CHAPTER cxxxvi.

An Act for extending the limits of supply of the Trowbridge Water Company, and for authorising the Company to construct further works, and to raise further money; and for other purposes. [4th July 1878.]

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WHEREAS by the Trowbridge Water Act, 1873, (in this Act called "the Act of 1873",) the Trowbridge Water Company (in this Act referred to as "the Company") were incorporated, upon the dissolution of the Trowbridge and District New Water Company, Limited, with a share capital of £40,000, and power to borrow £2,500 in respect of each £10,000 of their capital, and were authorised to make and maintain certain waterworks therein described, and other works and conveniences connected therewith, and to supply water within the limits of the said Act, which were thereby defined to be the town and parish of Trowbridge, and the townships, parishes, and places of North Bradley, Steeple Ashton, Hilperton, Upton Scudamore, and Semington, in the county of Wilts:

36 & 37 Vict. c. cxxxiv.

And whereas it is expedient that the limits of the Company for the supply of water be extended so as to include the parishes of Westbury, Melksham, Whaddon, Westwood, and Winkfield, in the said county of Wilts:

And whereas it is expedient that the Company be authorised to make and maintain the additional works in this Act described, and to take water from the Semington brook, and supply the same for manufacturing, public, trade, and other like purposes:

And whereas by section 40 of the Act of 1873 the Company were prohibited from taking water from the Semington brook and the Paxcroft brook, except for certain purposes therein specified and to the extent and in manner required for carrying out such purposes, without the previous consent in writing of the owner or owners for the time being of Staverton Factory, and from taking or diverting a greater quantity of water in any one day than one million gallons from the Semington brook without the like consent:

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And whereas James Hargreaves, the present owner or reputed owner of Staverton Factory, has consented in writing to the taking of water by the Company from the Semington brook for the purposes of this Act:

And whereas it is expedient that, in order to the extinguishment of the other limitations imposed upon the Company as aforesaid by the Act of 1873, they be authorised to purchase and acquire Staverton Factory by agreement:

And whereas it is expedient that in other respects the Act of 1873 be amended:

And whereas it is expedient that the Company be authorised to raise further money, and that such further powers be conferred upon them as are in this Act in that behalf expressed:

And whereas the time for the completion of the works authorised by the Act of 1873 was thereby limited to five years from the passing of that Act, and it is expedient that that period should be extended as regards certain of the works by that Act anthorised:

And whereas plans and sections of the works by this Act authorised showing the lines and levels thereof, and books of reference to the plans containing the names of 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 Wilts, and are in this Act referred to as the deposited plans, sections, and books of reference:

And whereas the objects 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 for all purposes as the Trowbridge Water Act, 1878.

Construction of Acts.

2. The Act of 1873, as amended by this Act, and this Act shall be read and construed together as one Act.

Incorporation of general Acts. 8 & 9 Vict. c. 16.

3. The 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 the means of enforcing the payment of calls;

The forfeiture of shares for non-payment of calls;

The remedies of creditors of the Company against the shareholders;
The borrowing of money by the Company on mortgage or bond;
The conversion of the borrowed money into capital;
The consolidation of the shares into stock;
The general meetings of the Company, and the exercise of the right of voting by the shareholders;
The making of dividends;
The giving of notices; and
The provision to be made for affording access to the special Act by all parties interested;

26 & 27 Vict. c. 118.

the Companies Clauses Act, 1863 (except Part IV. thereof, relating to change of name), the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, the Waterworks Clauses Acts, 1847 and 1863, are (except where expressly varied by this Act) incorporated with and form part of this Act.

8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. 32 & 33 Vict. c. 18. 10 & 11 Vict. c. 17. 26 & 27 Vict. c. 93.

Interpretation of terms.

4. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or in part incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction, and for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or any Act wholly or in part 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.

Extension of limits for supply of water.

5. From and after the passing of this Act the limits of the Company for the supply of water shall extend to and include the several parishes, townships, and places following; that is to say, Westbury, Melksham, Whaddon, Westwood, and Winkfield, all in the county of Wilts, and within such extended limits the Company shall have and may exercise all the powers and authorities conferred on them in respect to or in connexion with the collection, diversion, and supply of water, or otherwise, by the Act of 1873, and may demand, take, and levy the same rates and charges for or in respect of the supply of water, the hire of meters, and otherwise, as they are by that Act authorised to demand, take, and levy within the limits of that Act.

Power to make new works according to deposited plans.

6. Subject to the provisions of this Act, the Company may make and maintain, in the situation and according to the lines and levels shown upon the deposited plans and sections, the works herein-after mentioned, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for that purpose. The works herein-

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before referred to and authorised by this Act will be wholly situate in the county of Wilts, and are as follows:

(1.) A conduit or line of pipes (No. 1), commencing at the reservoir (Q) authorised by the Act of 1873, and terminating at a point in the high road from West Ashton to Trowbridge near the Polebarn Road bridge over the Paxcroft brook:

(2.) A conduit or line of pipes (No. 2), commencing in the intending conduit or line of pipes (No. 1) near the weir or dam (R) across the Paxcroft brook authorised by the Act of 1873, and terminating in that brook immediately above the said weir or dam:

(3.) All necessary and convenient approaches, embankments, roads, ways, tunnels, adits, tanks, filtering beds, dams, sluices, outfalls, channels, conduits, drains, pipes, engines, works, and conveniences for obtaining, collecting, filtering, storing, and distributing water.

Lateral and vertical deviations.

7. In executing the works shown on the deposited plans and sections, the Company may deviate laterally from the lines thereof to any extent within the limits of deviation shown on the said deposited plans, and vertically from the levels thereof shown on the deposited sections to any extent not exceeding five feet, save where a greater vertical deviation is necessary for avoiding interference with any sewer, water main, gas main, or other work, and then to such an extent as is necessary for avoiding interference therewith.

Water from Paxcroft brook to be excluded from reservoir (Q) authorised by Act of 1873.

8. Before connecting the conduit or line of pipes (No. 1) by this Act authorised with the reservoir (Q) authorised by the Act of 1873, the Company shall construct, and they shall ever afterwards maintain, such works for carrying the water of the Paxcroft brook past that reservoir in such manner that no water of the Paxcroft brook shall be at any time capable of entering or being diverted into the said reservoir as shall be satisfactory to Cyrus Combes, of Tisbury, in the county of Wilts, or other the surveyor for the time being to be jointly appointed by Walter Hume Long and John Jones Bush, or, in case of difference between the said Cyrus Combes and the engineer of the Company, as shall be determined by an engineer to be nominated by the Board of Trade.

Saving rights of Walter Hume Long.

9. For the protection of the said Walter Hume Long, his heirs and assigns, and his and their tenants, the several provisions following shall have full effect:

(A.) Nothing in this Act or in any previous Act contained shall be held to authorise the Company to enter upon,

take, or use any land of the said Walter Hume Long, his heirs or assigns, without his or their consent in writing first had and obtained, except nevertheless that the Company may for the purpose of their undertaking, and subject to the provisions of this Act, acquire any easement in, over, or upon such of the said lands as are delineated on the deposited plans and described in the deposited books of reference:

(B.) Except with the consent in writing of the said Walter Hume Long, his heirs or assigns, or his or their agent thereunto lawfully authorised, the Company shall not, at any point below the reservoir marked Q, make or maintain any bank, reservoir, weir, dam, or work of any kind whatsoever (other than the dam R already constructed under the powers of the Act of 1873), whereby the existing water level of the Paxcroft brook shall be raised:

(C.) Except only as is by this Act, the Act of 1873, or the Acts incorporated therewith expressly provided, this Act or anything herein contained shall not take away, lessen, or prejudicially affect any of the estate, rights, interest, powers, and privileges of the said Walter Hume Long, his heirs or assigns, or his or their tenants:

(D.) In the event of the Company at any time discontinuing the carrying on or use of the works authorised by this Act, the Company shall, at their own expense and to the satisfaction of the said Walter Hume Long, his heirs or assigns, or his or their agent thereunto lawfully authorised, do all such acts as may be required to put the lands of the said Walter Hume Long, his heirs or assigns, into such state and condition as they would have been in if the powers conferred upon the said Company by this Act had never been exercised in relation to such lands:

(E.) Nothing in this Act or in any previous Act contained shall prejudice the right of the said Walter Hume Long, his heirs or assigns, to construct, alter, and repair any such drains as he or they may from time time think proper in or under any of his or their lands through which any pipes of the Company may run, and he and they shall be at liberty temporarily to displace or interfere with such pipes, or any of them, so far as may be needful for the carrying on of any such draining works, he and they doing as little damage and occupying as little time as possible, and restoring any pipes which may have been displaced or interfered with, and providing such temporary works as will ensure the flow of water through the pipes of the Company.

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Power to purchase Staverton Factory or agree to extinguish rights relating thereto.

10. The Company, in addition to the lands which they are herein-before authorised to purchase and acquire, may purchase and acquire by agreement and upon the execution by the vendor or vendors of a deed of conveyance in which the purchase or consideration money shall be fully and truly stated and set forth, and which deed shall be duly stamped with the full and proper ad valorem stamp duty in respect of the consideration for the said purchase, the mill and premises known as the Staverton Factory, and the lands held, used, or occupied therewith (herein-after collectively referred to as "the Staverton Factory"), or the Company may agree with the owner or owners for the time being of the Staverton Factory for the purchase by the Company and the extinguishment of such of the rights conferred by the Act of 1873 upon such owner or owners as after the passing of this Act such owner or owners may be entitled to.

After purchase of Staverton Factory, &c. certain restrictions in Act of 1873 repealed.

11. If and when the Company purchase and acquire the Staverton Factory, or agree with the owner or owners thereof for the time being for such purchase and extinguishment as aforesaid, sections 42, 43, and 44 of the Act of 1873, and so much of section 40 of that Act as renders necessary the consent of the owner or owners for the time being of the said factory to the exercise by the Company of any of the powers of taking water or other powers conferred upon them by that Act, or limits or restricts the purposes for which, or the extent to which, or the manner in which the Company may exercise any of those powers in the absence of such consent, are hereby repealed.

Applying sections 50–51 of Act of 1873 to Staverton Factory, if purchased.

12. If the Company purchase or acquire the Staverton Factory, the provisions of sections 50 and 51 of the Act of 1873 shall apply to and in the case of the Staverton Factory.

Power to take and supply waters of Semington brook.

13. Notwithstanding anything contained in the Act of 1873, the Company may take, divert, and impound into or by means of all or any of the works by this Act authorised the waters of or now flowing into the Semington brook, and they may use, supply, and distribute the water so taken or diverted for domestic, public, trade, or other like purposes: Provided always, that the quantity of water to be taken or diverted from the said brook under the powers of this Act and the Act of 1873 shall not exceed in the whole one million gallons in any one day without the previous consent in writing of the owner or owners for the time being of the Staverton Factory, if the same shall not have been purchased by the Company, or the rights of such owners in the waters of the Semington brook shall not have been extinguished.

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Increased annual payment accruing to owners of Staverton Factory.

14. From and after the passing of this Act the Company shall pay to James Hargreaves, his heirs or assigns, owner or owners for the time being of the Staverton Factory, the sum of thirty-five pounds per annum in lieu of every sum of twenty pounds per annum which by the 44th section of the Act of 1873 is made payable to him or them, and thenceforth that section shall be read and have effect as if the sum of thirty-five pounds had been named therein instead of the sum of twenty pounds wherever such last-mentioned sum is mentioned in the said section, and as if the sum of seventy pounds had been mentioned therein instead of the sum of forty pounds.

Saving rights under Act of 1873.

15. Provided always, that nothing in this Act shall affect or prejudice the rights, powers, or privileges of any persons other than the owner or owners aforesaid under the Act of 1873, or vary or affect any of the provisions of sections 59 to 63 (both numbers inclusive) of that Act, except in so far as the same relate or refer or are made subject to a limitation of the quantity of water to be taken without the consent of such owner or owners from the Semington brook.

Saving rights of His Grace the Duke of Somerset.

16. Nothing in this Act shall prejudice or affect the rights, powers, or interests of His Grace Edward Adolphus Duke of Somerset, or his successors in estate, under the provisions of the Act of 1873 or under a certain agreement, dated the 20th day of June 1873, between Samuel Peed and others of the one part, and the said Duke of the other part, which agreement the Company admit to be and to have been always binding upon them, and which is hereby confirmed as from the day of the date thereof, or under a certain deed of conveyance from the said Duke to the Company, dated the 22nd day of January 1877.

For preventing abstraction of water from Paxcroft brook, &c.

17. At and near the places where the conduit or line of pipes (No. 1) crosses the Paxcroft brook, the bed and sides of the brook shall be efficiently puddled and all proper means adopted to prevent water from being drained or abstracted from the brook.

Not to affect any claim of Earl Manvers.

18. Nothing in this Act shall limit, prejudice, or affect any claim which the Right Honourable Sydney William Herbert Earl Manvers, his heirs, successors in estate, or assigns, his or their lessees or tenants, may hereafter have or but for this Act would have against the Company by reason of the injuriously affecting of his or their lands by the execution of the works by this Act authorised.

Supply of water to lands of Earl Manvers.

19. If, during the construction or after the completion of the conduit or line of pipes (No. 1) by this Act authorised, the Right Honourable Sydney William Herbert Earl Manvers, his heirs, successors, or assigns, or his or their lessees or tenants of any houses,

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buildings, or lands contiguous to such conduit or line of pipes shall, by application in writing, require a supply of water for domestic use, watering cattle, or other purposes, the Company shall, within two months after the receipt of each such application, construct such connexion with or attach such branches to the said conduit or line of pipes as will enable the said Earl, or his heirs, successors, or assigns, or his or their lessees or tenants, to obtain therefrom a supply of water to any such houses, buildings, or lands: Provided always, that such connexions or branches as aforesaid, as well as the troughs, valves, meters, and other apparatus for receiving, regulating, and measuring the supply of water, and any drains requisite for carrying off waste water, shall be provided, attached, constructed, and maintained by the Company, who shall be entitled to charge the actual first cost thereof to the person requiring the same; provided also, that the Company shall not be bound to supply a greater quantity of water under this provision to any one farm or building than one thousand gallons a day, and all water so supplied shall be paid for at a rate not exceeding sixpence for every one thousand gallons, the payments to be made at the same time and recoverable in the same manner as the rates or rents for water for domestic use within the limits of this Act are payable and recoverable, but any such supply of water may be discontinued and afterwards resumed at the pleasure of the person chargeable therewith.

Saving rights of Earl Manvers.

20. Nothing in this Act contained shall authorise the Company to enter upon, take, or use any lands of the Right Honourable Sydney William Herbert Earl Manvers, his heirs, successors in estate, or assigns, without his or their consent in writing, except that the Company may, for the purpose of the conduit or line of pipes (No. 1) by this Act authorised, acquire an easement in or over such of the said lands as are delineated on the deposited plans and described in the deposited books of reference; and except as aforesaid nothing in this Act shall take away, lessen, or prejudicially affect any of the estates, rights, interests, powers, and privileges of the said Earl, his heirs, successors in estate, or assigns, or his or their tenants, or alter, vary, or prejudicially affect, or in any way interfere with or release the Company from their obligations under an agreement made the 15th day of March 1873 between the directors of the Trowbridge and District New Water Company, Limited, on behalf of the Company and the said Earl.

Company if required to supply water in bulk for the town of Melksham.

21. Within six months after the passing of this Act the sanitary authority within whose district the town of Melksham is situate may give notice to the Company requiring them to supply water in bulk to such sanitary authority for the supply of the town, and

thereupon the Company shall be bound within a reasonable time to supply and shall continue to supply water in bulk for that purpose to the said sanitary authority, at and after the rate of sixpence per 1,000 gallons, the sanitary authority supplying to the satisfaction of the Company the necessary meters and works for measuring and regulating such supply, which shall be given at such point in or near the town as the said sanitary authority shall reasonably require; and if within the said period of six months the said sanitary authority do not give such notice as aforesaid, the Company shall not from time to time charge for water supplied by them within the said town of Melksham higher rates than they are, under like circumstances, charging for the time being for water supplied by them within the town of Trowbridge.

Company may be required to sell to sanitary authority their mains, &c. in the town.

22. The said sanitary authority may at any time require the Company to sell to the said sanitary authority the Company's mains and pipes within the said town of Melksham, and the Company shall thereupon sell the same accordingly for such sum as may be agreed between them and the said sanitary authority, or as, in case of difference, shall be determined by arbitration in manner provided by the Public Health Act, 1875, and thenceforward the power of the Company under this Act to supply water within the said town of Melksham shall cease and determine.

38 & 39 Vict. c. 55.

Power to take easements, &c. by agreement.

23. 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, 1860, and of this Act, grant to the Company any easement, right, or privilege (not being an easement, right, or privilege of water) in, over, or affecting any lands required for the purposes of this Act, and the provisions of the last-mentioned Acts with respect to lands and rentcharges, so far as the same respectively are applicable in this behalf, shall extend and apply to such grants, or to such easements, rights, and privileges as aforesaid.

8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.

Power for compulsory purchase of lands limited.

24. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Period for completion of works.

25. The works shown on the deposited plans and sections and by this Act authorised shall be completed within seven years after the passing of this Act, and if the same be not then completed, then on the expiration of that period the powers by this Act granted to the Company for executing the same, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed; but nothing herein contained shall restrict the

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Company from extending, enlarging, altering, or removing any of their engines, machinery, mains, or pipes from time to time as occasion requires for supplying water within the limits of the Act of 1873, as extended by this Act.

Applying s. 57 of Act of 1873 to land acquired under this Act.

26. The provisions of section 57 of the Act of 1873 shall extend and apply to any lands acquired by the Company under the powers of this Act, and which they do not require for the purposes of their undertaking.

Extension of time limited by Act of 1873 for completion of works.

27. The period limited by the Act of 1873 for the completion of such of the works thereby authorised as have not already been completed by the Company is hereby extended to five years from the passing of this Act, and if the same are not then completed, then on the expiration of such extended period the powers of the Company for the completion thereof, or otherwise in relation thereto, shall cease to be exercised, except as to so much as shall then be completed.

Power to raise additional capital.

26 & 27 Vict. c. 118.

28. The Company may, subject to the provisions of Part II. of the Companies Clauses Act, 1863, raise any additional capital, not exceeding in the whole thirty thousand pounds, by the issue at their option of new ordinary shares or stock or new preference shares or stock, or wholly or partly by any one or more of those modes respectively; but the Company shall not issue any share of less nominal value than ten pounds, nor shall any share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Except as otherwise provided, new shares or stock to be subject to same incidents as other shares or stock.

29. The capital in new shares or stock created by the Company under this Act, and the new shares or stock therein, and the holders thereof respectively, shall be subject and entitled to the same powers, provisions, liabilities, rights, privileges, and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description, and the new shares or stock were shares or stock in that capital. The capital in new shares or stock so created shall form part of the capital of the Company.

Dividends on new shares or stock.

30. Every person who becomes entitled to new shares or stock shall, in respect of the same, be a holder of shares or stock in the Company, and shall, subject to the other provisions of this Act, be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares, or to the whole amount of such stock, as the case may be.

As to votes in respect of preferential shares or stock.

31. Except as otherwise expressly provided by the resolution creating the same, no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned.

Profits of Company limited.

32. The Company shall not in any one year make out of their profits any larger dividend upon the additional share capital to be raised under the provisions of this Act than seven pounds in respect of every one hundred pounds actually paid up of such capital as shall be issued as ordinary capital, or six pounds in respect of every one hundred pounds actually paid up of such capital as may be issued as preference capital.

Proportionate reduction of dividends.

33. In case in any half year the net revenues of the Company applicable to dividend shall be insufficient to pay the full amount of the prescribed maximum rate of dividends on each class of ordinary stock or shares in the capital of the Company, a proportionate reduction shall be made in the dividend of each class.

Power to borrow on mortgage.

34. The Company may, in respect of the additional capital of thirty thousand pounds which they are by this Act authorised to raise, from time to time borrow on mortgage any sum not exceeding in the whole seven thousand five hundred pounds, and of that sum they may borrow not exceeding two thousand five hundred pounds in respect of every ten thousand pounds of such additional capital, but no part of any such sum of two thousand five hundred pounds shall be borrowed until shares for so much of the ten thousand pounds of additional capital in respect of which it is borrowed as is to be raised by means of shares are issued and accepted and one half of such portion of capital is paid up, and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that shares for the whole of such portion of capital have been issued and accepted and that one half of such portion of capital has been paid up, and that not less than one-fifth part of the amount of each separate share in such portion of capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and until stock for one half of so much of the said portion of additional capital as is to be raised by means of stock is fully paid up, and the Company have proved to such justice as aforesaid, before he so certifies, that such shares or stock, as the case may be, were issued and accepted bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and also, so far as the said portion of additional capital is raised by shares, that such persons or corporations, their executors, administrators,

8 & 9 Vict. c. 16.

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successors, or assigns, are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

Certain lands not included in mortgages, &c. under this Act.

35. The mills and lands in the Act of 1873 called "the additional property" shall not, nor shall the Staverton Factory if purchased or acquired by the Company, be deemed part of the undertaking of the Company charged with mortgages or debenture stock granted or created under this Act.

Debenture stock. 26 & 27 Vict. c. 118.

36. 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 any debenture stock at any time created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Priority of mortgage over other debts.

37. All moneys raised or to be raised by the Company on mortgage or debenture stock under the provisions of this Act shall have priority against the Company, and the property from time to time of the Company on which the same are a charge, over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act: Provided always, that this priority shall not affect any claim against the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Consolidation Act, 1845, or the Lands Clauses Consolidation Acts Amendment Act, 1860, or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company in pursuance of the Act of 1873 or this Act, which is entitled to rank in priority to or pari passu with the interest on their mortgages or debenture stock; nor shall anything in this section contained affect any claim for land taken, used, or occupied by the Company for the purposes of the Company's undertaking and works, or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the Company.

8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.

Existing mortgages to have priority.

38. The principal moneys secured by all mortgages granted by the Company in pursuance of the Act of 1873, and subsisting at the passing of this Act, shall, during the continuance of such mortgages, have priority as against the Company, and the property from time to time of the Company on which the same are a charge, over the principal moneys secured by any mortgages granted by virtue of this Act.

As to conversion of borrowed money into capital.

39. The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage, or any part thereof, by the creation of shares or stock instead of borrowing, or to convert any moneys to be borrowed under the powers of this Act into capital, unless in either case all dividends upon the shares or stock, whether ordinary or preferential, are limited to a rate not exceeding five pounds per centum per annum.

Application of moneys raised under this Act.

40. All moneys raised under this Act, whether by shares, stock, debenture stock, or borrowing, shall be applied for purposes only of this Act or of the Act of 1873.

Works affecting Great Western Railway to be constructed to satisfaction of their engineer.

41. Whenever the Company, in the exercise of the powers conferred by this Act, shall require to lay down, alter, or replace any mains or pipes upon, across, or under or to construct any works affecting any railway belonging to or worked by the Great Western Railway Company, or upon any lands belonging to or used or occupied by that Company, such mains or pipes shall be laid and such works constructed to the reasonable satisfaction of the engineer of that Company and according to plans previously agreed between such engineer and the engineer of the Company, or, in the event of their not agreeing, in such manner as shall be determined by an engineer to be appointed by the Board of Trade on the application of either Company, and the decision of such engineer shall be final and conclusive between both companies, and the costs of the reference to him shall be in his discretion; and the Company shall pay to the Great Western Railway Company for any easement to be acquired by them upon, across, over, or under any of the railways, lands, works, or property of the Great Western Railway Company such sum, either annual or otherwise, as may be agreed upon, or, failing agreement, as shall be settled by arbitration in manner provided by the Lands Clauses Consolidation Act, 1845, with respect to the purchase of lands otherwise than by agreement, and for the purpose of such arbitration the easement so to be taken shall be deemed to be lands.

Notice to be given to Great Western Railway Company before breaking up roads crossing railway on level.

42. Before opening or breaking up for any of the purposes of this Act any public road or street crossing on the level any railway belonging to or worked by the Great Western Railway Company, the Company shall give not less than fourteen clear days notice of their intention so to do under the hand of their clerk to the secretary of that Company sent by post in a registered letter addressed to the Paddington Station, except in cases of emergency, in which case notice of the commencement of the works shall be given as aforesaid to the Great Western Railway Company so soon as possible after the commencement of the works.

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Expenses of Act.

43. All costs, charges, and expenses of and incident to the preparing and applying for and the obtaining and passing of this Act shall be paid by the Company.

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