

**CHAPTER cxxxviii.**

An Act to authorise the making of a new Street from Whitehall to the Victoria Embankment in the city and liberty of the city of Westminster and for other purposes. A.D. 1888.  
—  
[24th July 1888.]

**W**HEREAS the making of a new street between Whitehall and the Victoria Embankment would be of public and local advantage :

And whereas the Company or Association registered under the Companies Acts 1862 and 1867 by the name of the House and Land Investment Trust Limited (herein-after called "the Company") are possessed of valuable property on or near the site of the new street and they are willing to execute the necessary works on powers being conferred upon them for that purpose :

And whereas it is expedient that the Company on the one hand and the united vestry of the parishes of Saint Margaret and Saint John the Evangelist Westminster (in this Act called "the Westminster United Vestry") and the vestry of the parish of Saint Martin-in-the-Fields (in this Act called "Saint Martin's Vestry") or either of them on the other hand be authorised to enter into agreements as herein-after provided and that such powers as are herein-after in that behalf contained be conferred upon them :

And whereas a plan and section showing the line and levels of the new street authorised by this Act and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of 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 Middlesex and are herein-after respectively referred to as the deposited plan section and book of reference :

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

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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 as the Horse Guards Avenue Act 1888.

Incorporation of Acts.

2. The Lands Clauses Consolidation Acts 1845 1860 and 1869 as the same are amended by the Lands Clauses (Umpire) Act 1883 (herein-after called "the Lands Clauses Acts") are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation.

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

The expression "two justices" means two justices assembled and acting together in petty sessions or a metropolitan police magistrate sitting alone :

The expression "the Commissioners of Works" means the Commissioners of Her Majesty's Works and Public Buildings :

The expression "the Metropolitan Board" means the Metropolitan Board of Works :

The expressions "the street" "the works" and "the undertaking" mean respectively the new street the works and the undertaking by this Act authorised :

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 partially 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.

Power to take lands and execute works.

4. Subject to the provisions of this Act the Company may make and maintain in the line and according to the levels shown on the deposited plan and section the new street herein-after described with all necessary and proper approaches works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the deposited plan and described in the deposited book of reference as may be required for those purposes.

The new street herein-before referred to and by this Act authorised will be situate in the parish of Saint Margaret Westminster

1888.

in the city of Westminster and in the parish of Saint Martin-in-the-Fields in the liberty of the city of Westminster in the county of Middlesex and is :—

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A street commencing in the parishes of Saint Martin-in-the-Fields and Saint Margaret Westminster or in one of those parishes by a junction with the roadway of Whitehall at a point on the eastern side thereof at or near the south-western corner of the piece of land recently forming part of the site of the house formerly in the occupation of Lord Carrington at the entrance to Whitehall Yard nearly opposite the Horse Guards thence passing in an easterly direction over the remaining part of the site of the said house and along Whitehall Yard to the building occupied by the Bankruptcy Department of the Board of Trade at the southern end of the new street called Whitehall Avenue thence continuing in an easterly or south-easterly direction to and terminating in the parish of Saint Margaret Westminster by a junction with the roadway on the Victoria Embankment at or near the point where the south-eastern corner of the garden attached to the house occupied by Viscount Gage abuts upon the footway of the said embankment.

5. The Company within the limits of deviation defined upon the deposited plan may make junctions or communications with roads streets sewers and drains and if necessary alter the levels thereof and remove alter or interfere with sewers drains gas water or other mains or pipes and telegraph telephone or other electric apparatus and the Company shall make reasonable compensation to any board corporation or person who suffers damage by any such alteration :

Power to  
make inci-  
dental works.

Provided always that nothing in this section shall extend to or authorise any interference with any works of any undertakings within the meaning of the Electric Lighting Act 1882 to which the provisions of section 15 of that Act apply :

Provided also that the Company shall not remove alter or interfere with any telegraph telephone or other electric apparatus or any property belonging to or used by the Postmaster-General except in accordance with and subject to the provisions of the Telegraph Act 1878.

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

Period for  
compulsory  
purchase of  
land.

7. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions

Power to  
take ease-  
ments &c.

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by agree-  
ment.

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

Period for  
completion  
of street.

8. If the street by this Act authorised and shown on the deposited plan and section is not completed within five years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for making and completing the same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Power to  
deviate from  
levels &c.

9. Subject to the provisions of this Act the Company may in the construction of the new street deviate to any extent not exceeding two feet from the levels thereof defined on the deposited section and may deviate from the line thereof within the limits of deviation defined on the deposited plan.

Restriction  
as to dis-  
placing  
persons  
belonging to  
labouring  
class.

10. The Company shall not under the powers of this Act without the consent of the Secretary of State for the Home Department purchase or acquire in any parish or part of a parish in the metropolis twenty or more houses which after the passing of this Act or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

For the purposes of this section the expression "labouring class" includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

For protec-  
tion of sewers  
in the metro-  
polis.

11. Where any of the works to be done under or by virtue of this Act shall or may pass over under or by the side of or so as to interfere with any sewer drain watercourse defence or work under the jurisdiction or control of the Metropolitan Board or of the Westminster United Vestry or of the Saint Martin's Vestry or with any sewers or works to be made or executed by the said board or vestries or either of them or shall or may in any way affect the sewerage or drainage of the districts under their or either of their control the Company shall not commence such works until they shall have given

to the Metropolitan Board or to the Westminster United Vestry or to the Saint Martin's Vestry as the case may be twenty-one days previous notice in writing of their intention to commence the same by leaving such notice at the respective offices of the said board or vestries as the case may be for the time being with a plan and section showing the course and inclination thereof and other necessary particulars relating thereto and until such board or vestries respectively shall have signified their approval of the same (unless such board or vestries respectively do not signify their approval disapproval or other directions within twenty-one days after service of the said plan section and particulars as aforesaid) and the Company shall comply with and conform to all orders directions and regulations of the Metropolitan Board and of the Westminster United Vestry and of the Saint Martin's Vestry as the case may be in the execution of the said works and shall provide by new altered or substituted works in such manner as such board or vestries respectively shall reasonably require for the proper protection of and for preventing injury or impediment to the sewers and works herein-before referred to by reason of the said intended works or any part thereof and shall save harmless the said board and vestries respectively against all and every the expense to be occasioned thereby and all such works shall be done by or under the direction superintendence and control of the engineer or other officer or officers of the Metropolitan Board Westminster United Vestry or Saint Martin's Vestry as the case may be at the costs charges and expenses in all respects of the Company and all reasonable costs charges and expenses which the Metropolitan Board or the Westminster United Vestry or the Saint Martin's Vestry may be put to by reason of such works of the Company whether in the execution of works the preparation or examination of plans or designs superintendence or otherwise shall be paid to such Board or vestries by the Company on demand and when any new altered or substituted works as aforesaid or any works or defence connected therewith shall be completed by or at the costs charges or expenses of the Company under the provisions of this Act the same shall thereafter be as fully and completely under the direction jurisdiction and control of the Metropolitan Board Westminster United Vestry or Saint Martin's Vestry as the case may be as any sewers or works now or hereafter may be and nothing in this Act shall extend to prejudice diminish alter or take away any of the rights powers or authorities vested or to be vested in the said respective board or vestries or any or either of them or of their successors but all such rights powers and authorities shall be as valid and effectual as if this Act had not been passed.

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As to alteration of position of water and gas pipes.

12. Subject to the provisions of this Act the Company may for any purpose in connexion with the works by this Act authorised upon the lands acquired by them under the powers of this Act and also in any street within the limits of deviation defined upon the deposited plan raise sink or otherwise alter the position of any drain channel water pipe or gas pipe belonging to or connected with any house or building adjoining or near to the works and also any main or other pipe laid down or used by any company for carrying a supply of water or gas and may remove any other obstruction making in case of alteration proper substituted works in the meantime and causing as little detriment and inconvenience as circumstances admit to any company person or body and making reasonable compensation to any company person or body who suffers damage by any such alteration. Provided always that before the Company alter the position of any main or other pipe laid down or used by any such company or body they shall give to the company or body to whom the same belongs notice of their intention to do so specifying the time at which they will begin to do so such notice to be given seven days at least before the commencement of the work for effecting such alteration and such work shall be done (at the expense of the Company) under the superintendence of the company or body to whom such pipe belongs unless such company or body refuses or neglects to give such superintendence at the time specified in the notice for the commencement or discontinues the same during the work and the Company shall execute such work to the reasonable satisfaction of the engineer of such company or body. Provided also that the Company shall not cause any street or road to be lowered or raised or the position of any water or gas pipes to be altered so as to leave over such pipes in any street a covering of less than two feet (unless the Company shall in such case protect the same pipes from frost or injury by artificial covering to the satisfaction of the engineer of such company or body) or more than six feet unless a referee to be appointed by the Board of Trade at the expense of the Company on the application of either party in case of dispute shall consider that the pipes should be carried to a greater depth for the purpose of avoiding interference with the works to be executed under this Act and in such case the pipes shall be altered in such manner and such works shall be made at the expense of the Company in such manner as the referee may prescribe.

Dedication of street to the public

13. So soon as the new street by this Act authorised shall have been completed with proper paved flagged or asphalted and kerbed

footpaths or sideways channels sewers gullies or other necessary works to the reasonable satisfaction of the Westminster United Vestry and the Saint Martin's Vestry the Company may and shall open and dedicate the same to the public and thereafter it shall be used by the public accordingly and the same and the sole power authority liability and duty of maintaining paving repairing cleansing and lighting the same shall be vested in the Westminster United Vestry and the Saint Martin's Vestry Provided always that Her Majesty Her heirs successors or assigns or any person authorised by Her or them or by the Commissioners of Woods may at any time hereafter construct under any part of the footpaths of such new street where it abuts on their property such arched vaults or cellars as they think fit but after such construction the footpaths shall be restored to as good condition as that in which they were previously to being interfered with to the satisfaction of the said vestries respectively and the said vaults and cellars shall for ever thereafter be maintained and kept in good condition and repair by and at the expense of Her Majesty Her heirs successors or assigns or Her or their lessees or tenants.

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—  
and repair  
and mainten-  
ance thereof.

14. If any omission mis-statement or erroneous description shall have been made of any lands or of the owners lessees or occupiers of any lands shown on the deposited plan or described in the deposited book of reference the Company may after ten days notice to the owners lessees and occupiers of the lands in question apply to two justices for the correction thereof and if it shall appear to such justices that such omission mis-statement or erroneous description arose from mistake they shall certify the same accordingly and they shall in such certificate state the particulars of any such omission and in what respect any such matter is mis-stated or erroneously described and such certificate shall be deposited with the clerk of the peace for the county of Middlesex and copies thereof shall also be deposited with the respective clerks to the Westminster United Vestry and the Saint Martin's Vestry and such certificate and copies respectively shall be kept by such clerk of the peace and respective clerks to the Westminster United Vestry and the Saint Martin's Vestry along with the other documents to which the same relate and thereupon the deposited plan and book of reference shall be deemed to be corrected according to such certificate and the Company may take the lands and execute the works in accordance with such certificate.

Errors and  
omissions in  
plan &c.  
to be cor-  
rected by  
justices who  
shall certify  
same.

15. The Company on the one hand and the Westminster United Vestry and the Saint Martin's Vestry or either of them on the other

Power for  
Company and  
Westminster  
United Vestry

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and Saint Martin's Vestry to agree with respect to construction and maintenance of new street and works.

Westminster United Vestry and Saint Martin's Vestry may apply funds &c.

hand may from time to time enter into and carry into effect contracts agreements and arrangements for or with respect to the construction maintenance and cost of the new street approaches and works or any part or parts thereof respectively and the works and conveniences connected therewith and the acquisition exchange and appropriation of lands and property and any incidental matters.

**16.** The Westminster United Vestry and the Saint Martin's Vestry or either of them may contribute and apply their funds rates and revenues in carrying into effect any of the powers conferred by this Act:

Provided that no such contribution shall be made except in pursuance of a resolution passed by an absolute majority of the whole number of the members of such vestries respectively at a meeting held after not less than fourteen days notice shall have been given to each member of such vestries respectively which notice shall state the intention to propose such resolution at such meeting and the amount of the proposed contribution and the manner in which it is intended to raise the same and whether the proposed contribution is to be charged upon the whole or any and what part or parts of the parish or district and in what proportions Provided also that a public notice to the like effect shall be given previously to such meeting which notice shall be published as an advertisement once in each of two successive weeks in one or more London daily newspapers and shall be affixed to the principal doors of every church or chapel in the parish or district to which notices are usually affixed.

Commissioners of Her Majesty's Works to continue in occupation of No. 5 Whitehall Yard.

**17.** The Commissioners of Works shall continue to hold the portion of No. 5 Whitehall Yard which they now occupy for the use of the Bankruptcy Department of the Board of Trade until the 5th day of April 1892 rent free and without any liability to repair the same unless in the meantime the house shall be required to be pulled down for the purposes of this Act and the Department shall be transferred to No. 4 Whitehall Yard as herein provided.

No. 4 Whitehall Yard to be under-leased to the Commissioners of Her Majesty's Works.

**18.** The Company shall as soon as they shall have acquired the leasehold interest in No. 4 Whitehall Yard now held by Viscount Gage from the Commissioners of Woods for a term which will expire on the fifth day of April 1892 grant an underlease of the said dwelling-house and premises (except so much of the garden attached thereto as will actually form part of the road and footway) to the Commissioners of Works for the residue of the said term free



from the payment of any rent for the same and from the observance of all repairing covenants on the part of the lessee and from all claims for dilapidations at the expiration of the lease under which the same is now held and shall at their own expense make such alterations in No. 4 Whitehall Yard (if acquired) as may be required by the Commissioners of Works to adapt it for use as a Government office:

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Provided always that the Company shall not take down or remove any part of the portion of the house No. 4 Whitehall Yard shown on the amended plan herein-after referred to and thereon hatched in red without the consent of the Commissioners of Woods first had and obtained for that purpose.

**19.** Nothing in this Act shall authorise the Company to take use or interfere with any part of Nos. 5 and 6 Whitehall Yard until they shall have altered No. 4 Whitehall Yard fit for occupation as a Government office to the satisfaction of the Commissioners of Works and shall have leased the same to the said Commissioners as aforesaid nor until the Bankruptcy Department of the Board of Trade or any other department for which the same shall be required have removed into the same. So soon as such alterations are completed the Commissioners of Works or others holding under them shall cease to occupy and forthwith give up possession of the portions of the premises Nos. 5 and 6 Whitehall Yard now or which may then be occupied by them or any department holding under them.

Nos. 5 and 6  
Whitehall  
Yard not to  
be taken till  
No. 4 altered.

**20.** All costs incurred by the Commissioners of Works in removing into No. 4 Whitehall Yard shall be borne and paid by the Company and all legal and surveying charges incurred by or on behalf of the Commissioners of Works in connexion with such removal or in any way occasioned by the operation of this Act shall be borne and paid by the Company. Provided that the costs and charges in this section mentioned shall not exceed fifty pounds in addition to the costs of altering No. 4 Whitehall Yard as aforesaid.

Costs of  
removal to  
be paid by  
Company.

**21.** For the protection of the Metropolitan Board and the Victoria Embankment and the ornamental garden connected therewith the following provisions shall have effect:—

As to portion  
of street near  
the Victoria  
Embank-  
ment.

(1.) Nothing in this Act shall authorise the Company (except as herein-after expressly provided) to enter upon take use or interfere with any part of the said embankment or the roadway or footway thereof or any part of the said ornamental garden

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thereon (which is numbered on the deposited plans 10 in the parish of Saint Margaret Westminster).

(2.) Subject to the acquisition by or on behalf of the Queen's most Excellent Majesty in right of Her Crown of any leasehold interest that may be existing in the piece of land marked B and coloured red on the amended plan herein-after referred to the Commissioners of Woods and the Metropolitan Board shall execute a deed of exchange whereby the said piece of land marked B shall be conveyed by the Commissioners of Woods to the Metropolitan Board and the piece of land marked A and coloured blue on the said plan shall be conveyed by the Metropolitan Board to Her Majesty Her heirs and successors and the land so conveyed to the Metropolitan Board shall thereafter remain vested in the Metropolitan Board as part of the land acquired by them under the provisions of the Thames Embankment Land Act 1873 and shall be held by them under the provisions and restrictions of such Act and appropriated for the purposes of a public garden and the land so conveyed to Her Majesty Her heirs and successors shall be held by the Crown freed and discharged from all the provisions of the Thames Embankment Act 1862 the Thames Embankment (North and South) Act 1868 and the Thames Embankment Land Act 1873.

(3.) The Company shall at their own expense and to the satisfaction of the Metropolitan Board (which may be expressed in writing under the hand of the engineer of that board) take down and remove the fence forming the southern boundary of the ornamental garden on the said embankment numbered 10 as aforesaid and shall at the option of the Metropolitan Board either re-erect the same subject to such modifications if any as shall be approved or required by the Metropolitan Board or erect a new and approved fence in substitution for the same between the said garden and the new street by this Act authorised in the line marked C D on the amended plan and shall in like manner erect a new fence of material character and design approved by the Metropolitan Board from the eastern end of the fence along the line ED to and in line with the fence separating the said garden from the footway on the Victoria Embankment.

(4.) The Company shall remove and re-erect at the point marked D on the amended plan the small pedestal or pier situate at the termination of the said fence at the southern end of the garden

numbered 10 as aforesaid or erect a new pedestal or pier at the said point marked D in lieu thereof.

- (5.) The Company shall pay to the Metropolitan Board as and by way of full satisfaction for the interference with the ornamental garden numbered 10 as by this Act authorised the sum of fifty pounds which shall be paid before they take possession of any part thereof and may be applied by the Metropolitan Board in or towards the laying out of the said piece of land to be added to the ornamental garden under the provisions aforesaid and of maintaining and keeping up the said garden.
- (6.) Notwithstanding anything in this Act it shall not be lawful for the Company in making the said new street to deviate without the consent in writing of the Metropolitan Board from the line or level thereof as shown on the deposited plans and sections.
- (7.) The expression "the amended plan" in this section means the plan signed by Leonard Henry Courtney Esquire the Chairman of the Committee in the House of Commons to whom the Bill for this Act was referred of which plan one copy has been deposited at the Private Bill Office in the House of Commons and one other copy has been deposited at the office of the Metropolitan Board.

**22.** If after the Company have acquired any land houses or buildings in the parish of Saint Margaret Westminster under the powers of this Act the amount of the rates to be levied in the said parish on the houses and buildings recently erected or in course of erection by them in the said parish and immediately abutting on the new street or road by this Act authorised shall in any year be less than the amount of the rates leviable during the year 1887 on the houses and buildings occupying the site of the land to be acquired by the Company by reason of the rateable value of such land houses or buildings being diminished in consequence of the works or undertaking of the Company the Company shall from time to time make good such deficiency until there shall have been erected in the said parish on the lands immediately abutting on the lands to be acquired by the Company in the said parish and shall be occupied by a person or persons liable to pay rates in respect thereof houses and buildings which shall be assessed at a sum equal to or greater than the amount at which the houses and buildings on the land so acquired were assessed for the purpose of the rates leviable in the year 1887 and the amount of such deficiency may from time to time be charged upon and levied and recovered from the Company

Deficiency in rates to be made good.

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in addition to the amount of rates payable by them in respect of their property in the said parish or may be recovered from the Company as a debt due from them to the person or persons empowered to levy and collect such rates. But when and so soon as the whole rateable value of the houses and buildings erected or in the course of erection by the Company in the said parish and abutting on or adjoining to the lands to be acquired by them for the purposes of this Act or the rateable value of any other houses and buildings which shall from time to time be erected on the said lands in the said parish and occupied as aforesaid shall exceed the rateable value during the year 1887 the Company shall be at liberty at any time up to but not later than the thirty-first day of December 1896 to deduct any sum or sums which they shall have paid to meet any such deficiency as aforesaid from or out of any rates payable in respect of such lands houses and buildings. Provided that the operation of this section shall not extend beyond the thirty-first day of December 1896.

For the protection of the Metropolitan District Railway Company.

**23.** The following provisions for the protection of the Metropolitan District Railway Company (in this section called "the District Company") shall have full force and effect and be binding upon the Company their successors and assigns:—

1. The Company shall not in any way interfere with the railway and tunnel of the District Company situate under the footway or roadway of the Victoria Embankment nor with the works connected therewith nor with any property of the District Company.
2. Nothing contained in this Act shall prejudice lessen take away or interfere with the lands property rights powers and privileges of the District Company otherwise than is hereby expressly provided.

Saving rights of the Crown.

**24.** 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 Woods without the consent in writing of the Commissioners of Woods on behalf of Her Majesty first had and obtained for that purpose (which consent such Commissioners are hereby authorised to give) neither shall anything in this 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.

25. Nothing in this Act contained shall exempt the Company or the undertaking from the provisions of the Metropolitan Building Acts or the Metropolis Management Act 1855 or of any Acts amending the said Acts or relating to the Metropolitan Board of Works.

A.D. 1888.

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Saving Metro-  
politan Build-  
ing and Metro-  
polis Manage-  
ment Acts.

26. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

Costs of Act.

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