



CHAPTER xcvi.

An Act for empowering the North Metropolitan Tramways Company to construct Works and raise further Money, and to make Agreements with the London Street Tramways Company; and for other purposes. A.D. 1880.

[2nd August 1880.]

WHEREAS by the North Metropolitan Tramways Act, 1869, (in this Act called "the Act of 1869,") and the North Metropolitan Tramways Act, 1870, (in this Act called "the Act of 1870,") the North Metropolitan Tramways Act, 1871, (in this Act called "the Act of 1871,") and the North Metropolitan Tramways (New Works) Act, 1877, (in this Act called "the Act of 1877,") the North Metropolitan Tramways Company (in this Act called "the Company") were empowered to make, maintain, work, and use the several tramways in those respective Acts mentioned and described :

32 & 33 Vict.
c. ci.
33 & 34 Vict.
c. clxxii.
34 & 35 Vict.
c. clxxix.
40 & 41 Vict.
c. cxi.

And whereas it is expedient that the Company should be empowered to lay down and maintain the several additional tramways in this Act particularly described :

And whereas the Company's system of tramways is connected with the system of tramways of the London Street Tramways Company, and it is expedient that the Company and the London Street Tramways Company should be empowered to make agreements as in this Act mentioned :

And whereas it is expedient that the Company should be authorised to raise additional capital for the purposes of this Act :

And whereas plans and sections showing the lines and levels, and indicating the position in the streets along which they are to be laid down, of the tramways and works by this Act authorised, and books of reference to those plans, have been deposited with the clerk of the peace for the county of Essex, and those plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books of reference respectively :

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And whereas the objects of this Act cannot be attained 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 North Metropolitan Tramways Act, 1880.

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

2. The following Acts and parts of Acts are, except where expressly varied by this Act, incorporated with and form part of this Act; that is to say, the Lands Clauses Consolidation Acts, 1845, 1860, and 1869 (except the provisions of the Lands Clauses Consolidation Act, 1845, with respect to the purchase of lands otherwise than by agreement, and with respect to the entry upon lands by promoters of the undertaking); section three (interpretation of terms), section nineteen (local authority may lease or take tolls), and Part II. (construction of tramways) and Part III. (general provisions) of the Tramways Act, 1870; the provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters; (that is to say,)

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 nonpayment 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 borrowed money into capital;

The consolidation of shares into stock; and

The provision to be made for affording access to the special Act; and

Part I. (relating to cancellation and surrender of shares) and Part II. (relating to additional capital) of the Companies Clauses Act, 1863, and Part III. (relating to working agreements) of the Railways Clauses Act, 1863.

26 & 27 Vict. c. 118.
26 & 27 Vict. c. 92.

Interpretation of terms.

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

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The expression "the tramways" shall mean the tramways and works by this Act authorised; A.D. 1880.

The expression "the undertaking" shall mean the undertaking of the Company as authorised by the recited Acts relating to the Company and this Act;

For the purposes of this Act the word "contingencies" in section one hundred and twenty-two of the Companies Clauses Consolidation Act, 1845, shall be construed to include the contingency of the undertaking being sold to the local authority, under section forty-three of the Tramways Act, 1870, at a sum less than the aggregate amount of the capital and debts of the Company; and

The expression "superior courts," or "court of competent jurisdiction," or any other like expression in this Act and in any Act wholly or in part incorporated herewith, shall for the purposes of this Act 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.

4. Subject to the provisions of this Act, the Company may make, form, lay down, work, use, and maintain the tramways herein-after described in the lines and according to the levels shown on the deposited plans and sections, and in all respects in accordance with those plans and sections, with all proper rails, plates, works, and conveniences connected therewith. The tramways herein-before referred to and authorised by this Act are— Power to make tramways.

The Leytonstone Lines, distinguished on the deposited plans by the numbers 9, 9A, 9B, 9C, and 9D, consisting of two furlongs three chains and sixteen and a half yards of single line, and five furlongs six chains and sixteen and a half yards of double line, commencing in the High Road, Leytonstone, by junctions with the existing tramways of the Company at their termination, and passing thence in a northerly direction along and terminating in the same road at a point about one chain north of the Green Man public-house at Leytonstone.

And the tramways by this Act authorised shall for all purposes be part of the undertaking of the Company.

5. Every tramway to be made, formed, or laid down under this Act shall be constructed with two rails on the gauge of four feet eight and a half inches, and shall be laid and maintained in such manner that the uppermost surface of the rail shall be on a level with the surface of the street, and no tramway shall be opened for Mode of formation of tramways.

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public traffic until the same has been inspected and certified to be fit for such traffic by the Board of Trade.

Rails to be approved by Board of Trade.

6. The rails of the tramways shall be such as the Board of Trade approve.

Tramways to be kept on level with surface of roads.

7. If and whenever after the passing of this Act any road authority shall alter the level of any road along or across which any part of the tramway is laid or authorised to be laid, the Company may and shall from time to time alter or (as the case may be) lay their rails so that the uppermost surface thereof shall be on a level with the surface of the road as altered.

Further provisions as to construction of tramways.

8. In addition to the requirements of section twenty-six of the Tramways Act, 1870, the Company shall at the same time as they give notice to the road authority of their intention to open or break up any road for the purpose of making, forming, and laying down, maintaining, and renewing any of the tramways, lay before the Board of Trade a plan showing the proposed mode of construction and a statement of the materials intended to be used therein, and the Company shall not commence the construction of any of the tramways or part of any of the tramways respectively until such plan and statement have been approved by the said Board, and after such approval the works shall be executed in accordance in all respects with such plan and statement and under the superintendence and to the reasonable satisfaction of the surveyor for the time being of the road authority as provided by section twenty-six of the said Act: Provided always, that the word "materials" in this enactment does not include the materials used in paving any part of any street under the provisions of the Tramways Act, 1870, or of this Act.

Company may be required to use improved form of rail.

9. The Board of Trade may from time to time, upon the application of the local authority, require the Company to adopt and apply such improvements in the tramways, including the rails thereof, as experience may from time to time suggest, having regard to the greater security of the public and advantage to the ordinary traffic, and the Company shall with all reasonable despatch comply with any order made by the Board of Trade for the purpose of carrying out any such improvements.

Penalty for not maintaining rails and roads in good condition.

10. The Company shall at all times maintain and keep in good condition and repair, and so as not to be a danger or annoyance to the ordinary traffic, the rails of the tramway and the substructure upon which the same rest, and if the Company at any time fail to comply with this provision or with the provisions of section twenty-eight of the Tramways Act, 1870, they shall be subject to a penalty

not exceeding five pounds for every day on which such non-compliance continues, and such penalty may be recovered in manner provided by section fifty-six of the said Act. A.D. 1880.

11. In case it is represented in writing to the Board of Trade by the road authority of any district in which the tramways or any portion thereof are or is situate, or by twenty inhabitant ratepayers of such district, that the Company have made default in complying with the provisions of this Act as to maintaining and keeping in good condition and repair the rails of the tramways and the substructure upon which the same rest, or with any of the requirements of section twenty-eight of the Tramways Act, 1870, the Board of Trade may, if they think fit, direct an inspection by an officer to be appointed by the said Board, and if such officer report that the default mentioned in such representation has been proved to his satisfaction, then and in every such case a copy of such report, certified by a secretary or an assistant secretary of the Board of Trade, may be adduced as evidence of such default and of the liability of the Company to such penalty or penalties in respect thereof as is or are by this Act imposed. Appeal to the Board of Trade.

12. Every sewer authority shall at all times have free access to and communication with all their sewers and drains, and power to lay lateral and private drains to communicate therewith, without the consent or concurrence of the Company, and the provisions contained in the thirty-second and thirty-third sections of the Tramways Act, 1870, shall be applicable in the case of any sewer or private drain of or under the control of the sewer authority, as if the same were a pipe for the supply of gas or water. Sewer authority to have access to sewers.

13. Any paving, metalling, or material excavated by the Company in the construction of the undertaking from any road under the jurisdiction or control of any road authority may, subject to the approval of the road authority, be applied by the Company, so far as may be necessary, in or towards the reinstating of the road, and the maintenance for six months after completion of any of the tramways within the district of such road authority of so much of the roadway on either side of such tramways as the Company are by section twenty-eight of the Tramways Act, 1870, and the section of this Act the marginal note whereof is "For the protection of the Leyton Local Board," required to maintain, and the Company shall, if so required, deliver the surplus paving, metalling, or material not used or required to be retained for the purposes aforesaid to the surveyor for the time being of the road authority, or to such person or persons as he may appoint to receive the same: Provided that if Application of road materials excavated in construction of works.

A.D. 1880. — within seven days after the setting aside of the surplus arising from the excavation of any such paving, metalling, or material, and notice duly given, such surplus is not removed by such surveyor or by some other person or persons named by him for that purpose, such surplus paving, metalling, or material shall absolutely vest in and belong to the Company, and may be dealt with, removed, and disposed of by them in such manner as they may think fit. Any difference between the Company and any road authority or surveyor or other person with reference to any of the matters aforesaid shall be determined in manner provided by the Tramways Act, 1870, with respect to differences between the promoters and any road authority.

For the protection of the Leyton Local Board.

14. For the protection of the local board for the district of Leyton the following provisions shall have effect with reference to the tramways in this Act described as the Leytonstone Lines :

- (1.) Within the district of the said board, in addition to the requirements of section twenty-eight of the Tramways Act, 1870, the Company shall at all times construct, maintain, and keep in good condition and repair, with such materials and in such manner as the Board shall direct, and to their satisfaction, where any tramway shall be constructed as a single line, so much of the road whereon any tramway, crossing, passing-place, or other work belonging to them is placed or lies between the rails of such tramway, crossing, passing-place, or other work belonging to them, and a space of four feet beyond the rails of and on each side of such tramway, crossing, passing-place, or other work, and where, if at all, such tramway shall be constructed as a double line, and the two lines are laid at distances of more than four feet from each other, shall in like manner construct, maintain, and keep in good condition and repair the space between such tramways, and all the provisions of the section of this Act the marginal note whereof is "Appeal to the Board of Trade" shall apply to any default by the Company in complying with the provisions of this section :
- (2.) The Company shall not, without the consent of the said local board, lay any part of the said tramways so that a less space than nine feet six inches shall intervene between the outside of the footpath on either side of the street and the nearest rail of the tramway :
- (3.) Nothing herein contained shall in any way affect any rights or powers which the said local board now have or may hereafter acquire under any Act of Parliament with regard to stopping up any road or street for the purpose of constructing, repairing, or maintaining the sewers under or along any such road or street,

and the said local board shall have all the same rights, powers, and privileges with regard to the stopping for public traffic any road or street under the jurisdiction of the said local board for the said purpose as are conferred upon the Metropolitan Board of Works by the Metropolis Local Management Act, or any other Act relating to the said Metropolitan Board of Works.

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15. The Company may, subject to the provisions of Part II. of the Companies Clauses Act, 1863, raise by the creation and issue of new shares any additional capital not exceeding in the whole forty thousand pounds, and such new shares may be wholly or partially ordinary shares or wholly or partially preference shares, as the Company think fit; 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.

Power to raise additional capital.

16. One fifth of the amount of a share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and three fourths of the amount of a share shall be the utmost aggregate amount of calls in any year upon any share.

Calls.

17. 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 created by the Company under this Act to which a preferential dividend shall be assigned.

Restriction as to votes in respect of preferential shares, &c.

18. If any money be payable to any shareholder being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company for the same.

Receipts on behalf of incapacitated persons.

19. The Company may, in respect of the additional capital of forty thousand pounds which they are by this Act authorised to raise, from time to time borrow on mortgage, in addition to the sums which they are already authorised to borrow, any sum or sums not exceeding in the whole ten thousand pounds, and of that sum they may borrow from time to time not exceeding five thousand pounds in respect of every twenty thousand pounds of the said additional capital, but no part of any such sum of five thousand pounds shall be borrowed until shares for the whole of the respective portion of capital in respect of which it is to be borrowed 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,

Power to borrow on mortgage.

A.D. 1880. (before he so certifies,) that shares for the whole of the respective 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 the Company have proved to such justice as aforesaid, before he so certifies, that such shares were issued and accepted and paid up bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, or their executors, administrators, 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.

Appointment
of a receiver.

20. Section thirty-eight of the Act of 1877, relating to the appointment of a receiver, is hereby repealed, but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under that section. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver; and in order to authorise the appointment of a receiver, in respect of principal, the amount owing to the mortgagees by whom the application for a receiver shall be made shall not be less than ten thousand pounds in the whole.

Moneys
borrowed on
mortgage to
have priority.

21. All moneys to be borrowed on mortgage under any former Act relating to the Company or under this Act, from the time when the same shall be advanced, and the interest for the time being due thereon, shall (except as otherwise provided by the next following section of this Act) have priority against the Company, and all the property from time to time of the Company, over all other claims on account of any debts incurred or to be incurred or engagements entered into or to be entered into by them; but nothing in this section shall affect any claim in respect of land acquired by the Company for the purposes of this Act, or injuriously affected by the construction of the tramway, or by the exercise of any of the powers conferred upon the Company.

Existing
mortgages to
have priority.

22. All mortgages granted by the Company under the authority of the Acts of 1869, 1870, 1871, and 1877, which shall be subsisting

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at the passing of this Act, shall, during the continuance thereof, have priority over all mortgages granted under the authority of this Act. A.D. 1880.

23. The Company shall not create debenture stock.

Company not to create debenture stock.

24. Every mortgage of the Company's undertaking shall be deemed to comprise all purchase money which may be paid to the Company in the event of a compulsory sale to the local authority under section forty-three of the Tramways Act, 1870, and may comprise all or any moneys carried to the contingency fund according to the terms of the mortgage.

Mortgage to comprise purchase money paid on compulsory sale.

25. Every mortgage deed granted by the Company under this Act shall be indorsed with notice that such mortgage will not be a charge upon the tramway in the event of its being purchased by the local authority under the forty-third section of the Tramways Act, 1870.

Indorsement of notice of power of future purchase by the local authority.

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

Application of moneys.

27. If the Company fail within the period limited by this Act to complete the tramways or any of them, the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the said tramways are completed and opened for public traffic, or until the sums received in respect of such penalty shall amount to five per centum on the estimated cost of the uncompleted tramway or tramways, and the said penalty may be applied for by any road authority, landowner, or other person claiming to be compensated in accordance with the provisions of the next following section of this Act or by the Solicitor of Her Majesty's Treasury, and in the same manner as the penalty provided in the third section of the Railway and Canal Traffic Act, 1854. Every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in that section to an account opened or to be opened in the name and with the privity of Her Majesty's Paymaster General, on behalf of the Chancery Division of the High Court of Justice, in the bank and to the credit specified in such warrant or order, and shall not be paid thereout except as herein-after provided. But no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company was prevented from completing or opening any tramway by unforeseen accident

Penalty imposed unless tramways opened within period limited.

17 & 18 Vict. c. 31.

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A.D. 1880. or circumstances beyond their control; provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Application
of penalty.

28. Every sum of money so recovered by way of penalty as aforesaid shall be applicable, and after due notice in the "London Gazette" shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the tramway or any portion thereof in respect of the non-completion of which the same was recovered, and for which injury or loss no compensation or inadequate compensation shall have been paid, and also in compensating all road authorities for the expense incurred by them in taking up any such tramway or materials connected therewith placed by the Company in or on any road vested in or maintainable by such road authorities respectively, and in making good all damage caused to such roads by the construction or abandonment of such tramway, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Chancery Division of the High Court of Justice may seem fit:

And if no such compensation shall be payable, or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum or sums of money recovered by way of penalty, or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty, and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the said Chancery Division thinks fit to order on the application of the Solicitor of Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the said Chancery Division, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid to such receiver, or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

Period for
completion
of works.

29. The tramways shall be completed within two years from the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for executing the tramways or otherwise in relation thereto shall cease to be exercised, except as to so much thereof as shall then be completed.

30. The Company may from time to time purchase and acquire by agreement, in addition to any land which they are already authorised to acquire, such land as they may require for their undertaking, not exceeding in the whole two acres.

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Purchase of
land by
agreement.

31. The Company may demand and take in respect of the tramways the tolls and charges which they are by the Act of 1869 authorised to demand and take with respect to the tramways by that Act authorised, as if the tramways had formed part of the tramways by that Act authorised, and sections sixty-seven and sixty-eight and seventy to seventy-three (both inclusive) of the Act of 1869, and sections thirty-four and fifty of the Act of 1870, are incorporated with and form part of this Act, and shall extend and apply to the tramways by this Act authorised, and the passengers using the same, and the tolls to be taken for the use of the same, as fully and effectually to all intents and purposes as if those sections had been repeated and expressly re-enacted in this Act with reference thereto.

Extending
to this Act
sections of
the Act of
1869 as to
tolls.

32. If at any time after three years from the opening for public traffic of the tramways or any portion of the tramways, or after three years from the date of any order made in pursuance of this section in respect of the tramways or any portion of the tramways, it is represented in writing to the Board of Trade by the local authority of any district in which the tramways or such portion of the tramways are or is wholly or partially situate, or by twenty inhabitant ratepayers of any such district, or by the Company, that under the circumstances then existing all or any of the tolls and charges demanded and taken in respect of the traffic on the tramways or on such portion of the tramways should be revised, the Board of Trade may (if they think fit) direct an inquiry by a referee to be appointed by the said Board in accordance with the provisions of the Tramways Act, 1870, and if such referee report that it has been proved to his satisfaction that all or any of such tolls and charges should be revised, the said Board may make an order in writing altering, modifying, reducing, or increasing all or any of the tolls and charges to be demanded and taken in respect of the traffic on the tramways or on such portion of the tramways in such manner as they think fit, and thenceforth such order shall be observed until the same is revoked or modified by an order of the Board of Trade made in pursuance of this section: Provided always, that the tolls and charges prescribed by any such order shall not exceed in amount the tolls and charges by this Act authorised.

Periodical
revision of
tolls.

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Agreements
between
Company
and London
Street Tram-
ways Com-
pany.

33. The Company and the London Street Tramways Company may, subject to the provisions of Part III. of the Railways Clauses Act, 1863, which shall apply as if the Company and the London Street Tramways Company were railway companies, make and carry into effect agreements with respect to the working, use, management, and maintenance by the Company of the tramways of the London Street Tramways Company or any part thereof.

Saving
rights of the
Crown.

34. Nothing contained in this Act shall authorise the Company to take, use, or in any manner interfere with any land or hereditaments, or any rights of whatsoever description, belonging to the Queen's most Excellent Majesty in right of Her Crown, and under the management of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, without the consent in writing of the same Commissioners or one of them, on behalf of Her Majesty, first had and obtained for that purpose (which consent such Commissioners are hereby respectively authorised to give), neither shall anything in the said Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

Interest not
to be paid on
calls paid up.

35. The Company shall not, out of any money by this Act authorised to be raised by calls or by borrowing, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always, that this Act shall not prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act, 1845.

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

36. The Company shall not, out of any money by this Act authorised to be raised, pay or deposit any sum which, by any standing order of either House of Parliament now or hereafter in force, may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other tramway or to execute any other work or undertaking.

Provision as
to general
Tramway
Acts.

37. Nothing in this Act contained shall be deemed or construed to exempt the tramways from the provisions of any general Act relating to tramways, now in force or which may hereafter pass during this or any future session of Parliament, or from any future

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revision or alteration, under the authority of Parliament, of the A.D. 1880.
maximum rates of tolls or charges authorised by this Act.

38. All costs, charges, and expenses of and incident to the pre- Expenses of
paring for, obtaining, and passing of this Act, or otherwise in Act.
relation thereto, shall be paid by the Company.

LONDON : Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1880.