in the year 1838 for the township of Freckleton) to the road known as Naze Lane as lies between the first-mentioned point and a point one hundred and eighty-seven yards or thereabouts measured along the said footpath in a westerly and south-westerly direction from the said first-mentioned point : and

(3) They may make and substitute new footpaths one commencing in the existing footpath at or near the point lastly described and terminating in the road along Freckleton Pool leading from Freckleton village to the Naze at a point three yards or thereabouts measured in a southerly direction from the south-east corner of the farmhouse in the occupation of John Whiteside and the other commencing by a junction with the present footpath at the north-east corner of the said field

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numbered 579 and terminating in the road running along Freckleton Pool at a point forty-five yards or thereabouts measured along that road in a northerly direction from the south-east corner of the said farmhouse in the occupation of John Whiteside:

In the township of Marton in the parish of Poulton-in-the-Fylde and the township of Layton-with-Warbreck in the parish of Bispham or one of them in the borough of Blackpool—

(4) They may divert the public road known as the Revoe Road such diversion commencing at a point in the said road seventy-seven yards or thereabouts measured in a south-easterly direction from the southernmost corner of the house known as 68 Revoe Road and terminating at a point in the said road fifty-six yards or thereabouts from the south-east corner of Kent Road measured in a north-easterly direction along the centre of Revoe Road.

For protection of the Corporation of Blackpool.

8. For the protection of the mayor aldermen and burgesses of the borough of Blackpool (in this section called "the Corporation") the following provisions shall have effect (that is to say):—

(1) In this section "the plan" means the plan signed in duplicate for the purposes of this section by Robert William Perks on behalf of the Company and by the town clerk on behalf of the Corporation;

"Great Marton Road continuation" means the road coloured red on the plan;

"The railway" means Railway No. 2 authorised by the Act of 1884;

"The plans of 1883" means the plans deposited with the clerk of the peace for the county palatine of Lancaster in the month of November 1883 for the purposes of the Act of 1884 and terms to which meanings have been assigned in section 37 of that Act have in this section the same meaning;

(2) The several provisions in section 37 of the Act of 1884 for the protection of the Corporation in relation to the works and powers by that Act authorised shall (subject to the provisions of this section) extend and apply mutatis mutandis to and in relation to the works and powers by this Act authorised so far as those provisions respectively are applicable thereto;

(3) Subject as is hereinafter provided so much of the lands shown on the plans of 1883 as is coloured red on the plan shall (so far as the Company have any control or authority over the same) for ever hereafter remain a public highway;

(4) If the Company divert Revoe Road they shall construct the diverted road within the red lines between the points marked A and B on the plan;

(5) Before the Company construct any bridge carrying Revoe Road over the railway they shall submit a plan of the proposed bridge to the Corporation and if the Corporation within two months from such submission give to the Company notice in writing under the hand of the town clerk that the Corporation desire such bridge to be of a greater width between the parapets or fences than forty-two feet the Company shall construct the bridge of the width (not exceeding the full width of the road) so required by the Corporation and the difference in cost shall be paid by the Corporation to the Company;

(6) If the railway in lieu of being constructed across or under Revoe Road in the line shown on the plans of 1883 shall be constructed across or under the Great Marton Road continuation or any part thereof west of the situation indicated by the dotted blue line marked DD on the plan the Company shall carry the Great Marton Road continuation over the railway by a proper and sufficient bridge which together with the approaches thereto shall have an uniform clear space between the parapets or fences thereof respectively of not less than forty-five feet measured on the square and the centre line of such bridge and of the Great Marton Road continuation shall be a continuous straight line Before the Company construct any such bridge carrying the Great Marton Road continuation or any part thereof over the railway they shall submit a plan of the proposed bridge to the Corporation and if the Corporation within two months from such submission give to the Company notice in writing under the hand of the town clerk that the Corporation desire such bridge to be of a greater width between the parapets or fences than forty-five feet the Company shall construct the bridge of the width (not exceeding the full width of the road) so required by the Corporation and the difference in cost shall be paid by the Corporation to the Company;

(7) If any part of the railway shall be constructed across or under Revoe Road and the Great Marton Road continuation between the situations indicated by the dotted blue lines marked CC and DD on the plan the Company shall carry both such roads over the railway by a proper and sufficient bridge and the said bridge shall have a clear space between the parapets or fences (measured on the square) of not less than the full width of the entire space occupied by both such roads

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between the said situations indicated by the said blue lines marked CC and DD on the plan and the three several approaches to such bridge shall respectively have an uniform clear space between the parapets or fences equal to the present full widths of Revoe Road and Great Marton Road continuation respectively;

(8) If any part of the railway shall be constructed across or under Revoe Road south-east of the situation indicated by the dotted blue line marked CC on the plan and within one hundred and twenty-five yards thereof the three several approaches to the bridge carrying Revoe Road over the railway shall respectively have an uniform clear space between the parapets or fences equal to the present full widths of Revoe Road and Great Marton Road continuation respectively including the full space at the junction thereof;

(9) Except as hereinafter provided no part of any ascent to any bridge carrying Revoe Road or the Great Marton Road continuation or both such roads over the railway shall be steeper than one foot in thirty feet Provided that so much of any such ascents as shall consist of the portion of Revoe Road coloured green on the plan may be not steeper than one foot in twenty feet;

(10) When and so soon as the railway shall be completed the Corporation shall at their own expense maintain and keep in repair the surface of so much of Revoe Road as is coloured green upon the plan and the Company shall at their own expense maintain and keep in repair the surface of the said Great Marton Road continuation as part of any approach or approaches to the bridge carrying Revoe Road or the Great Marton Road continuation or both such roads over the railway and the said Great Marton Road continuation shall be and be deemed to be a public highway and the provisions of the Railways Clauses Consolidation Act 1845 shall (except as otherwise provided by this section) apply thereto accordingly Provided that the Company shall not be compellable in the first instance to pave with setts the carriage-way or to flag the footways of the said Great Marton Road continuation but the Corporation may at their own cost at any time if they think fit pave the said carriage-way with setts or other material and flag the said footways and the same shall respectively be subsequently maintained and repaired by and at the cost of the Company;

(11) Except as herein expressly provided nothing in this Act contained shall take away abridge alter or prejudicially

affect any rights powers jurisdictions authorities privileges or remedies of the Corporation under or by virtue of the Act of 1884.

For the protection of the Lytham Improvement Commissioners.

9. For the protection of the Lytham Improvement Commissioners (in this section referred to as "the commissioners") the following provisions shall have effect (that is to say):—

(1) "The plans of 1883" and "the sections of 1883" mean respectively the plans and the sections deposited with the clerk of the peace for the county palatine of Lancaster in the month of November 1883 for the purposes of the Bill for the Act of 1884 "Railway No. 1" and "Railway No. 2" mean respectively Railway No. 1 and Railway No. 2 respectively authorised by the Act of 1884;

(2) The provisions of this section shall have effect notwithstanding anything shown on the plans of 1883 or the sections of 1883 or expressed or implied in the Act of 1884;

(3) The road numbered on the plans of 1883 57 in the township of Lytham shall be carried over Railway No. 1 and the road numbered on the plans of 1883 9 in the same township and the road shown on the plans of 1883 as on the western end of the proposed Lytham Station shall be respectively carried over Railway No. 2 in such a manner that no part of the gradient of any of the said three roads shall be made steeper than one in thirty and the Company shall fill up the space between the bridges carrying those several roads over the said respective railways and the bridges carrying the same roads respectively over the Lancashire and Yorkshire Railway so that the roadway upon and between the said bridges respectively shall in the case of each of the said three roads be either level or shall have a continuous gradient;

(4) Railway No. 1 authorised by the Act of 1884 shall be carried over the road numbered on the plans of 1883 38 in the township of Lytham by means of a flat girder bridge the width of which measured on the square between the abutments thereof shall be equal to the full width of that road and the height of which above the surface of the road shall not in any part be less than sixteen feet and the inclination of the said road as altered shall not be steeper on the south side of the said Railway No. 1 than one in twenty and shall tail out on the north side thereof by an uniform gradient to its junction with the highway leading to Kirkham and numbered on the plans of 1883 53 in the said township of Lytham;

(5) The Company shall if so required in writing by the commissioners purchase the slaughter-houses of the commissioners

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shown on the plans of 1883 for such sum as may be agreed on between the commissioners and the Company or as failing agreement shall be settled under and according to the provisions of the Lands Clauses Consolidation Act 1845 for settling cases of disputed compensation Provided that the commissioners shall not require the Company to purchase the said slaughter-houses unless and until the contract for the construction of Railway No. 1 shall have been let and entered into.

For protection of trustee of William Mawdsley Charnley and Preston Banking Company Limited.

10. If at any time after the passing of this Act Albert Road and Charnley Street in the township of Layton-with-Warbreck in the parish of Bispham in the borough of Blackpool or either of those roads are stopped up discontinued or prejudicially interfered with by the Company they shall pay compensation to the trustee or trustees of the will of William Mawdsley Charnley deceased and the Preston Banking Company Limited as owners of the estate called Banks Estate or to their respective successors in title for all damage which will or may be caused to the said trustee or trustees and to the Preston Banking Company Limited or to either of them or to their respective successors in title or to their said estate by reason of the stopping up discontinuance or interference with such roads or either of them.

Power to deviate in construction of road &c.

11. Subject to the provisions of this Act the Company in constructing the diverted road footpaths and other works hereinbefore described may deviate from the lines thereof shown on the deposited plans to the extent of the limits of deviation marked on those plans and may deviate from the levels shown on the deposited sections to an extent not exceeding two feet upwards or five feet downwards.

Substituted roads &c. to be repaired by same parties as existing road &c.

12. Subject to the provisions of this Act the road and footpaths to be made under the authority of this Act shall upon the completion thereof respectively vest in and be repaired and maintained by and at the expense of the same parties in the same manner and to the same extent as other roads and footpaths within the townships or parishes respectively in which such road and footpaths will be situate are from time to time liable to be repaired or maintained If any question shall arise between the Company and any of such parties as to the due completion of the new or diverted road or footpaths or any of them such question shall from time to time be determined by two justices on the application of either of the parties in difference and after not less than seven days' notice to both parties of the sitting of such justices for the purpose and the certificate of such justices of the due completion of such new or diverted road

or footpaths respectively shall be conclusive evidence of the fact so certified.

As to vesting in Company of site and soil of portions of footpath &c. stopped up.

13. The site and soil of the portions of footpath and stream by this Act authorised to be stopped up and discontinued and the fee simple and inheritance thereof but so far only as such footpath is bounded on both sides by lands of the Company shall be from the time of the stopping up thereof respectively 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.

Extinguishment of rights of way.

14. Subject to the provisions of this Act all rights of way over and along the portion of footpath which may under the provisions of this Act be stopped up and discontinued and over and along any of the lands which may under those provisions be purchased or acquired by compulsion shall be and the same are as from the stopping up or discontinuance of the said portion of footpath or the purchase or acquisition of the said lands hereby extinguished.

The Company shall not stop up any existing footpath until they have completed to the satisfaction of two justices and opened to the public the footpath (if any) to be substituted therefor.

Period for compulsory purchase of lands.

15. 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 two years from the passing of this Act.

West Lancashire Railway Company and Liverpool Southport and Preston Junction Railway Company may subscribe and apply funds for that purpose.

16. The West Lancashire Railway Company and the Liverpool Southport and Preston Junction Railway Company may respectively with the authority of three-fourths of the votes of their shareholders present in person or by proxy at a general meeting of each of the said companies specially convened for the purpose from time to time subscribe any sums which they think fit towards the undertaking of the Company not exceeding in the whole twenty-five thousand pounds each and the said companies may respectively with the like authority contribute and apply in or towards payment of their said contributions or subscriptions any moneys which they are already authorised to raise and which may not be required by them for the purposes of their own undertakings and the said companies shall in respect of the sums to be contributed or subscribed by them respectively and the corresponding shares in the Company to be held by them have all the powers rights and privileges (except in regard to voting at general meetings which shall be as hereinafter provided) and be subject to all the obligations and liabilities of proprietors of shares in the Company Provided always that the West Lancashire Railway Company and the Liverpool Southport and Preston Junction Railway Company shall not sell dispose of or transfer

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any of the shares in the Company for which they may respectively subscribe.

Votes at general meetings.

17. The West Lancashire Railway Company and the Liverpool Southport and Preston Junction Railway Company whilst shareholders of the Company may respectively by writing under their common seals from time to time appoint some person to attend any meeting of the Company and such person or persons shall have all the privileges and powers attaching to a shareholder of the Company at such meetings and may vote thereat in respect of the capital held by the West Lancashire Railway Company and the Liverpool Southport and Preston Junction Railway Company respectively.

Period for completion of works.

18. If the works by this Act authorised are not completed within three years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for the purposes of those works or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

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 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.

Restrictions on displacing persons of labouring class.

20.—(1) The Company shall not under the powers of this Act or under the powers of any former Act revived or extended by this Act purchase or acquire in any city borough or other urban sanitary district or any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December next before the passing of this Act or of the respective former Act by which the purchase or acquisition was originally authorised as the case may be were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers 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 respective fifteenth day of December aforesaid 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 conditions subject to which the Local Government Board may have approved of any scheme under this section 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 of Justice.

(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 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 of Justice 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 such scheme under this section such scheme shall for all purposes be deemed to be an undertaking of the Company and 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 within the

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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 purpose 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 passing of this Act 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 directed by the Local Government 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) For the purposes of this section the expression "labouring class" includes mechanics artisans 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.

Works below high-water mark not to be commenced without consent of Board of Trade.

21. The Company shall not construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and re-flows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries or assistant-secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of such approval being signified as last aforesaid and when any such work may have been constructed the Company shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals If any such work be commenced or completed contrary to the provisions of this Act the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the cost and charge of the Company and the amount of such costs and charges shall be a debt due from the Company to the Crown and shall be recoverable accordingly with costs.

Provision for general railway Acts.

22. Nothing herein contained shall be deemed or construed to exempt the railways of the Company from the provisions of any general Act relating to railways or to 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.

Expenses of Act.

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

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