CHAPTER xiv.

An Act for authorising the Consolidation of the Two Undertakings of the Tendring Hundred Railway Company and their respective Capitals, and for suspending Legal Proceedings against the said Company; for converting the Mortgage, Bond, and other Debts into Debenture Stock; for regulating the Capital of the Company; and for other purposes. [8th June 1874.] A.D. 1874.

WHEREAS by "The Tendring Hundred Railway Act, 1859," (herein-after called "the Act of 1859,") the Tendring Hundred Railway Company (in this Act called the Company) were incorporated, and authorised to make and maintain a railway from Hythe near Colchester to Wivenhoe, both in the county of Essex, and to raise for that purpose the sum of fifteen thousand pounds by one thousand five hundred shares of ten pounds each, and to borrow on mortgage or bond the sum of five thousand pounds: 22 & 23 Vict. c. cxix.

And whereas by "The Tendring Hundred Railway Act, 1862," (herein-after called "the Act of 1862,") the Company were empowered to extend their said railway in Colchester, and to make a tramway to the camp at Colchester, and to raise the sum of twenty-five thousand pounds by the creation of new shares, and to borrow on mortgage an additional sum of eight thousand three hundred pounds: 25 & 26 Vict. c. xxxiv.

And whereas by "The Tendring Hundred Railway Extension Act, 1863," (herein-after called the Act of 1863,) the Company were authorised to extend their railway to Weeley and Walton-le-Soken, both in the county of Essex, and to raise for the purposes of that Act the sum of eighty-five thousand pounds by eight thousand five hundred shares of ten pounds each, to be called extension shares, and to borrow on mortgage the sum of twenty-eight thousand pounds, and it was provided that the railways and works by that 26 & 27 Vict. c. cxliii.

Section 37.

Section 49.

Sections 40, 41, 42, 43, 44, 45, 46, 47, 48.

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Act authorised to be constructed should for financial purposes form a separate undertaking (in this Act called the extension undertaking), and that the capital thereby created should constitute a separate capital, and that the profits from time to time arising from the earnings of that undertaking and applicable to dividend should be wholly applied in payment of interest or dividend on that capital, and that the holders of extension shares should not in respect thereof be entitled to interest or dividend out of any other profits of the Company, and the Great Eastern Railway Company were by that Act empowered to subscribe to the extension undertaking a sum of twenty-eight thousand pounds, and to appoint two directors of the Company, and the Company and the Great Eastern Railway Company were empowered to enter into working and traffic arrangements with reference to the undertakings of the Company:

27 & 28 Vict. c. lxxix.

And whereas by "The Tendring Hundred Railway Acts Amendment Act, 1864," the Company were required to abandon the formation of a portion of one of their railways authorised by the Act of 1863, and were authorised to make and maintain in lieu thereof the railway therein described:

30 & 31 Vict. c. xliii.

And whereas by "The Tendring Hundred Railway Act, 1867," (herein-after called the Act of 1867,) the Company were authorised to raise a further sum of thirty thousand pounds by the creation of new ordinary or new preference shares or stock, or at the option of the Company by both of those modes, and to attach to any such preference shares or stock any dividend not exceeding the rate of seven pounds per centum per annum, and also to borrow on mortgage an additional ten thousand pounds:

And whereas the Company in the exercise of the powers contained in the Act of 1864 have created shares to the full amount so authorised, bearing a preferential dividend of six pounds per centum per annum, of which ten thousand pounds has been appropriated for the purposes of the original undertaking authorised by the Acts of 1859 and 1862, and twenty thousand pounds for the purposes of the extension undertaking:

And whereas the railways authorised by the above-mentioned Acts have been completed and opened for public traffic, and have since such completion and opening been worked by the Great Eastern Railway Company:

And whereas the Company have borrowed on mortgages and bonds under the authority of their various Acts of Parliament the sum of thirty-nine thousand pounds or thereabouts, and there is now due and owing arrears of interests thereon, amounting in the whole to the sum of ten thousand pounds or thereabouts, but they have not created or issued any debenture stock:

And whereas the paid-up share capital of the Company consists of the following amounts and classes, and the existing loans to the Company are as follows, and such share capital and loans are appropriated between the original and extension undertakings in the following manner:

Undertaking.	Preference Share Capital.		Ordinary Share Capital.	Total Share Capital.	Loans.
	Amount.	Interest.			
	£		£ s.	£ s.	£
Original - -	4,010	6 per cent.	23,250 0	27,260 0	13,300
Extension - -	2,930	—	76,000 10	78,930 10	26,000
Total - £	6,940	—	99,250 10	106,190 10	39,300

And whereas the Company have been and are unable to pay any portion of the principal of the said debt, and the whole amount of such principal is now overdue and the Company are unable to renew the same, or to pay any of the said arrears of interest upon the said mortgages and bonds:

And whereas the Company are indebted to landowners in respect of land taken by the Company for the purposes of their undertakings, and of costs and expenses in connexion therewith, and there are also claims against the Company for land tax and the redemption thereof, for arrears of tithe rentcharge, and for the expenses of apportionment of tithe rentcharge, and for the enfranchisement of copyhold under the Lands Clauses Consolidation Acts, also for solicitors, parliamentary agents, engineers, surveyors, and other charges, and the costs of the suit in Chancery now pending and herein-after referred to, and the Company are unable at present to meet these claims:

And whereas a bill was in the year one thousand eight hundred and sixty-eight filed in Her Majesty's High Court of Chancery by George Josselyn on behalf of himself and all other mortgagees and bondholders of the Company, to enforce payment of the claims of himself and such other mortgagees and bondholders against the Company, and a receiver of the tolls and profits of the Company has been appointed by the said court in the said cause, and the said suit is still pending; but none of the said mortgagees and bondholders have yet received any part of the interest or principal due to them, nor are they likely so to do for a long period yet to come unless the said Chancery suit be put an end to:

And whereas various other suits and actions have been brought

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against the Company, in some of which judgments have been obtained against the Company:

And whereas, in order to free the Company from their present embarrassed position, and to enable them more effectually to fulfil their engagements, it is expedient that the said bill be dismissed, and that during the period herein-after mentioned all suits, actions, executions, attachments, and other proceedings against the Company or their property with reference to existing or accruing debts or liabilities should be stayed, subject to the provisions herein-after contained:

And whereas the separation of the two undertakings of the Company and their share capital has been found expensive and troublesome, and without any advantage whatever to the parties who subscribed to such several separate undertakings as such, and it is expedient that they should be merged into and form one consolidated undertaking and one joint capital, and that the financial arrangements embodied in this Act be authorised:

And whereas the Bill for this Act has been unanimously agreed to by each class of the shareholders of the Company, expressed by separate resolutions at a meeting of the Company specially convened for the purpose, and with due notice of the business to be transacted thereat:

And whereas upwards of three fourths in value of the holders of the mortgages and bonds of the Company, and upwards of three fourths in value of the holders of preference shares of the Company, have respectively assented to the Bill for this Act, and no mortgagee or bondholder has dissented therefrom:

And whereas the simple contract debts of the Company amount to sixty-eight thousand nine hundred and twenty pounds or thereabouts, the holders of which to the extent of upwards of sixty-eight thousand pounds have assented to the Bill for this Act:

And whereas the purposes aforesaid cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Short title.

1. This Act may be cited for all purposes as "The Tendring Hundred Railway (Arrangement) Act, 1874."

Interpretation of terms.

2. In this Act, unless the contrary is expressed, or is to be

inferred from the context, the following words and expressions shall have the following meanings:

The expression "the entire undertaking" means the aggregate of the two undertakings of the Company:

The expression "the original undertaking" means the undertaking of the Company as authorised by the Acts of 1859 and 1862:

The expression "the extension undertaking" means the undertaking of the Company authorised by the Acts of 1863, 1864, and 1867:

The expression "the court" means the High Court of Chancery, or any other court created by the "Judicature Act, 1873," for administration of its functions and powers.

The two undertakings of the Company united into one undertaking.

3. Upon the passing of this Act the two undertakings of the Company shall be united and form one entire undertaking, and the capital and shares created under any Act or Acts relating to the Company shall constitute one capital, notwithstanding anything to the contrary contained in the Act of 1863; and sections 40, 41, 42, 43 of the Act of 1863 are hereby repealed.

Saving rights of the Company.

4. Notwithstanding such union of the two undertakings the Company may continue to hold, possess, and enjoy, use, exercise, and execute all their estate, right, title, and interest in and to their said two undertakings, and all their rights, privileges, easements, powers, and authorities, in the same manner and to the same extent as they respectively were, or, if this Act had not passed, could or might be, held, possessed, enjoyed, used, exercised, or executed by the Company.

Saving charges, contracts, &c.

5. Except as herein specially provided, nothing in this Act shall exempt the Company from any existing charges, debts, covenants, contracts, engagements, obligations, and liabilities affecting the two undertakings or either of them.

Company not to borrow any further money.

6. After the passing of this Act the Company shall not, under the provisions of the herein-before mentioned Acts relating to the Company, or any or either of them, borrow any further money.

Discharge of receiver, and application of money in court.

7. From and after the passing of this Act the functions of any receiver of the Company's undertakings appointed by the court before the passing of this Act shall absolutely cease, and on the application of the Company, or of the plaintiff in the suit in which the receiver was appointed, the court shall provide out of any funds standing to the credit of the suit, or in the hands of the receiver, for the costs of the suit, and direct the balance thereof to be paid to the Company, and thereupon the receiver shall be discharged on proving

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his accounts, and all further proceedings in the said suit shall be stayed.

Application of fund in court, &c.

8. The said balance so to be paid to the Company, and all moneys which shall become due paid to the Company for tolls or traffic of the entire undertaking, up to and inclusive of the thirty-first day of December one thousand eight hundred and seventy-three, shall in the first place be applied by the Company in or towards satisfying the claims of landowners in respect of lands and interests in lands taken or injuriously affected by reason of the construction of the Company's railways and works, and in payment of outstanding tithe rentcharges and all other charges which might come in priority of the claims of mortgagees or bondholders, or which would or might by reason of such last-mentioned priority obstruct the regular working of the entire undertaking of the Company if left undischarged, and in the second place in payment of the costs, charges, and expenses of and incidental to the applying for, obtaining, and passing of this Act, and subject as aforesaid in or towards the payment of the principal moneys for the time being due and owing to the respective mortgagees and bondholders at the time of the passing of this Act, or their respective executors, administrators, or assigns, according to their respective priorities, if any. And any moneys paid to such mortgagees or bondholders out of the balance of the said fund shall be taken and accepted by them respectively in satisfaction and discharge of an equal nominal amount in par value of any mortgages or bonds held by them; and if previously to the apportionment and division of any part of such fund any mortgagee or bondholder shall have taken (A) debenture stock (herein-after mentioned) in lieu of his mortgages or bonds, the rateable share of such fund which should be appropriated to such last-mentioned mortgagee or bondholder shall be paid to and accepted by him in redemption of an equal amount of such (A) debenture stock at par, and thereupon such amount of (A) debenture stock shall be cancelled and shall not be reissued by the Company.

Stay of proceedings during suspense period.

9. Save as in this Act otherwise provided, from and after the passing of this Act, and during the period of ten years from the passing of this Act (which period is in this Act called the suspense period), no action, suit, execution, attachment, or other proceeding against the Company, or affecting the property of the Company (except proceedings against the Company as carriers of goods or passengers, or in respect of liabilities contracted after the passing of this Act), shall be continued or commenced, but this section

shall have effect, subject to the following restrictions and provisions; (namely,)

(1.) The court, on motion and on proof of special circumstances making it fit in the opinion of the court that any such action, suit, execution, attachment, or other proceeding be continued or commenced during the suspense period, may give leave to that effect, but subject to such terms (if any) as the court thinks fit to impose:

(2.) The costs of any action, suit, execution, or attachment, or other proceeding against the Company, or affecting the property thereof, stayed by this Act, shall be in the discretion of the court, and may be dealt with on a motion in the court, and if allowed may, if the court so determine, be added to the debt:

(3.) During the suspense period the operation of the statutes for limitation of actions and suits shall be suspended, and every cause of action or suit, and every right to issue execution or attachment, or to take any other proceeding stayed by this Act, shall at the expiration of the suspense period be in the same condition as regards time as if the suspense period had not intervened:

(4.) If at any time within the suspense period, after the discharge of all debts and liabilities of the Company, the net receipts of the Company applicable to the payment of interest on mortgages are sufficient to pay all interest then due on the whole amount of the Company's debenture stock, the suspense period shall cease, and notice thereof shall be published forthwith in the "London Gazette" and once a week for two consecutive weeks in some newspaper published in Essex, and also in some London daily paper.

Power to issue (A) debenture stock.

10. The Company may create and issue debenture stock to an amount not exceeding forty-five thousand pounds, to be called (A) Debenture Stock, and to bear interest after the following rates; (that is to say,)

From the 1st January 1874 to the 1st January 1877 -	After the rate of three pounds ten shillings per centum per annum.
From the 1st January 1877 to the 1st January 1882 -	After the rate of four pounds per centum per annum.
From the 1st January 1882 and thenceforth as the maximum rate - -	After the rate of four pounds ten shillings per annum.

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(A) stock to be irredeemable.

11. The (A) debenture stock shall be irredeemable (except to the extent herein-before mentioned), and the Company shall not create or issue debenture stock except under this Act.

(A) debenture stock to be a first charge.

12. Subject to the provisions of this Act the (A) debenture stock, and the interest thereon, shall be the first charge on the entire undertaking of the Company.

Interest on mortgages, &c. to cease on 1st January 1874.

13. All interest on the mortgages and bonds and debts of the Company shall cease as from the first day of January one thousand eight hundred and seventy-four.

(A) debenture stock to be issued to mortgagees.

14. A sufficient amount of (A) debenture stock shall be issued in exchange for the mortgages and bonds of the Company existing at the time of such issue, and the amount to be issued in each case shall (subject as herein-before mentioned) be equal to the amount of the principal of the mortgages and bonds in exchange for which such debenture stock is given, and the several holders of such existing mortgages and bonds shall accept and make such exchange accordingly.

Amount received from collateral securities to be deducted from principal.

15. Provided that in case any mortgagee or bondholder shall at the time of the passing of this Act hold any collateral security for the amount secured by his mortgages or bonds, he shall be entitled to the full benefit of such security, deducting nevertheless from the amount of principal and interest secured by such bonds or mortgages the amount received by him under or by virtue of such collateral security.

General provision as to (A) debenture stock.

16. Subject to the provisions of this Act, so much of the (A) debenture stock as is not so issued in exchange for the mortgages and bonds of the Company may be issued by the directors at such times, in such amounts and manner, and on such terms, as they in their discretion think fit.

Power to issue (B) debenture stock.

17. The Company may create and issue debenture stock to an amount not exceeding ninety-five thousand pounds, to be called (B) Debenture Stock, and to bear interest after the following rates; (that is to say,)

From the 1st January 1874 to the 1st January 1876	After the rate of one pound ten shillings per centum per annum.
From the 1st January 1876 to the 1st January 1879	After the rate of two pounds per centum per annum.
From the 1st January 1879 to the 1st January 1882	After the rate of two pounds ten shillings per centum per annum.

From the 1st January 1882 to the 1st January 1883 -	After the rate of three pounds per centum per annum.
From the 1st January 1883 and thenceforward as the maximum rate - -	After the rate of three pounds ten shillings per centum per annum.

In case there are not in any year during the suspense period profits available for the payment of the full amount of interest upon the (B) debenture stock for any year, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the Company, and the terms and conditions on which such stock is issued shall be clearly stated on the certificates of such stock.

(B) debenture stock and interest to be a charge after (A) debenture stock.

18. The (B) debenture stock, and the interest thereon, shall be a charge on the entire undertaking of the Company next after the (A) debenture stock, and shall be irredeemable.

(B) debenture stock in exchange for interest on mortgages and bond.

19. A sufficient amount of (B) debenture stock shall be issued in exchange for the interest due on the said mortgages and bonds up to the first day of January one thousand eight hundred and seventy-four, the amount to be issued in each case being equal to the amount of the interest of the mortgages and bonds in exchange for which such debenture stock is given, and the several holders of such existing mortgages and bonds shall accept and make such exchange accordingly.

Issue of (B) debenture stock to creditors.

20. A further sufficient amount of (B) debenture stock shall be issued to all other creditors of the Company (except to those creditors whose claims have been satisfied under the provisions herein-before contained) in satisfaction and discharge of the amount, whether principal or interest, owing to such other creditors respectively, the amount of such (B) debenture stock to be issued to each such other creditor being equal to the amount due to him, and such other creditors shall accept the same in such satisfaction and discharge accordingly.

Issue of (B) debenture stock to preference shareholders.

21. A further sufficient amount of (B) debenture stock shall be issued to the preference shareholders in the Company in exchange for their preference shares in the proportion of fifty per cent. of (B) debenture stock for the nominal or par value of their respective shares, and the several holders of preference shares shall accept and make such exchange accordingly.

Cancellation of old securities.

22. All mortgages, bonds, debts, interest, and preference shares in substitution for which either (A) or (B) debenture stock is issued shall be absolutely cancelled and extinguished as from the first day of January one thousand eight hundred and seventy-four.

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Application of proceeds of remainder.

23. The proceeds of the issue of the remainder of the (B) debenture stock shall be applied in payment of the expenses of the issue of debenture stock, and the surplus (if any) shall be applied by the directors for any lawful purpose of the Company to which capital is applicable, as they in their discretion think fit.

General provision as to debenture stock.

24. Subject to the provisions of this Act, (B) debenture stock may be issued by the directors at such times, in such amounts and manner, and on such terms, as they in their discretion think fit.

Trustees and others to accept debenture stocks.

25. All trustees, executors, and administrators, guardians and committees of lunatics or idiots, assignees in bankruptcy, trustees and inspectors under deeds of arrangement or composition, liquidators of companies and corporations, holding or being entitled to or interested in any unsatisfied claim, mortgage, bond, interest, or debt due and owing by the Company on any trust or otherwise, shall accept in the same manner as if they were themselves respectively beneficially entitled thereto any offer of any debenture stock made or to be made to them under and in conformity with the provisions of this Act, and may respectively exercise all or any of the powers of voting or consenting, and other powers and discretions by this Act given to mortgagees and general creditors respectively.

Debenture stock to be subject to same trusts.

26. All debenture stock appropriated and vested by virtue of this Act shall be subject and liable to the same trusts, powers, provisions, declarations, agreements, charges, liens, and incumbrances as immediately before the passing of this Act affected the then existing debt or sum for which it is substituted, and so as to give effect to and not revoke any testamentary disposition of or affecting such then existing debt or sum.

Debenture to carry rights of voting, &c.

27. Except as in this Act otherwise provided, the possession of debenture stock in the capital of the Company shall, with respect to title to be present in person or by proxy at any meeting of the Company, and to vote thereat, and in all other respects, confer the like rights and qualifications as the possession of any ordinary share in the capital of the Company, and for the purpose of the scale of voting, and as respects quorum of meetings and otherwise, each complete sum of ten pounds in debenture stock shall be equivalent to one ordinary share.

General rights of holders of debenture stock.

28. Notwithstanding anything in this Act, (A) debenture stock shall entitle the holders thereof to the rights and powers of mortgagees of the entire undertaking, except only the right to require repayment of the principal money in lieu of or exchange for which such debenture stock shall have been accepted.

Votes of ordinary shareholders.

29. Nothing in this Act shall take away the right of ordinary shareholders to attend and vote at general meetings of the Company.

Constitution of board.

30. A special meeting of the Company shall be held within three months after the passing of this Act, and at that meeting all the then existing directors shall retire and new directors shall be elected, and thenceforth the board shall consist of nine members, and shall be constituted as follows; (namely,)

Two directors called (A) debenture directors, whose qualification shall be the possession of not less than five hundred pounds each in (A) debenture stock, and who shall be elected by the holders of that stock:

Two directors called (B) debenture directors, whose qualification shall be the possession of not less than five hundred pounds each in (B) debenture stock, and who shall be elected by the holders of that stock:

Three directors called share directors, whose qualification shall be the possession of not less than five hundred pounds each in ordinary shares, and who shall be elected by the holders of ordinary shares in the Company:

Two directors to be elected by the Great Eastern Railway Company, in accordance with the provisions of the Act of 1863 in that behalf.

Quorum of directors.

31. The quorum of the directors shall be four.

Rotation of directors.

32. One of each class of directors, except those appointed by the Great Eastern Railway Company, shall retire annually at the February ordinary general meeting of the Company, and the one of each class to retire first shall be determined by agreement between the two directors of that class, or in default of agreement by lots to be drawn at a meeting of the board, and in subsequent years the one to retire shall be the one who has been the longer in office.

Vacancies among directors.

33. All vacancies, whether regular or casual, occurring among the directors shall be filled up by elections at separate meetings of the respective classes of holders of debenture stock and shares whom the respective vacating directors represented, and for this purpose separate meetings of those respective classes of holders of debenture stock and shares shall, as and when necessary, be called as soon as practicable, and be held at some convenient time and place.

Notice of separate meetings.

34. All separate meetings of holders of debenture stocks and of shares shall be convened by the like notice as by the Companies Clauses Consolidation Act, 1845, is required to be given of general meetings of a company.

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Chairman of separate meetings.

35. At every separate meeting of holders of debenture stocks or of shares, the chairman of the meeting shall be such one of the directors representing that class as those directors agree upon among themselves, or in default of agreement such one of them as is chosen by the meeting, and in the absence of both of them the chairman of the meeting shall be any holder of debenture stock or of any share (as the case may be) present at the meeting, to be chosen by the meeting.

Votes at and proceedings of separate meetings.

36. At every separate meeting of the holders of debenture stocks or shares the holders thereof respectively shall vote as at a general meeting of the Company, and those meetings shall be conducted and be regulated, as respects quorum and otherwise, as nearly as may be as if they were general meetings of the Company under the Companies Clauses Consolidation Act, 1845, and the Company's former special Acts.

Application of income.

37. The net income received by the Company in respect of each half year beginning, and reckoned from the first day of January one thousand eight hundred and seventy-four, shall be applied in the manner and with the priorities following, and not otherwise; (that is to say,)

(1.) In payment of the interest on (A) debenture stock:
(2.) In payment of the interest on (B) debenture stock:
(3.) In payment of dividend on the ordinary shares of the Company.

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

38. 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 to 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.

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

39. Nothing herein contained shall be deemed or construed to exempt the Company or their railways from the provisions of any general Act relating to railways, or to the better or 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 and alteration, under the authority of Parliament, of the maximum rates and charges authorised to be taken by the Company, or of the rates for small parcels.

LONDON: Printed by George Edward Eyre and William Spottiswoode, Printers to the Queen's most Excellent Majesty. 1874.