CHAPTER clxxx.

An Act for conferring additional powers on the Metropolitan District Railway Company; and for other purposes relating to that Company. [21st July 1873.] A.D. 1873.

WHEREAS it is expedient that the powers herein-after contained should be conferred upon the Metropolitan District Railway Company (who are herein-after called "the Company"):

And whereas it is expedient that the Company should be empowered to use the portions herein-after specified of the West London Railway:

Agreements with Metropolitan Railway Company.

And whereas by the 60th section of "The Metropolitan District Railways Act, 1864," provision is made for agreements with respect to lands which may be required and works which may be executed for the common purposes of the Company and the Metropolitan Railway Company (herein-after called the two Companies); and it is also provided that if any difference arises respecting any of such matters such difference shall from time to time be settled by an arbitrator to be appointed by the common consent of both Companies, or in default of such consent, to be appointed by the Board of Trade:

And whereas by the 51st section of "The Metropolitan Railway (Additional Powers) Act, 1866," the two Companies are authorised to agree (among other things) with respect to the construction of and the purchase of lands for their respective railways, and with respect to the working, use, management, and maintenance of the railways of both Companies, the supply of rolling stock for the purposes thereof, and the payments to be made in respect of those matters; and Part III., relating to working agreements, of "The Railways Clauses Act, 1863," is incorporated in the said "Metropolitan Railway Act, 1866:"

And whereas by an indenture made the 9th day of July 1866, the two Companies entered into and made mutual agreements and declarations respecting lands to be acquired by them, by which they

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agreed (among other things) that any question which might arise as to whether any land was required for the purposes of and was to be taken by and vested in the two Companies, or by and in one of the two Companies only, to the exclusion of the other, should be determined by the engineer of the two Companies:

Award.

And whereas such questions as aforesaid having arisen respecting certain lands within the said indenture, the same were referred to Mr. John Fowler, the engineer of the two Companies, and he made an award thereon, dated the 27th day of July 1871, which is set forth in the schedule to this Act; and it is expedient that the same be confirmed and made absolutely binding on the two Companies, and that due provision be made for the full execution thereof:

And whereas the Company are indebted to vendors in respect of land taken for the railway in the sum of 270,000*l.*, and the Company have also, in order to furnish their railway with rolling stock and other plant, and to provide workshops, incurred an expenditure of 220,000*l.*; and they are also liable upon bonds of indebtedness incurred for the construction of their lines already open and at work in the amount of 120,000*l.*, which bonds are herein-after called "construction bonds:"

And whereas the said obligations are payable, with interest, to the parties to whom the same are owing, and constitute a charge on the revenues of the Company to be paid before any dividend can be declared:

And whereas the Company are possessed of considerable superfluous lands, which they are proceeding to sell as speedily as possible, and from which they will realise a considerable sum of money:

And whereas it is expedient that the Company should be authorised to borrow such an additional sum as will enable them to defray the cost of rolling stock and workshops necessary for the equipment of the railway, and also their liabilities to the vendors of land and on construction bonds, and that the produce arising from the sale of superfluous lands made after the passing of this Act should be applied in reduction of the debenture debt of the Company:

And whereas the 15th section of "The Metropolitan District Railway Act, 1868," authorises the Company to hold and let lands or buildings adjoining or in any way connected with the structure of their railway and works, and any yards, gardens, or premises attached to such lands or buildings, and provides that the said premises shall not be deemed part of the undertaking of the

Company charged with the general mortgages or debenture stock thereof, except as in the said section is mentioned; and it is expedient that the Company should have power not only to demise but to sell and dispose of any such lands, so far as may be consistent with the security of their railway and works:

And whereas the Company have from time to time acquired, under the powers of the Acts relating to their undertaking, other lands which have been found not to be necessary for the undertaking, but doubts have arisen whether the same lands are strictly "superfluous lands" within the meaning of "The Lands Clauses Consolidation Act, 1845," and difficulties have been raised as to the power of the Company to make a title thereto; and it is expedient that such difficulties should be removed, and that the Company should be enabled from time to time to dispose of such lands:

And whereas plans showing the lands intended to be taken under the powers of this Act, and also a book of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of those lands, were duly deposited with the clerk of the peace for the county of Middlesex, and are herein-after respectively referred to as the deposited plans and book 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. The Act may be cited as "The Metropolitan District Railway Act, 1873."

Provisions of general Acts herein named incorporated.

2. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869;"

The clauses and provisions of "The Companies Clauses Consolidation Act, 1845,"

With respect to the distribution of the capital of the Company into shares;

The transfer or transmission of shares;

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

The forfeiture of shares for nonpayment of calls;

The remedies of the creditors of the Company against shareholders;

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The borrowing of money by the Company on mortgage or bond;
The conversion of the borrowed money into capital;
The consolidation of shares into stock; and
The provision to be made for affording access to the special Act by all parties interested;

And also Parts I., II., and III. of "The Companies Clauses Act, 1863," relating respectively to the cancellation and surrender of shares, to additional capital, and to debenture stock, are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; and 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.

Interpretation of term "parish clerk."

4. The expression "parish clerks" and "clerks of the several parishes" in sections seven, eight, and nine of "The Railways Clauses Consolidation Act, 1845," shall with reference to the Company, and as regards those parishes or extra-parochial places in which by the standing orders of either House of Parliament plans, sections, and other documents are required to be deposited with the clerk of the vestry of the parish, or with the clerk of the district board for the district in which the parish or extra-parochial place is included, mean, in the first case, the vestry clerks of those parishes, and in the second case the clerks of those district boards respectively.

Power to take additional lands.

5. Subject to the provisions of this Act, the Company may enter upon and take for the purposes of their undertaking the piece of land shown on the deposited plans and described in the deposited book of reference, which piece of land is bounded on the west by Albert Road, on the north by the New Road or land belonging to the Company, and on the south by Old Cromwell Lane, and is situate in the parish of Saint Mary Abbott, Kensington, in the county of Middlesex; and when and so soon as Harrington Road has been completed and dedicated to the public, the Company may stop up Old Cromwell Lane and the portion of Bute Street lying between the north side of the road constructed by the Company in

extension eastwardly of Harrington Road and the south side of Old Cromwell Lane, all in the same parish, and the Company may appropriate the soil of so much of the same lane and street respectively as lies within the limits of deviation shown upon the deposited plans; and from and after the passing of this Act all rights of way in and over the portions of the said lane and street so stopped up shall be extinguished, and the new road already formed by the Company shall be substituted for the same.

Power to take easements, &c. by agreement.

6. 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.

Power to create debenture stock.

7. The Company may, in addition to any other sums which they now have power to raise by borrowing, raise from time to time any sums not exceeding five hundred thousand pounds in the whole by mortgage or by the creation of debenture stock.

1. The rents or other profits received from any superfluous lands of the Company whilst in the hands of the Company shall be applied to the payment of the interest upon the debenture stock and mortgages of the Company for the time being, and the proceeds of the sale of such of the said lands as shall from time to time be disposed of by the Company shall be set aside and applied to redeem and cancel the mortgages or debenture stock of the Company by such means as the directors of the Company shall from time to time think most efficient.
2. The moneys arising from the mortgages and debenture stock authorised by this Act shall be applied to pay off according to their respective priorities (if any)—

(*a.*) All persons to whom the Company is indebted for land taken by the Company for the purposes of their undertaking in discharge of their purchase money and other claims upon the Company in respect of land:

(*b.*) Any debts incurred or to be incurred by the Company in the purchase of rolling stock and other plant, and in the building of workshops and other things

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necessary for the conveyance and accommodation of traffic on their railway:

(*c.*) All persons holding what are herein-before called construction bonds in lieu and in discharge of such bonds, not exceeding in amount 120,000*l.*

3. The auditors of the Company shall from time to time inspect the accounts of the Company with special reference to this enactment.

Arrears may be enforced by appointment of a receiver.

8. The powers granted to the creditors of the Company by virtue of any enactments heretofore made with respect to the appointment of a receiver are hereby repealed, and in the stead thereof be it enacted as follows: 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 fifty thousand pounds in the whole; provided that nothing contained in this enactment shall prejudicially affect any appointment of a receiver subsisting at the passing of this Act, or any proceedings then pending for such appointment.

Debenture stock.

9. 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 sums raised under this Act.

10. All and every part of the sums of money which the Company are by this Act authorised to raise by debenture stock or mortgage shall, subject as aforesaid, be applied only to the purposes of the Company.

Providing for disposal of superfluous lands.

11. The Company may from time to time sell, demise, or otherwise dispose of any lands now held by them and not required for the purposes of their undertaking, whether such lands were acquired for the purposes of their undertaking, or acquired under the authority of any Acts the powers of which have expired, or under whatever circumstances the same lands may have been acquired or are now held by the Company, and they may, notwithstanding anything contained in the said Acts, or in "The Lands Clauses Consolidation Act, 1845," retain such portions of the said lands as may

in their opinion hereafter be required for the widening of their railway, or for stations and sidings connected therewith. A.D. 1873.

Power to use undertakings of other companies.

12. The Company may run over and use with their engines and carriages of every description, and with their clerks, officers, and servants —

So much of the West London Railway as lies between the junction therewith of the Metropolitan District Railway, in the parish of Saint Mary Abbott, Kensington, and the junction of the said railway with the Hammersmith and City Railway, in the parish of Hammersmith, together with the Addison Road Station, and all other stations, existing junctions, watering-places, booking-offices, landing-places, sidings, and conveniences on the said portion of railway:

Provided that the powers conferred by this enactment shall not enable the Company, unless with the consent of the company or companies owning the said portion of railway, to run trains over the same more frequently than once in every half hour each way, or shall enable the Company to use any of the said stations as a terminal station, or to use any of the stations on the said portion of railway set apart for goods or mineral traffic; and provided also, that the portions of station to be used by the Company in exercise of the rights hereby conferred shall be selected by the company or companies owning the station, and if the Company shall be of opinion that the accommodation afforded to them is insufficient for the safety and convenience of their traffic, and shall give notice in writing to the companies owning the station to that effect, the matter in difference shall be determined by an arbitrator to be appointed in the manner prescribed in the next section: Provided, that if at any time any extension or enlargement of the said stations or any of them is rendered necessary for the purpose of providing any such accommodation for the Company as aforesaid, the cost of and attending or incidental to such extension or enlargement shall be borne by the Company.

Terms of such use.

13. The terms, conditions, and regulations to which the Company shall be subject in respect of the said use, and the tolls or other consideration to be paid by them for the same, if not agreed upon between them and the company or companies owning or working the West London Railway, shall be from time to time determined by an arbitrator to be appointed by common consent, or in default of such consent to be appointed by the Board of Trade, on the application of either company, and the decisions of such arbitrator shall be binding and conclusive on the parties in difference, and the costs and expenses of such arbitration shall be defrayed as the

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arbitrator shall direct; and either of the parties in difference who shall refuse or neglect to perform, observe, and conform to any decision given or regulation made by any such arbitrator in the premises shall forfeit and pay to the other company any sum not exceeding fifty pounds for every such offence, and twenty pounds for every day during which such offence shall continue.

Byelaws to be observed.

14. In using or traversing the said portion of railway, and the stations and conveniences connected therewith, in accordance with the provisions herein-before contained, the regulations and byelaws for the time being in force on the said portion of railway, so far as they shall be applicable, shall at all times be observed.

Confirmation of award of Mr. John Fowler respecting lands acquired by two Companies.

15. The award of Mr. John Fowler, set forth in the schedule to this Act, is hereby confirmed, and the same shall be in all respects and to all intents absolutely binding on the two Companies, as if all the provisions and directions thereof had been set out in the body of this Act and enacted therein, and for the better execution of that award the following further provisions shall have effect; (namely,)

1. All lands thereby awarded to be required for the purposes of and to be taken by one of the two Companies only, to the exclusion of the other, are respectively hereby vested, for all the estate and interest therein of the two Companies or either of them, in that one of the two Companies by which they are to be so taken:

2. The stations and other buildings and works in the award mentioned shall, during the continuance of the agreement of the twenty-ninth day of June one thousand eight hundred and seventy-one, set forth in the first schedule to "The Metropolitan Railway Act, 1872," and confirmed by section eight of that Act, be deemed joint lines and stations within that agreement, and shall be maintained and repaired accordingly:

3. If at any time either of the two Companies desire to make any alterations in any of those stations or other buildings or works, the question whether that alteration is to be made or not, and if so, whether at the cost of the joint property fund under the last-mentioned agreement or at the cost of the Company desiring to make the same, shall be referred to the joint committee under that agreement, and in case the joint committee or the boards of the two Companies differ on that question, the same shall be referred to and determined by the standing arbitrator under that agreement.

Interest not to be paid on calls paid up.

16. 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 shall be in conformity with "The Companies Clauses Consolidation Act, 1845."

Deposits for future Bills not to be paid out of capital.

17. 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.

Railway not exempt from provisions of present and future general Acts.

18. Nothing in this Act contained shall exempt the railway of the Company 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.

Expenses of Act.

19. 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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SCHEDULE.

Award of Mr. John Fowler respecting certain Lands acquired by the two Companies.

In the matter of an Arbitration between the Metropolitan Railway Company and the Metropolitan District Railway Company.

Award.

To all whom these presents shall come, I, John Fowler, send greeting. Whereas an indenture (being an agreement relative to the purchase of lands) was made the ninth day of July one thousand eight hundred and sixty-six between the above-named Companies (which Companies are in this award referred to as "the Companies," and which indenture is in this award referred to as "the Land Agreement of July 1866"):

And whereas the Land Agreement of July 1866 recited to the effect that there were certain lands which both the Companies were under their respective Acts of Parliament authorised to acquire, some of which would be required to be appropriated and used by the two Companies jointly for their joint purposes, and others of which would be required by one or other of the Companies for its several use, and in order that the same might be acquired without conflict or competition, and might be conveniently and equitably appropriated to and apportioned between and vested in the two Companies for their joint or several use and purposes according to their requirements, an arrangement had been come to between the two Companies in relation to the said land through the medium of a joint committee of their directors to the effect intended to be conclusively expressed in or by that agreement:

And whereas by the Land Agreement of July 1866 the Companies agreed (among other things) as follows; (that is to say,)

1. Where lands belonging to the same owner shall be required, as to part, for the separate undertaking of the one Company, and as to the remainder for the separate undertaking of the other Company, and the value and compensation can conveniently be assessed in one sum, and in all cases where land shall be required, whether belonging to one owner or to different owners, for the joint purposes of the two Companies for any purpose in which they are jointly interested, the same shall be purchased or acquired either by the two Companies jointly, or by the Company which, under the powers of its special Act, can most conveniently and economically acquire the same, as in each case may, in the opinion of the solicitors to the two Companies respectively, be most expedient:
2. Except in cases which, upon their being specially brought under the notice of the aforesaid joint committee, shall appear to them to be of an exceptional character, and shall thereupon be withdrawn by them from

the operation of these presents, the purchase money and compensation for the lands purchased or acquired under Clause 1, and all costs, charges, and expenses incidental thereto, shall be provided by the two Companies in equal proportions, subject to subsequent adjustment of the amount to be provided by each Company, in manner herein-after provided:

3. In all cases where the lands to be purchased or acquired under Clause 1 are required or intended to be used by the two Companies jointly, for the joint purposes of their respective undertakings, such lands shall be conveyed to and vested in the two Companies jointly, unless, in consequence of additional expense being caused thereby, the joint committee shall resolve that the conveyance shall be made to the one Company only, but in that case the said lands shall be held for such joint purposes, and they shall by deed grant such right or easement over the same, as herein-after mentioned:

4. In all cases where the lands so to be purchased or acquired under Clause 1 are required, as to part thereof, for the separate purposes of one of the said Companies, and as to another part for the separate purposes of the other Company, and the part or parts required by the Company for the purposes of their undertaking can conveniently be distinguished from the part or parts required by the other Company for the purposes of their undertaking, the respective parts required by each Company shall be vested in them by separate conveyances:

5. In all cases where the purposes of one Company can be more conveniently effected by the granting to them of rights of way or other easements over any of the lands so to be purchased or acquired than by joint ownership thereof, such lands, although purchased jointly and on joint account, shall be vested by conveyance in the Company more immediately requiring the lands for the purposes of their undertaking, and that Company shall grant to the other Company such rights of way and other easements as may be deemed necessary for the purposes of their undertaking:

6. The surplus lands remaining from the lands taken under the provisions of this agreement by the respective Companies for their joint and several undertakings, after the portions permanently required shall have been ascertained, shall either be apportioned between the two Companies or be sold, and the moneys arising therefrom shall be carried to a common fund:

7. Any question which may arise as to whether any land is required for the purposes of and is to be taken by and vested in the two Companies, or by and in one of the two Companies only, to the exclusion of the other, and as to the manner in which the provisions of Clauses 3, 4, and 5 are to be applied with respect to the conveyance of lands to be acquired under Clause 1, and as to the respective quantities to be conveyed to each Company, and the purposes for which the land shall be used, and the respective rights and interests of the two Companies in the same, and the nature of the rights of way and other easements to be granted to either Company by the other under Clauses 4 or 5, shall be determined

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by John Fowler, Esquire, the present engineer of the two Companies, or their engineer for the time being, or by a single engineer to be appointed under Clause 10 of the agreement:

And whereas questions have arisen of the kind or nature referred to in Clause 7 of the Land Agreement of July 1866, and the same by virtue of that clause stand referred to be determined by me, as being the engineer of the Companies:

And whereas I have proceeded in the reference, and have read, heard, and considered the documents and evidence produced, and what was alleged by counsel and solicitors for the parties:

And whereas by an agreement made the thirteenth day of July one thousand eight hundred and seventy-one between the Companies, they have agreed (among other things) to the effect that the land described in the schedule to that agreement is land comprised in Clause 7 of the Land Agreement of July 1866, which schedule is as follows; (that is to say,)

The several pieces of land coloured pink on the plan signed by Mr. Fowler, and by Mr. William Burchell, junior, and Mr. Robert Baxter, together with the pieces of land occupied by or appropriated for the railway works of the Companies between High Street, Kensington, and the point marked A. on that plan, and between the point marked B. on that plan and the dotted red line drawn on that plan in Pelham Place, South Kensington:

And whereas I have annexed to this award a plan showing the pieces of land described in the schedule to the said agreement of the thirteenth day of July one thousand eight hundred and seventy-one as the pieces of land occupied by or appropriated for the railway works of the Companies between High Street, Kensington, and the point marked A. on the plan in that schedule mentioned, and between the point marked B. on that plan and the dotted red line drawn on that plan in Pelham Place, South Kensington, and I have on the said plan annexed to this award distinguished those pieces of land by a blue colour, and I have drawn on the said plan annexed to this award a continuous red line, dividing longitudinally those pieces of land:

Now know ye, that I do make this my determination and award of and concerning the premises, and do hereby determine and award as follows; (that is to say,)

(1.) So much of the pieces of land shown on the said plan annexed to this award, and thereon distinguished by a blue colour, as lies to the eastward and northward of the said continuous red line is required for the purposes of and is to be taken by and vested in the Metropolitan Railway Company only, to the exclusion of the Metropolitan District Railway Company.

(2.) So much of the pieces of land shown on the said plan annexed to this award, and thereon distinguished by a blue colour, as lies to the westward and southward of the said continuous red line is required for the purposes of and is to be taken by and vested in the Metropolitan District Railway Company only, to the exclusion of the Metropolitan Railway Company.

(3.) All stations and other buildings and works for the time being erected or made on the portions of land by or under this award vested in the Companies respectively shall go with and as part of those respective portions of land. A.D. 1873,

(4.) The stations and other buildings and works aforesaid shall be maintained and repaired, and from time to time (if need be) altered, by and at the expense of the Companies, or one of them, in such manner and proportions as any binding agreement between them made or to be made or any Act of Parliament or award in that behalf from time to time provides.

(5.) The costs of this award shall be paid by the Companies in equal shares.

In witness whereof I have hereunto set my hand this twenty-seventh day of July one thousand eight hundred and seventy-one.

Signed and published the 27th day of July 1871, in the presence of } (Signed) John Fowler. L.S.

(Signed) J. Sydney Hargrove,
Solicitor,
3, Victoria Street,
Westminster.

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