such Ship did, in the Case of a Ship wrecked or lost, do their utmost to save her or get her off, and in the Case of a Ship taken by the Enemy did their utmost to defend themselves, and that they have, since the Wreck, Destruction, Loss, or Capture of such Ship, behaved themselves well, and been obedient to their Officers, then all the Pay of such Crews or of such Portions of such Crews as have behaved themselves well, and been obedient to their Officers, shall be continued until the Time of their being discharged or removed into other Ships of Her Majesty, or dying.

When Ship of senior Officer is lost he may dispose of Officers and Crew of lost Ship.

92. If the Ship of any Officer ordered to command any Two or more of Her Majesty's Ships shall be wrecked, lost, or otherwise destroyed, such Officer shall continue in the Command of any Ship or Ships which at the Time of his Ship being wrecked, lost, or destroyed was or were under his Command, and it shall be lawful for such Officer to order the surviving Officers and Crew of the wrecked, lost, or destroyed Ship to join any other Ship under his Command, or to distribute them among the other Ships under his Command, if more than One, and such Officer shall, until he meets with some other Officer senior to himself, have the same Power and Authority in all respect as if his Ship had not been wrecked, lost, or destroyed.

PART VII.

Saving Clause.

Trial of Offences against repealed Acts.

93. Any Person who has committed or may commit, before this Act comes into force, any Offence against The Naval Discipline Act, 1861, or the Act thereby repealed, for which such Person has not been tried before this Act comes into force, shall be tried and punished under this Act as if such Crime or Offence had been committed against the same, but he shall not suffer any greater Punishment than he was liable to under The Naval Discipline Act, 1861, or the Act thereby repealed; and any Proceeding of any Court-martial, or any other Proceedings under The Naval Discipline Act, 1861, which may be pending when this Act comes into force, shall be continued, and the Offender, if found guilty, shall be punished as if the Act against which he offended had not been repealed.

Nothing to take away Prerogative of Crown, or Rights or Powers of Admiralty.

94. Nothing in this Act shall take away, abridge, or control, further or otherwise than as expressly provided by this Act, any Right, Power, or Prerogative of Her Majesty the Queen in right of Her Crown, or in right of Her Office of Admiralty, or any Right or Power of the Admiralty.

Act not to supersede Authority of ordinary Courts.

95. Nothing in this Act contained shall be deemed or taken to supersede or affect the Authority or Power of any Court or Tribunal of ordinary Civil or Criminal Jurisdiction, or any Officer thereof, in Her Majesty's Dominions, in respect of any Offence mentioned in this Act which may be punishable or cognizable by the Common or Statute Law.

CAP. CXX.

An Act to facilitate in certain Cases the obtaining of further Powers by Railway Companies. [29th *July* 1864.]

'WHEREAS it is expedient that in certain Cases Railway Companies be enabled to 'obtain further Powers on complying with the Conditions of a General Act of 'Parliament, without being obliged to procure in each Case a Special Act:'

Be it therefore 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:

Preliminary.

Short Title.

1. This Act may be cited as The Railway Companies Powers Act, 1864.

Interpretation of Terms.

2. In this Act—

The Term "Railway" includes Works connected with or for the Purposes of a Railway, and also a Railway authorized to be but not actually constructed:

The Term "Railway Bill" means a Bill pending in or intended to be introduced into either House of Parliament, having for its Object or One of its Objects to authorize the making of a Railway:

The Term "the Companies Clauses Acts" means, so far as the Enactment in which that Term is used relates to *England* or *Ireland*, or to a Certificate to be operative in *England* or *Ireland*, The Companies Clauses Consolidation Act, 1845; and, so far as the same relates to *Scotland*, or to a Certificate to be operative in *Scotland*, The Companies Clauses Consolidation (*Scotland*) Act, 1845; together with in each Case The Companies Clauses Act, 1863:

The Term "the Board of Trade" means the Lords of the Committee for the Time being of Her Majesty's Privy Council appointed for the Consideration of Matters relating to Trade and Foreign Plantations.

Description of Cases within this Act.

Act to apply in Cases therein named.

3. This Act shall take effect and apply in each of the Cases following; namely,

I.—Where a Railway Company are desirous that Authority should be given to themselves and some other Railway Company or Companies to enter into an Agreement with respect to all or any of the Matters following; namely,

The Maintenance and Management of the Railways of the Companies respectively, or of any One or more of them, or of any Part thereof respectively;

The Use and Working of the Railways or Railway, or of any Part thereof, and the Conveyance of Traffic thereon;

The fixing, collecting, and Apportionment of the Tolls, Rates, Charges, Receipts, and Revenues levied, taken, or arising in respect of Traffic;

The joint Ownership, Maintenance, Management, and Use of a Station or other Work; or the separate Ownership, Maintenance, Management, and Use of several Parts of a Station or other Work:

II.—Where a Railway Company are desirous of obtaining an Extension of the Time limited for the Sale by them of superfluous Lands:

III.—Where a Railway Company incorporated by Special Act or by Certificate under The Railways Construction Facilities Act, 1864, are desirous of obtaining Authority to raise additional Capital.

Application for Certificate.

As to Application for Certificate by Company to Board of Trade.

4. In any such Case the Company, if desirous to obtain a Certificate under this Act, shall proceed as follows; namely,

(1.) They shall apply to the Board of Trade for a Certificate under this Act:

(2.) They shall lodge at the Office of the Board of Trade a Draft of the Certificate as proposed by them:

(3.) They shall publish Notice of the Application according to the General Rules under this Act.

Said Board to inquire if Requirements have been complied with;

5. As soon as conveniently may be after the Time for Completion of the required Notice, the Board of Trade shall proceed to inquire whether the Company have complied with the Requirements of the General Rules respecting Notice.

and to consider all Representations and Objections.

6. The Board of Trade, before settling a Draft of a Certificate, shall take into consideration any Representation made to them, and shall duly inquire into the Merits of any Objection brought before them, respecting the Application.

Opposition of Railway or Canal Company to Application.

On Railway or Canal Company affected giving Notice of Opposition Proceedings before

7. If in any Case any Railway or Canal Company desire to be heard by Counsel, Agents, and Witnesses against the Application of the Promoters, and (within such Time as is prescribed by General Rules under this Act) lodge at the Office of the Board of Trade a Notice in Writing to that Effect (herein-after referred to as a Notice of Opposition)

in

in the Form set forth in the Schedule to this Act (with such Variations as Circumstances require), in that Case the Board of Trade, if the Railway or Canal Company lodging the Notice would be affected in any way by the proposed Certificate, shall not proceed on the Application of the Promoters. Board of Trade to cease.

8. Where the Board of Trade do not proceed on the Application they shall, not later in any Year than the Fifteenth Day of *February*, if Parliament is then sitting, and if not, then within Seven Days after the next Meeting of Parliament, lay before both Houses of Parliament a Copy of the Draft Certificate lodged by the Promoters and of the Notice of Opposition; and the Promoters shall be at liberty to seek by way of Bill in the same Session, in such Manner and on such Conditions as the Houses of Parliament respectively by Standing Order or otherwise from Time to Time direct, such Powers as were sought by them by way of Certificate. Further Proceedings to be in Parliament.

Settlement of Draft Certificate.

9. Where the Board of Trade proceed on the Application, then, on being satisfied that the Company have complied with the Requirements of the General Rules respecting Notice, they may, if they think fit, settle a Draft of a Certificate, certifying to the Effect following; namely, Power to Board of Trade to settle Certificate according to Nature of Application as herein-named.

In the first-mentioned Case, that the Companies in the Certificate specified are authorized to agree among themselves with respect to all or any of the Matters aforesaid in the Certificate specified;

In the secondly-mentioned Case, that the Time limited for the Sale by the Company of superfluous Lands is extended as in the Certificate specified;

In the thirdly-mentioned Case, that the Company are authorized to raise, as Capital, for the Purposes of the Certificate, such additional Sum of Money as therein limited, by the Issue of new Shares or new Stock, either Ordinary or Preference, or partly Ordinary and partly Preference, or partly in that Mode and partly by borrowing on Mortgage, at the Option of the Company, or as may be prescribed in the Certificate, and with Power to create and issue Debenture Stock.

10. The Board of Trade may (subject to the Provisions of this Act, and having regard to the Provisions of any Special Act relating to any Company empowered by a Certificate,) insert in the Certificate such Provisions as they, according to the Circumstances of the Case, deem necessary or proper for better effectuating the Purposes of the Certificate, and the same shall be deemed to all Intents Part of the Certificate. Insertion of Conditions in Certificate.

11. The Certificate may be in the Form set forth in the Schedule to this Act, with such Provisions as aforesaid. Form of Certificate.

Submission of Draft Certificate to Houses of Parliament.

12. The Board of Trade shall lay the Draft Certificate settled by them before both Houses of Parliament within Seven Days after the same is settled, if Parliament is then sitting, or if not, then within Seven Days after the next Meeting of Parliament, but not later in any Year than the First Day of *June*. Draft Certificate to be laid before Houses of Parliament.

13. On the Draft Certificate being settled the Promoters shall give Notice thereof according to General Rules under this Act. Notice thereof to be given.

14. If either House of Parliament within Six Weeks after the Draft of a Certificate settled by the Board of Trade is laid before that House resolves that the Certificate ought not to be made, the same shall not be further proceeded with. If either House resolve that Certificate ought not to be made, it shall not be proceeded with.

Issue and Publication of Certificate.

15. If neither House of Parliament within the Period aforesaid thinks fit to resolve that the Certificate ought not to be made, then as soon as the Period of Six Weeks after the laying of the Draft Certificate before both Houses of Parliament has expired the Board of Trade may make and issue a Certificate in conformity with such Draft. If neither House resolve that Certificate ought not to be made, Board of Trade may issue the same.

16. The

Publication of Certificate in Gazette.

16. The Certificate shall be published as follows; namely,

Where One Company only is thereby empowered, then in the *London, Edinburgh,* or *Dublin* Gazette, according as the Head Office of the Company is situate in *England, Scotland,* or *Ireland:*

Where Two or more Companies are thereby empowered, then in One or more of the Gazettes, according as the several Head Offices of the Companies respectively are situate in *England, Scotland,* and *Ireland* respectively.

Effect of Certificate.

Operation of Certificate as Special Act.

17. As from the Time (not being prior to such Publication) in the Certificate prescribed, and if none is prescribed then as from the Time of such Publication, the Certificate shall have the same Force and Operation, and shall be as absolutely valid and conclusive to all Intents, as if the Contents thereof (taken in conjunction with this Act) had been expressly enacted by Parliament; and the Validity of the Certificate shall not be impeached on account of any alleged Informality in any Court or elsewhere.

Judicial Notice of Certificate.

18. The Certificate shall be judicially noticed without being specially pleaded.

Interpretation of Certificate.

19. Terms used in the Certificate shall have the same Meanings as they have when used in this Act.

Parts of 26 & 27 Vict. cc. 92. & 118. incorporated.

20. There shall be incorporated with the Certificate (which shall for this Purpose be deemed the Special Act)—

In the first-mentioned Case, Part III. of The Railways Clauses Act, 1863;

In the thirdly-mentioned Case, the Companies Clauses Acts.

Rule as to short Distances.

21. In the first-mentioned Case, during the Continuance of any Agreement for the joint working of any Two Railways, in the Calculation of Tolls and Charges for short Distances in respect of Traffic conveyed on both Railways, the Distances traversed shall be reckoned continuously on such Railways as if they were One Railway.

Restriction as to issue of Shares.

22. It shall not be lawful for any Company empowered by a Certificate under this Act to issue any Share created under the Authority of the Certificate, nor shall any such Share vest in the Person accepting the same, unless and until a Sum not being less than One Fifth Part of the Amount of such Share is paid up in respect thereof.

Restrictions on Company as to borrowing, &c.

23. In the thirdly-mentioned Case the Company, whether incorporated by Special Act or by Certificate, shall be subject to the following Restrictions; namely,

(1.) They shall not exercise any Power of borrowing Money under the Certificate until the whole of the Share Capital authorized by the Certificate is subscribed for or taken, and until One Half thereof is actually paid up, and until they prove to the Justice who is to certify under Section 40. of The Companies Clauses Consolidation Act, 1845, or (in *Scotland*) to the Sheriff who is to certify under Section 42. of The Companies Clauses Consolidation (*Scotland*) Act, 1845, as the Case may be, before he so certifies, that Shares for the whole of the Capital are issued and accepted, and that not less than One Fifth Part of the Amount of each separate Share has been paid up on account thereof before or at the Time of the Issue or Acceptance thereof, and that all such Shares are taken in good Faith, and are held by the Subscribers or their Assigns, those Subscribers or their Assigns being legally liable for the same (of which Matters the Certificate of the Justice or Sheriff shall be sufficient Evidence):

(2.) They shall not borrow a larger Sum in the whole than One Third of the Amount of the Share Capital authorized by the Certificate:

(3.) They shall not, out of Money raised under the Certificate by Calls or borrowing, pay Interest or Dividend to a Shareholder on the Amount of Calls made on his Shares, whether created under the Certificate or otherwise (but this Provision shall not prevent them paying to a Shareholder under the Certificate such Interest on Money advanced by him beyond the Amount of Calls actually made as is allowed by the Companies Clauses Acts):

(4.) They

(4.) They shall not, out of Money so raised, pay or deposit any Money that may be required to be paid or deposited in relation to any Application to Parliament or the Board of Trade:

(5.) They shall apply every Part of the Money so raised only for the Purposes for which it is by the Certificate authorized to be applied.

Miscellaneous.

Power to Board of Trade to reject Application.

24. Nothing in this Act shall make it obligatory on the Board of Trade to settle a Draft of a Certificate in any Case if it appears to the Board of Trade for any Reason that the Application for a Certificate should not be complied with.

Nothing to exempt Railways from Operation of General Acts.

25. Nothing in the Certificate shall exempt any Railway to which it relates, or the Company to whom that Railway belongs, from the Provisions of any General Act of Parliament relating to Railways, or to the better Audit of the Accounts of Railway Companies, passed before or after the issuing of the Certificate, or from any Revision and Alteration, under the Authority of Parliament, of the maximum Tolls and Charges allowed to be taken in respect of that Railway.

Certificate under this and Railways Construction Act.

26. A Certificate may be made under this Act and The Railways Construction Facilities Act, 1864, jointly, and in any such Case the Forms of Certificate given in this Act and the said Act may be adapted to the Circumstances of the Case.

Approval by Members of Company required, as under Standing Orders.

27. Where, in case the Company were proceeding by a Railway Bill instead of under this Act, the Approval of the Bill in any Manner by the Members of the Company would be required under the Standing Orders of either House of Parliament for the Time being in force, the Board of Trade shall not issue a Certificate without being satisfied that the Members of the Company have in like Manner approved of the Application to the Board of Trade.

Power for Board of Trade to amend or revoke Certificate.

28. Subject and according to the Restrictions and Provisions of this Act, the Board of Trade, on the Application of the Company, may from Time to Time amend, extend, or vary by Certificate any Certificate issued under this Act, and may by Certificate revoke a previous Certificate issued under this Act.

Power to correct Error.

29. If in any Case it is made to appear to the Board of Trade that any Error has been committed in a Certificate or in relation thereto, the Board of Trade may, subject and according to the Restrictions and Provisions of this Act, on the Application of the Company, Body, or Person affected by the Error, and on Notice to the Company or Companies empowered by the Certificate, correct the Error by a further Certificate.

Proof of Certificate.

30. A Copy of the *London* or *Edinburgh* or *Dublin* Gazette containing a Certificate or a Copy of a Certificate, purporting to be printed by the Printers of the *London*, *Edinburgh*, or *Dublin* Gazette, shall be conclusive Evidence of the Certificate and of the due Publication thereof, without any Proof of the Gazette or without any Proof of the Copy having been in fact so printed, as the Case may be.

Copies of Certificate for Sale.

31. Every Company empowered by a Certificate shall at all Times keep at their Head Office Copies of the Certificate printed by the Printers of the Gazette or One of the Gazettes in which the same was published in such Form as General Rules direct, to be sold to all Persons desiring to buy the same at a Price not exceeding One Shilling for each Copy.

If any Company fail to comply with this Provision they shall be liable to a Penalty not exceeding Twenty Pounds, and to a further Penalty not exceeding Five Pounds for every Day during which such Failure continues after the First Penalty is incurred.

Application of Act to Proprietors of Railways generally.

32. The Provisions of this Act relative to the first-mentioned Case and to the secondly-mentioned Case respectively shall extend and apply, *mutatis mutandis*, to the Proprietors of a Railway although not incorporated as a Company.

Recovery and Application of Penalties.

33. Penalties under this Act or under a Certificate, the Recovery and Application whereof are not otherwise provided for, shall be recovered and applied as Penalties under The

The Railways Clauses Consolidation Act, 1845, and The Railways Clauses Consolidation (*Scotland*) Act, 1845, as the Case may require, are recoverable and applicable.

Custody of Documents. 7 W. 4. & 1 Vict. c. 83.

34. The Act of the Session of the Seventh Year of King *William* the Fourth and the First Year of Her Majesty (Chapter Eighty-three), "to compel Clerks of the Peace and "other Persons to take the Custody of such Documents as shall be directed to be deposited "with them under the Standing Orders of either House of Parliament," shall apply to Documents required to be deposited by General Rules under this Act.

General Rules in Schedule, with Power for Amendment.

35. The General Rules under this Act shall in the first instance be those set forth in the Schedule to this Act; and the Board of Trade may from Time to Time, for the better Execution of this Act, make General Rules adding to, altering, or revoking any General Rules for the Time being in force under this Act; but any General Rules so made by the Board of Trade shall not have effect unless and until they are laid before both Houses of Parliament; and if either House of Parliament, within Six Weeks after the same are laid before that House, thinks fit to resolve that the same or any Part thereof ought not to take effect, the same or that Part thereof (as the Case may be) shall not take effect; otherwise all Rules made by the Board of Trade under the present Section shall be of the same Force and Effect as if they had been comprised in the Schedule to this Act.

All General Rules which are to take effect under the present Section shall be published in the *London*, *Edinburgh*, and *Dublin* Gazettes.

Annual Report to Parliament by Board of Trade.

36. Not later than the First Day of *July* in each Year the Board of Trade shall lay before both Houses of Parliament a Report respecting the Applications to and Proceedings of the Board of Trade under this Act during the Year then last past.

The SCHEDULE referred to in the foregoing Act.

(i.)—*Notice of Opposition.*

In the Matter of
The Railway Companies' Powers Act, 1864,
and
The Application of the Railway Company for a Certificate the Draft whereof is intituled [*set out Title*].

We, the Railway [*or* Canal] Company, hereby declare and give Notice that we desire to be heard by Counsel, Agents, and Witnesses against the granting to the above-named Railway Company of the Powers sought to be obtained by them by the above-mentioned Application.

Dated this Day of 18 .

Witness, *A.B.*

L.S.

(ii.)—*Form of Certificate of Board of Trade.*

The Railway Company.

Certificate of the Board of Trade for the Extension of Time for Sale of superfluous Lands [*or as the Case may be*].

Whereas the Railway Company have complied with the Requirements of The Railway Companies' Powers Act, 1864:

Now, therefore, the Board of Trade do, by this their Certificate, in pursuance of the said Act,

Act, and by virtue and in exercise of the Powers thereby in them vested, and of every other Power enabling them in this Behalf, certify as follows:

[*Here are to follow the Provisions of the Certificate showing the Powers conferred and the Terms and Conditions (if any) imposed.*]

(Signed) *C.D.*
Secretary to the Board of Trade.

The Board of Trade,
Whitehall.
Dated this Day of

(iii.)—*General Rules.*

Form of Application.

1. The Application to the Board of Trade for a Certificate is to be made by a Memorial in Writing under the Common Seal of the Company, lodged at the Office of the Board of Trade.

2. Together with the Memorial the Company are to lodge a printed Draft of the Certificate as proposed by the Company.

Advertisements as to Application.

3. Notice of the Application to the Board of Trade is to be given by Advertisement published as follows; namely,

In every Case, once in each of Three successive Weeks in some One and the same Newspaper of the County, City, or Town, or County of a City or Town, wherein the Head Office of the Promoters is situate:

In the Case referred to in the foregoing Act as the first-mentioned Case, once in each of Three successive Weeks in some One and the same Newspaper of each County, City, or Town, or County of a City or Town, wherein the Head Office of any Railway Company with whom the Promoters propose to enter into an Agreement is situate:

If in any Case there is not any such Newspaper as herein-before described, then in like Manner in a Newspaper of some adjoining or neighbouring County:

In every Case where One Company only is proposed to be empowered, then in the London, Edinburgh, or Dublin Gazette, according as the Head Office of the Company is situate in England, Scotland, or Ireland:

In every Case where Two or more Companies are proposed to be empowered, then in One or more of the Gazettes, according as the several Head Offices of the Company respectively are situate in England, Scotland, and Ireland respectively.

4. The Advertisements are to be published either in the Month of June or in the Month of November, and not at any other Time.

5. Each Advertisement is to give the Address of an Office in London where Copies of the Draft Certificate will be supplied as herein-after directed.

6. Each Advertisement is to state that all Persons desirous of making to the Board of Trade any Representation, or of bringing before them any Objection, respecting the Application, may do so by Letter addressed to the Secretary of the Board of Trade on or before the First Day of August or First Day of January next succeeding the Date of the Advertisement, according as the same is published in the Month of June or in the Month of November.

7. Within One Week after the Publication of the latest Advertisement a Copy of each of the Newspapers and Gazettes containing the several Advertisements is to be lodged at the Office of the Board of Trade.

Notice to Landowners.

8. In the Case referred to in the foregoing Act as the secondly-mentioned Case the Promoters, in the Month of June or in the Month of November (as the Case may be) in which the Advertisements are published, are to serve Notice of the Application on the Owners of Lands adjoining to the Lands to which the Application relates.

Notice of Opposition.

9. Notice of Opposition by a Railway or Canal Company is to be lodged at the Office of the Board of Trade, not later than the First Day of August or First Day of January next succeeding the Date of the Advertisement of Application, according as the same is published in the Month of June or in the Month of November.

Notice of Settlement of Draft Certificate.

10. On the Draft Certificate being settled by the Board of Trade the Promoters are to serve a Copy thereof, with a Notice that the Draft has been settled by the Board of Trade, on every Company, Body, or Person by whom any Representation or Objection respecting the Application was made to or brought before the Board of Trade, and are also to give by Advertisement or otherwise such public or other Notice (if any) thereof as according to the Circumstances of the Case the Board of Trade direct.

Supply of Copies of Draft Certificate.

11. From the Time of the Publication of the first Advertisement the Promoters are to keep in the Office mentioned in this Behalf in the Advertisement a sufficient Number of Copies of the Draft of the Certificate as proposed by them, and are to furnish their Copies to all Persons applying for them at the Price of not more than Sixpence each.

12. From the Time of the Settlement of the Draft Certificate by the Board of Trade the Promoters are to keep in the Office aforesaid Copies of the Draft supplied to them for that Purpose by the Board of Trade, and are to furnish there Copies thereof to all Persons applying for them at such Price (if any) as the Board of Trade from Time to Time direct.

Printing of Certificate.

13. Copies of the Certificate printed by the Printers of a Gazette are to be printed on ordinary White Folio Paper, similar in Size to the Paper on which the Public General Acts of Parliament are printed for public Sale.

CAP. CXXI.

An Act to facilitate in certain Cases the obtaining of Powers for the Construction of Railways. [29th *July* 1864.]

'WHEREAS it is expedient to facilitate the making of Branch and other Lines of Railway, and Deviations of existing Railways, and of Railways in course of Construction, and also the Execution of new Works connected with or for the Purposes of existing Railways:

'And whereas the Object aforesaid would be promoted if, where all Landowners and other Parties beneficially interested are consenting to the making of a Railway or the Execution of a Work, the Persons desirous of making or executing the same were enabled to obtain Power to do so, on complying with the Conditions of a General Act of Parliament, without being obliged to procure a Special Act:'

Be it therefore 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:

Preliminary.

Short Title.

1. This Act may be cited as The Railways Construction Facilities Act, 1864.

Interpretation of Terms.

2. In this Act—

The Term "Lands" includes any Estate, Right, or Interest in Lands:

The Term "the Promoters" means in each Case the Company or Persons intending to apply to the Board of Trade for such a Certificate as is herein-after provided for, and, after