CHAPTER cxxxviii.

An Act to amend the Acts relating to the King's Lynn DockCompany and to confer further powers upon that Company. A.D. 1881.

[18th July 1881.]

WHEREAS by the King's Lynn Docks and Railway Act 1865 (in this Act called "the Act of 1865") the King's Lynn Dock Company (in this Act called "the Company") were incorporated and authorised to construct a dock and other works at King's Lynn in the county of Norfolk: 28 & 29 Vict. c. lxxxviii.

And whereas the Act of 1865 was amended and the powers of the Company thereunder were extended by the King's Lynn Dock Act 1869 (in this Act called "the Act of 1869") and the King's Lynn Dock Act 1873 (in this Act called "the Act of 1873"): 32 & 33 Vict. c. xl. 36 & 37 Vict. c. v.

And whereas by the King's Lynn Dock Act 1877 (in this Act called "the Act of 1877") the Company were authorised to construct a new dock and other works and by section twelve of that Act the Company were required to construct in connexion with Fisher Fleet a landing-stage platform and other works and it was provided that those works should unless otherwise agreed between the corporation of King's Lynn and the Company be constructed as shown upon the plan therein mentioned: 40 & 41 Vict. c. cxvi.

And whereas the Company deem it more convenient to construct the said works otherwise than as shown upon the said plan and the corporation concur in the proposed alteration:

And whereas by section sixteen of the said Act the Company are required before interfering with the Fisher Fleet to make a new cut culverts and other works for the protection of the commissioners of sewers of the county of Norfolk:

And whereas it is expedient that the said provisions should be altered and other provisions made instead thereof:

And whereas plans and sections showing the line and levels of the works authorised by this Act to be substituted for the said cut and culverts and also a book of reference containing the names of

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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 Norfolk and are herein-after respectively referred to as the deposited plans sections and book of reference:

And whereas the period limited by the Act of 1877 for the completion of the dock and works thereby authorised will expire on the twenty-third day of July one thousand eight hundred and eighty-two and it is expedient that the same should be extended:

And whereas the Company were by the Act of 1865 authorised to raise sixty-six thousand pounds by shares and have issued the whole of such share capital which has been fully paid up except to the extent of six thousand five hundred and ninety-two pounds and forms the original capital of the Company:

And whereas by the Act of 1869 the Company were authorised to raise nine thousand five hundred pounds by shares or stock and they have raised the whole of such sum of nine thousand five hundred pounds as preference stock:

And whereas by the Act of 1873 the Company were authorised to raise sixty thousand pounds by shares or stock and the Company have under powers conferred on them by that Act raised thirty-seven thousand eight hundred and forty pounds part of the said sum of sixty thousand pounds as a separate preference capital which is secured primarily under that Act and the Act of 1877 upon the profits arising from warehouses and other conveniences and works and the Company have not issued the balance of the said sum of sixty thousand pounds:

And whereas the Company were by the Act of 1877 authorised to raise by shares or stock one hundred and thirty thousand pounds (thirty thousand pounds thereof to be applied to the general purposes of the Company and one hundred thousand pounds to the dock and works by that Act authorised) by new ordinary shares or stock or new preference shares or stock or wholly or partly by any one or more of those modes:

And whereas the Company have under the Act of 1877 created and issued thirty thousand pounds as preference capital bearing interest at the rate of six per centum per annum:

And whereas it is expedient that the Company should be empowered to consolidate all or any part of the preference capitals of the Company and to merge the separate warehouse capital in the consolidated stock:

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 King's Lynn Dock Act 1881.

Incorporation of general Acts. 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. 32 & 33 Vict. c. 18. 26 & 27 Vict. c. 92.

2. The Lands Clauses Consolidation Acts 1845 1860 and 1869 and Part II. of the Railways Clauses Act 1863 relating to extension of time are incorporated with and form part of this Act.

Interpretation of terms.

3. In and for the purposes of this Act the several words and expressions to which meanings are assigned by the Acts incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction. The expression "the corporation" means the mayor aldermen and burgesses of the borough of King's Lynn. The expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partly 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 and the expression "railway" in Part II. of the Railways Clauses Act 1863 means the dock and works authorised by the Act of 1877.

Extension of time for completion of works

4. The time limited by section nineteen of the Act of 1877 for the completion of the dock and works by that Act authorised is hereby extended until the twenty-third day of July one thousand eight hundred and eighty-five and that Act shall be read and have effect accordingly.

Amendment of section 12 of 40 & 41 Vict. c. cxvi.

5. And whereas the Company have agreed with the corporation that the landing-stage and platform upon the Fisher Fleet and the works connected therewith mentioned in section twelve of the Act of 1877 shall be upon the north side of the Fisher Fleet instead of in the position shown on the plan referred to in that section as signed on behalf of the Company and the corporation the Company may construct and maintain the same accordingly and the said works when completed to the reasonable satisfaction of the corporation shall be deemed to be for all purposes of that Act the works required by that section.

Landing steps to be provided if required by Board of Trade.

6. The Company shall construct and maintain to the satisfaction of the Board of Trade in connexion with the landing-stage and platform authorised by section twelve of the Act of 1877 as

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amended by this Act such steps (if any) for the landing of goods and persons as the Board of Trade may from time to time require.

Repeal of section 16 of 40 & 41 Vict. c. cxvi.

7. Section sixteen (for protection of commissioners of sewers for the county of Norfolk) of the Act of 1877 is hereby repealed Provided that before any part of the Fisher Fleet below the outfall sluice of the commissioners of sewers for the county of Norfolk shall be covered in or interfered with the Company shall deepen and alter within the limits of deviation shown on the deposited plans the drain called the Gaywood and Bawsey Drain and shall make and maintain a culvert or drain from the said Gaywood and Bawsey Drain near the said sluice to join the culvert on the south side of the Alexandra Dock of the Company authorised by section twelve of the Act of 1877 and may for the purposes of those works enter upon take and use any lands delineated on the deposited plans and described in the deposited book of reference and the Company may divert into the said drain or culvert and thence into the River Ouse the waters or any of the waters discharged by the said Gaywood and Bawsey Drain All the said works shall be executed in every respect to the reasonable satisfaction of the engineer for the time being of the said commissioners and all reasonable expenses which may be incurred by the said commissioners in superintending the construction of the said new cut and works shall be paid by the Company and any difference which may arise under this section between the Company and the commissioners shall be referred to and determined by an arbitrator to be agreed upon or in default of agreement by an arbitrator to be appointed as umpire under the provisions of the Railways Clauses Consolidation Act 1845.

8 & 9 Vict. c. 20.

Protection of Duke of Portland.

8. Whereas the Most Noble William John Arthur Charles James Duke of Portland now is or claims to be the owner of the North Lynn Estate and of the trust lands referred to in section fourteen of the Act of 1877: And whereas provisions were inserted and are contained in the Act of 1877 for the protection of the said estate and lands some of which provisions are amended by this Act Therefore the following provisions shall have effect for the protection of the said estate and lands and of the owners thereof or of any part thereof for the time being herein-after referred to as the owners (that is to say):—

1. The Company shall permit and afford all reasonable facilities for enabling the corporation either alone or in conjunction with the Company and the owners or any of them or any other parties interested in the construction of the road next herein-after mentioned to make a new road between Austin

Street or the southern end of Pilot Street and the eastern end of Cross Bank Road in such line and according to such levels as may be agreed upon between the Company and the corporation or as failing agreement may be settled by arbitration as herein-after provided;

2. The Company shall for the purpose of permitting the said road to be carried over their railway which now crosses Pilot Street on the level lower the present level of the said railway to such an extent as may be necessary not exceeding two feet such lowering not to be at any point more than six chains to the eastward of Pilot Street;

3. Any difference which may arise between the parties in giving effect to the foregoing provisions shall be settled by arbitration in the manner provided by the Railways Clauses Consolidation Act 1845;

4. If it shall be necessary for the corporation to obtain further powers for the purchase of the land for or for the construction of the said new road the Company and the said owners shall concur in such application;

5. The Company shall within two years from the passing of this Act at their own expense make so far as they are empowered to do so by the Act of 1877 and at all times thereafter maintain a railway or siding to connect the railway system of the Company with a railway or siding to be made and maintained by the owners at their own expense on their own land and to be the property of the owners. The point of connexion shall if not agreed upon between the Company and the owners be determined by an engineer to be appointed on the application of either party by the President for the time being of the Institution of Civil Engineers and the Company shall at all times thereafter by all reasonable means transmit by themselves or allow and facilitate the transmission by the Great Eastern Railway Company the Lynn and Fakenham Railway Company or by any other Company using either the Great Eastern Railway or the Lynn and Fakenham Railway of goods and merchandise from and off and on to the railway systems of the Company the Great Eastern Railway Company and the Lynn and Fakenham Railway Company on to and off and from the said railway or siding so as to secure at all reasonable times a through route or connexion for goods and merchandise between the lands of the owners to and from the Great Eastern or Lynn and Fakenham Railways but subject to such reasonable regulations as the directors of the Company shall from time to time make to avoid undue interference

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with the traffic of the Company and upon payment of the tolls and rates properly payable and without charging as against the owners any tolls or rates beyond or in excess of the tolls and rates charged by the Company to any other persons using the railways of the Company in respect of goods and merchandise of the like description conveyed a like distance on the railway of the Company Provided that the owners shall not be entitled to use the said railway or siding for the purposes of or in connexion with any business similar in character to that carried on by the Company or to exercise any privilege conferred on them by this section for the purposes of or in connexion with any such business Any difference which may arise between the parties in giving effect to the provisions of this section the settlement of which is not otherwise provided for shall be settled by arbitration in the manner provided by the Railways Clauses Consolidation Act 1845.

6. Except as by this Act expressly provided nothing in this Act contained shall prejudice or interfere with the rights powers and privileges reserved to the Duke of Portland and his sequels in estate by section fourteen of the Act of 1877;

7. The owners the corporation and the Company or any two or more of them may from time to time make and carry into effect agreements with reference to the matters aforesaid and for giving effect to the provisions of this section.

Acquisition of land between Cross Bank and Fisher Fleet.

9. And whereas by the Act of 1877 the Company were authorised to make and maintain the undertaking therein mentioned and to enter upon take and use for the purposes of their undertakings the lands or any of the lands delineated on the deposited plans and described in the deposited books of reference mentioned in that Act (herein-after called "the plans and reference of one thousand eight hundred and seventy-seven") And whereas on the fifth day of September one thousand eight hundred and seventy-eight the Company served a notice to treat for the purchase of certain lands upon the Company of Proprietors of the Norfolk Estuary (who are in this Act called "the Estuary Company") as the owners of such lands which were defined on a plan attached thereto and comprised a piece of land between the Cross Bank and Fisher Fleet (which the Company believed they were empowered to purchase under the Act of 1877) and an arbitrator appointed pursuant to the Act of 1877 and the Lands Clauses Consolidation Act 1845 incorporated therewith awarded that the sum of ten thousand pounds should be paid by the Company as the purchase

money of the said lands comprised in the said notice and plan attached thereto And whereas the said Norfolk Estuary Company refused to convey the same to the Company on the ground that the powers conferred on the Company by the Act of 1877 did not authorise the compulsory purchase of the said piece of land And whereas the Company require for the purposes of their undertakings the said piece of land and the same is delineated on the deposited plans and described in the deposited book of reference.

And whereas the Estuary Company claims to be entitled to the eastern portion of the Cross Bank and the slopes thereof and lands adjoining the same which are also shown on the deposited plans and described in the deposited book of reference and are situate between the crossing of the Company's railway over Pilot Street and the western side of the proposed entrance to the new dock as also shown on the deposited plans or to some part thereof and the Company have purchased and paid for the same and claim to have a valid title thereto And whereas the Company and the Estuary Company have adjusted their differences and the Company have paid to the Estuary Company the sum of twelve thousand pounds including the said sum of ten thousand pounds and the Estuary Company have delivered to the Company a conveyance (some time since engrossed and sealed and bearing date the twenty-ninth day of September one thousand eight hundred and eighty) of the land included in the said notice to treat including the piece of land herein-before referred to and have relinquished their claim to the said eastern portion of the Cross Bank and slopes thereof and lands adjoining the same And whereas it is expedient and the Company and the Estuary Company desire that provision should be made for confirming the said arrangement.

Be it therefore enacted that subject to the provisions of this Act and to the provisions of the Act of 1877 with regard to the Cross Bank Road the Company may (if and so far as they have not already acquired the said piece of land) hold and retain the same. And further that subject as aforesaid all rights (if any such exist) of the Estuary Company in to or over the said eastern portion of the Cross Bank and the slopes thereof and the lands adjoining the same and shown on the deposited plans and described in the deposited book of reference from the western side of the proposed entrance to the new dock to the crossing of the Company's railway over Pilot Street shall be and are hereby extinguished.

Company to make connexion between their railway and

10. The Company shall within two years from the passing of this Act at their own expense make and at all times thereafter maintain in manner convenient for the transmission of the aftermentioned goods and merchandise a connexion between the railway

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a siding of the Estuary Company.

system of the Company and a railway or siding to be made and maintained by the Estuary Company at their own expense on their own land and to be the property of the Estuary Company The point of connexion shall be at the present boundary between the property of the Estuary Company and the Company one chain or thereabouts westward of the centre of the occupation road of the Estuary Company numbered (on the deposited plans mentioned in the Act of 1877) 3 in the parish of North Lynn or as near thereto as may be practicable and the Company shall at all times thereafter by all reasonable means transmit by themselves or allow and facilitate the transmission by the Great Eastern Railway Company the Lynn and Fakenham Railway Company or by any other Company using either the Great Eastern Railway or the Lynn and Fakenham Railway or at the option of the Estuary Company by the last-mentioned company of goods and merchandise from and off and on to the railway systems of the Company the Great Eastern Railway Company and the Lynn and Fakenham Railway Company on to and off and from the said railway or siding of the Estuary Company so as to secure at all reasonable times a through route or connexion for goods and merchandise between the lands of the Estuary Company to and from the Great Eastern or Lynn and Fakenham Railways but subject to such reasonable regulations as the directors of the Company shall from time to time make to avoid undue interference with the traffic of the Company and upon payment of the tolls and rates properly payable and without charging as against the Estuary Company any tolls or rates beyond or in excess of the tolls and rates charged by the Company to any other persons using the railways of the Company in respect of goods and merchandise of the like description conveyed a like distance on the railway of the Company Any difference which may arise between the parties in giving effect to the provisions of this section shall be settled by arbitration in the manner provided by the Railways Clauses Consolidation Act 1845.

Saving rights of Estuary Company.

11. Except as by this Act expressly provided nothing in this Act contained shall prejudice or interfere with the rights powers and privileges reserved to the Estuary Company and their assigns by section 15 of the Act of 1877.

Maintenance of Cross Bank to devolve on Company. 40 & 41 Vict. c. cciii.

12. The duties and obligations of the commissioners appointed by section twenty-two of the Norfolk Estuary Act 1877 shall as regards the maintenance and repair of the Cross Bank devolve upon the Company who shall indemnify and hold harmless the said commissioners in respect thereof.

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Resolution creating capital authorised by 40 & 41 Vict. c. cxvi. confirmed.

13. And whereas at an extraordinary meeting held on the ninth day of May one thousand eight hundred and seventy-nine the Company by resolution duly created the one hundred thousand pounds capital forming the balance of the capital authorised by the Act of 1877 and by the resolution creating the same determined that such of the half-yearly earnings of the Company as should from time to time be applicable to dividend on ordinary stock should be applied in the first place to the payment of dividend not exceeding three pounds per centum per annum on the capital stock of the Company created under the powers of the Act of 1865 and in the next place in the payment of dividend not exceeding three pounds per centum per annum on the one hundred thousand pounds capital then created and that any surplus remaining after payment of such dividends should be applied pari passu in payment of further dividend on both the said stocks: And whereas the Company have received from the corporation (who are authorised to contribute towards the capital of the Company) twenty thousand pounds which was paid to them on the terms of the said resolution and have not yet issued any certificates in respect of any of such capital and it is expedient that such resolution should be confirmed: therefore the said resolution is hereby confirmed accordingly and the profits of the Company shall be applied in the manner expressed in such resolution Provided that the terms and conditions to which any share or stock in the said balance of capital under the Act of 1877 shall be subject shall be clearly stated in the certificate of each share or portion of stock in that capital.

Consolidation of stocks.

14. Subject to the conditions and restrictions herein-after contained the Company may consolidate into a single stock the preference stocks now forming part of their capital and the separate warehouse stock of the Company or any two of those stocks and for that purpose the following provisions shall apply:

Directors may prepare scheme.

(A) The directors of the Company may at any time not later than the first day of October one thousand eight hundred and eighty-three prepare a scheme or schemes for the consolidation of the preference shares or stocks created under the Acts of 1869 and 1877 and for the conversion of such shares or stocks into a single preferential stock of such name and of such amount not exceeding the aggregate amount of the said shares or stocks as the scheme shall define and such scheme may provide for merging in such consolidated stock the said separate warehouse capital and for the extinction of such warehouse capital as a separate capital;

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Circulation of scheme.

(B) They shall send a copy of the said scheme to all the proprietors of the shares or stocks to which the scheme relates and the said scheme shall be accompanied with a notice that the same will be submitted to the consideration of a meeting of the proprietors of the said shares or stocks;

Meeting of proprietors.

(C) Not sooner than one month nor later than two months after the circulation of such scheme the directors shall either convene one meeting of all such proprietors or separate meetings of each class of proprietors as the directors may deem most advisable and submit the said scheme for their consideration and at such meeting or meetings as the case may be the votes of the proprietors of each class of shares or stocks shall be taken separately and if the proprietors of any such class of shares or stocks holding one fourth in value of such class of shares or stocks and being present in person or by proxy at such meeting shall object to the said scheme the same so far as it relates to the shares or stocks included in such class shall not be carried into effect but such objection shall not affect the adoption of the scheme so far as relates to the other classes of shares or stocks comprised therein and the scheme shall be deemed to be approved with relation to the classes of shares or stocks the proprietors of which do not object to the same as aforesaid;

Concurrence of Company.

(D) The scheme so approved may be submitted by the directors to an extraordinary general meeting of the Company specially convened with notice of the matter but the directors shall not be compelled to submit for such approval any scheme not approved with relation to all the said classes and if the scheme is approved by a majority of the votes of the proprietors present thereat in person or by proxy it shall be carried into effect by the directors but if not approved by such majority it shall not be proceeded with;

Execution of scheme.

(E) For the purpose of carrying any such scheme into effect the directors shall have the following powers:—

(1) They may create a new stock and attach to the same preferential dividends not exceeding in aggregate amount the dividend secured upon the shares or stocks consolidated;

(2) They may call in and cancel the certificates for the shares or stocks so consolidated and issue fresh certificates for the new or substituted stock;

(3) They may if the separate warehouse capital of the Company is included in any such scheme as aforesaid extinguish and abolish such separate capital and there-

upon all the provisions of the Acts of 1873 and 1877 with respect to separate capital shall cease to apply to the capital so consolidated;

(4) They may receive or pay as the case may be sums of money on account of any excess or deficiency in any aggregate amount of ten pounds or multiple of ten pounds.

Conversion of six per cent. preference stock into four per cent. preference stock.

15. And whereas the preference stock created under the Acts of 1869 and 1877 and the warehouse stock created under the Act of 1873 are respectively entitled to dividend at the rate of six per centum per annum and it is expedient to provide for the conversion thereof into stock bearing interest at the rate of four per centum per annum Therefore the directors of the Company may at any time after the passing of this Act convene meetings or a meeting of the holders of any or either of the said stocks which they may propose to convert such meeting to be called by a circular delivered or sent by post to the last known or registered address of each such holder not less than ten days previous to the meeting and stating the purpose for which the meeting is called and enclosing a blank form of proxy with proper instructions for the use of the same And with the sanction of the holders present in person or by proxy of at least three fourths of the stock represented at the meeting the directors may convert all the then existing preference stock of the class represented at the meeting or the then existing warehouse stock if it be a meeting of the warehouse stockholders into preference stock bearing interest at the rate of four per centum per annum which they are hereby authorised to create for the purpose Upon the day upon which such conversion is to take effect every such holder of six per cent. stock so converted shall have registered in his name such a nominal amount of four per cent. preference stock as will yield to him an amount of interest equal to but not greater than the amount of interest yielded to him by the existing six per cent. preference stock then registered in his name and in lieu of which the four per cent. preference stock may be substituted And upon the creation of such last-mentioned stock the existing six per cent preference stock for which it is substituted shall be cancelled 'Provided always that the Company shall not be bound to register fractions of a pound of such four per cent. preference stock but may pay to or receive from the registered holder thereof such fractional part of a pound as but for this proviso he would have been entitled to have registered in his name in order to secure equality of exchange.

New certificates to be issued in

16. The directors upon such conversion taking effect shall forthwith issue to every holder of the six per cent. stock so con-

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exchange for old certificates.

verted free of charge for so doing a certificate for and representing such an amount of the four per cent. stock as such holder is entitled to under the foregoing provision Provided always that until the issue of such new certificates the existing certificates of six per cent. stock and the holders thereof shall bear and possess the same rights and advantages as they would have had and possessed if this Act had not passed Provided also that the directors shall not issue any new certificate unless and until the existing certificate in substitution for which it is issued is given up to be cancelled or is proved to the satisfaction of the directors to have been lost or destroyed And the certificates so delivered up shall be cancelled.

Substituted preference stock to be held on same trusts.

17. The stock which under the powers of this Act may be created and issued in exchange for six per cent. stock shall remain and be vested in the person or persons to whom it is issued upon the same trusts and subject to the same powers provisions declarations agreements charges liens and incumbrances as at the time of the issue thereof affect the stock in substitution for which the four per cent. stock is issued and so as to give effect to and not revoke any testamentary or other disposition of or affecting the same And the bequest of any specific amount of any such six per cent. stock made before the passing of this Act shall be held to apply to that amount of four per cent. stock increased by one half And trustees executors or administrators and other incapacitated persons may accept such four per cent. stock in substitution or exchange for the six per cent. stock theretofore held by them and may retain dispose of or otherwise deal with the same in all respects as they might have retained disposed of or otherwise dealt with the six per cent. stock for which it is substituted.

Saving rights of the Crown under 29 & 30 Vict. c. 62.

18. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved by sections twenty-one and twenty-two of the Crown Lands Act 1866 and belonging to or exerciseable on behalf of Her Majesty her heirs or successors.

Saving rights of the Crown in the foreshore.

19. Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act

contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the Queen's Majesty her heirs or successors.

Saving rights of commissioners of sewers for county of Norfolk.

20. Except as by this Act expressly provided nothing in this Act contained shall take away prejudice or interfere with any of the rights powers and privileges of the commissioners of sewers for the county of Norfolk.

Expenses of Act.

21. 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.

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